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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 7 OF 16
(pp. 2500-2978)

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1 **THE COURT:** Any objection?

2 **MS. PHELAN:** No objection.

3 **MS. LENHARDT:** No, no objection.

4 **THE COURT:** You're excused.

5 **MRS. REDDY:** See you next time.

6 **THE COURT:** All right.

7 **(A break was taken from 12:32 p.m. until 1:47 p.m.)**

8 **(Petitioner's Exhibit Numbers 2 and 3 were marked for**
9 **identification purposed during the break.)**

10 **THE COURT:** All right.

11 **MS. PHELAN:** Ready, Your Honor? The Department
12 calls Chris Jones to the stand, please.

13 **THE COURT:** Okay.

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

15 (Witness complies.)

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

20 **MR. JONES:** I do.

21 **COURT REPORTER:** Thank you.

22 **MR. CHRISTOPHER P. JONES, P.E.,** being first duly
23 sworn, testifies as follows:

24 **MR. JONES - DIRECT EXAMINATION BY MS. PHELAN:**

25 **Q:** Hi, Mr. Jones. Could you please state your



1 full name for the record?

2 A: Christopher P. Jones.

3 Q: Can you please tell us about your education?

4 A: I have a Bachelor's degree in engineering
5 science from the University of Florida, and a
6 Master of Science in coastal and oceanographic
7 engineering from the University of Florida.

8 Q: Could you please walk us through your work
9 history?

10 A: We've got to go back a ways. Started out
11 working for a firm called Suboceanic
12 Consultants in Naples, Florida doing coastal
13 engineering and underwater inspection work on
14 construction projects. I went from there to
15 the Florida Sea Grant Program, where I was the
16 state coastal engineering specialist for seven
17 years. Then I went to South Carolina where I
18 worked with Coastal Science and Engineering for
19 three and a half years in Columbia. Then I
20 managed a firm -- or an office for a firm in
21 Charleston, Applied Technology Management.
22 Then my wife got a better job in Virginia, so
23 we moved to Virginia and I wound up working for
24 myself. So, since 1970- -- '97, I have worked
25 for myself.



1 Q: Do you have any particular focuses of your work
2 that you do?

3 A: I would say three things, coastal engineering
4 and coastal process would be the first; flood
5 hazard mapping or identification would be the
6 second; and flood resistant design and
7 buildings would be the third.

8 Q: Can you tell us a little bit about each one of
9 those things?

10 A: Coastal engineering, we -- is the subject that
11 we've spent a lot of time on in this endeavor,
12 talking about waves, tides, current, sediment
13 transport, things like that, structures. Flood
14 resistant design, or I should say, flood hazard
15 identification, I've spent a lot of time
16 working for FEMA or FEMA contractors on mapping
17 flood zones in coastal areas and developing
18 standards for doing that. And then the last
19 would be flood resistant design. I've spent a
20 lot of time working on flood loads for
21 buildings and other structures.

22 Q: Are you familiar with the Isle of Palms?

23 A: I am.

24 Q: Tell -- tell us how, please.

25 A: First work I did on Isle of Palms was 1986. I



1 did a study of the south end of Isle of Palms
2 for The Breach -- Beach Company. Then, when I
3 was at CSE -- well, I was at CSE when I did
4 that, but I continued working on Isle of Palms
5 when I was ---

6 **THE COURT:** What was CS?

7 A: Coastal Science and Engineering, CSE.

8 **THE COURT:** Is that Dr. Kana?

9 A: Yes.

10 **THE COURT:** Okay. You had a good teacher then.

11 A: I did. So, we're the ones who developed the
12 interim baselines and setback lines in 1988 for
13 the State. So, I did that. I was out on Isle
14 of Palms, among other places, after Hurricane
15 Hugo, looking at damage to beaches and
16 structures. I have worked with the City of
17 Isle of Palms on at least four or five
18 occasions. I wrote their long-term beach
19 management plan in 2008. Worked with a group
20 of citizens and city staff and agency
21 representatives to develop a long-term strategy
22 for managing beaches on the Isle of Palms.
23 Before that time, it was pretty much do nothing
24 approach, and that was the document that gave
25 them license to manage the beach through



1 nourishment and other means. I've written
2 three editions of the local comprehensive beach
3 management plan, 2008, 2017, 2022. And I've
4 done flood map revisions on Isle of Palms on at
5 least three occasions.

6 Q: Have you done anything to evaluate storms in
7 the area?

8 A: I'm going to say yes simply because by virtue
9 of the fact that if you're doing coastal
10 engineering or flood mapping, you're looking at
11 storms.

12 Q: Now you said that you, with Coastal Science and
13 Engineering, that you had some responsibility
14 with setting the interim baseline and setback
15 line for the beach/dune system?

16 A: Correct.

17 Q: Okay. What is your understanding of the
18 relationship between the beach/dune system and
19 the critical area lines and beaches critical
20 area?

21 A: The beaches critical area can be seaward or
22 landward of the jurisdictional lines.

23 Q: Do you have any certifications?

24 A: I'm a professional engineer in North Carolina
25 and South Carolina. I had formerly been



1 registered in Florida, but I dropped that one.

2 Q: Do you have any memberships?

3 A: Yes. I have many. American Society of Civil
4 Engineers, Association of State Floodplain
5 Managers are probably the two main ones.

6 Q: Okay. And then how about awards? Have you
7 been awarded anything for your professional
8 work?

9 A: I have. In 2015 I received an award from
10 American Society of Civil Engineers for my work
11 in coastal engineering. 2018 I received an
12 award from the Association of State Floodplain
13 Managers work in flood proofing. And then in
14 2023, I think, I received an award from the
15 Applied Technology Council for work on coastal
16 inundation of buildings.

17 Q: Does -- has any of your work involved
18 identifying vegetation for purposes of studying
19 the coastline ---

20 A: Yes.

21 Q: --- changes? Can you tell us about that?

22 A: Yes. A couple of things. One would be
23 identification of vegetation lines and historic
24 aerial photos. And when I worked with Florida
25 Sea Grant, I chair -- organized and chaired the



1 Salt-Tolerant Vegetation Panel, which developed
2 guidelines for the State of Florida for
3 selecting and installing native plants along
4 the beachfront.

5 Q: And does your experience with flood -- the
6 flood management have anything to -- does it
7 relate to any of the issues that you've looked
8 at in this case?

9 A: Well, I would say the coastal engineering and
10 the floodplain identification work support the
11 flood resistant design component and the flood
12 resistant design informs the other two as to
13 what may or may not be the best thing to do
14 when you're constructing your beach.

15 Q: Okay. And what experience do you have, if any,
16 with hard erosion control structures?

17 A: I have designed some, and I have evaluated a
18 lot, both seawalls and revetments, in both
19 cases.

20 Q: Have you inspect- -- have you inspected hard
21 erosion control structures?

22 A: Yes.

23 Q: Have you reviewed the erosion control
24 structures effects in your work?

25 A: Yes. And ---



1 Q: And -- go ahead.

2 A: --- the most recent was, I did some work last
3 fall for the State of Florida, they were
4 developing a coastal armoring policy study, and
5 I did a -- I updated an old literature review
6 on the effects of structures for them.

7 Q: What type of things did you provide for them
8 with regard to the effects of hard erosion
9 control structures? What type of information
10 did you look at?

11 A: As I said, it was a literature search, and most
12 of the work that's been done on that actually
13 dates back to the '70s and '80s. There hasn't
14 been a whole lot more recent than that, but
15 some of the documents explained or described
16 the effects of adverse effects of coastal
17 engineering type structures, erosion control
18 structures on beaches.

19 Q: And have you compiled a resume of all your work
20 history?

21 A: I have most of my work listed.

22 Q: If you want to turn to -- she's got it up. Is
23 it easier for you to look at the documents in
24 the notebook or on the screen?

25 **MR. REDDY:** Is that a joint exhibit or what is that?



1 **MS. PHELAN:** Yes, it is. It's Joint Exhibit 186.

2 **MR. REDDY:** Yeah, can you just state those?

3 **(Joint Exhibit Number 186 was referenced at this**
4 **time.)**

5 Q: Is it easier for you to use the notebooks or is
6 the screen okay?

7 A: I can use the screen.

8 Q: Okay. Do you recognize this document?

9 A: I do.

10 Q: And what is it, please?

11 A: That is my resume from March 2025.

12 Q: And does this outline your work hist- -- your
13 -- your work background?

14 A: Yes, it does.

15 Q: Okay. And turning to your -- do you have any
16 expert --have you ever testified in a case
17 before as an expert?

18 A: I have. I've been involved in, I'm gonna say,
19 12 or 15 cases, many of which were after the
20 passage of the Beachfront Management Act in
21 1988 and I have testified in maybe half those
22 cases. I've been deposed in several. I have
23 testified in state court, federal court, and
24 administrative hearings such as this. I also
25 should mention that I testified in the Lucas



1 case.

2 Q: Do you -- do you recall what you're qualified
3 for in testifying in the Lucas case?

4 A: Short answer is no. Longer answer is it was
5 probably coastal processes and coastal
6 engineering.

7 Q: Did you te- -- have you testified in a
8 jurisdictional line case?

9 A: Yes, I have.

10 Q: And could you tell us what case that was and
11 just kind of summarize the issues?

12 A: Most recently was Key Development Partners II.
13 I think that was four years ago. And there was
14 some question as to the baseline and setback
15 line on the south end of Kiawah Island at
16 Captain Sams Inlet.

17 Q: And was one of the issues of -- in that case
18 was whether the vegetation could be used as a
19 reliable proxy or indicator for the most
20 landward point of erosion?

21 A: Yes, it was.

22 **OFFER AS EXPERT:**

23 **MS. PHELAN:** Your Honor, at this time, the
24 Department tenders Mr. Jones to the Court to be
25 qualified as an expert in coastal engineering,



1 coastal processes, including more specifically
2 tides, waves, current, sediment transport,
3 shoreline change, including tidal inlets and
4 coastal management, including consideration of
5 storm impacts and erosion control structures.

6 **THE COURT:** That's a mouthful.

7 **MS. LENHARDT:** We have no objection.

8 **MR. REDDY:** I'll make it simple, Your Honor. He
9 mentioned two things that qualifies him. I'm
10 personal friends with Ron DeSantis and with
11 David Lucas, so that alone qualifies him.

12 **THE COURT:** Okay. He's so qualified.

13 A: You have a low bar.

14 (Laughter.)

15 Q: What was your understanding of why the
16 Department contacted you in this case?

17 A: The Department contacted me in December of last
18 year about this case, principally, because Matt
19 Goodrich, an expert for the other side, had
20 developed a written opinion as to the limit of
21 periodic inundation being 5.5 feet NAVD.

22 Q: And what were the issues that you looked at in
23 this case?

24 A: So, I was asked to look at three things. One
25 was to look at the area itself, in general and



1 historically. The second was to look at
2 whether or not, in fact, the structures that
3 were built would be termed erosion control
4 structures, and whether they were in the Beach
5 Critical Area. And lastly, to evaluate Matt
6 Goodrich's report.

7 Q: And what documents have you reviewed in forming
8 your opinions?

9 A: Thousands. Photos supplied by Department and
10 obtained during discovery, surveys, aerial
11 photos, historical documents about the site,
12 the jurisdictional lines.

13 Q: Were you provided all the site inspections and
14 photographs?

15 A: I was.

16 Q: Did you ---

17 A: I think I was.

18 Q: Did you review those?

19 A: I did.

20 Q: Did you conduct a site visit in this case?

21 A: I did not.

22 Q: And can you tell me why?

23 A: The basic reason was I didn't feel it was
24 necessary and the schedule did not work out.
25 I've been over the site or at the site,



1 adjacent to the site I should say, probably
2 dozens of times going back to the late 1990s.

3 Q: And what about your review of the photographs,
4 did that help determine whether you should go
5 visit the site or not?

6 A: I felt that I knew this site well enough from
7 all the photos and information I had reviewed.

8 Q: In your review of the case, did you pull any
9 historical aerials of the inlet?

10 A: I did. I looked at historical aerials from
11 USDA, Department of Agriculture, from the
12 Department, Benatec photos in 1988 and this is
13 ---

14 **MS. PHELAN:** We're showing Exhibit 59, Joint Exhibit
15 59.

16 **(Joint Exhibit Number 59 was referenced at this**
17 **time.)**

18 A: This is a photo that I found in an Isle of
19 Palms magazine showing 1949 looking north along
20 the island. And the thing that's important
21 here is the fact that Ocean Boulevard did not
22 even exist at that point. It was out on the
23 beach in this photo, or would've been out on
24 the beach in this photo.

25 Q: Okay. I'm gonna pull up some, some photographs



1 that I believe are some of the ones that you
2 took. See if you can identify them for us and
3 walk through them.

4 **(Joint Exhibit Number 60 was referenced at this**
5 **time.)**

6 Q: Do you recognize this photo?

7 A: I do.

8 Q: Can you walk us through this set of photos?
9 Are these photos you took?

10 A: Yes, they are.

11 Q: Okay.

12 A: This is a 2001 photograph looking at the south
13 end of Isle of Palms and north end of
14 Sullivan's Island, looking at Breach Inlet.
15 And the thing that's important to recognize
16 here is the sandbars of the inlet, of Breach
17 Inlet. And as we go through these photos, you
18 will see how dynamic the area is. The photos
19 that I've supplied go through 2016.

20 Next. And I should point out -- let me
21 see if I can figure this out. I have circled
22 the Reddy property on this, his house, this
23 photo.

24 Next. Next. Next. Next. This is the
25 last photo in this sequence. This was 2016.



1 You can see at this point in time that the
2 shoreline had started to erode back towards the
3 houses. The Reddy property is right there
4 (indicating).

5 Next.

6 **MS. PHELAN:** Exhibit 61, please.

7 A: I should point out that whenever I was working
8 in Charleston County for a number of projects,
9 whether it was Dewees Island, Isle of Palms,
10 Kiawah, Sullivan's, whatever, I would get in a
11 small plane and I would go out and take
12 pictures. So, I've probably done that 20
13 times.

14 Q: Okay. This is Joint Exhibit 61.

15 **(Joint Exhibit Number 61 was referenced at this**
16 **time.)**

17 A: This shows a 1953 aerial photograph upon which
18 the Department has superimposed the Reddy
19 property, and the yellow dots indicate the
20 location of the wall. So, 1953, Ocean
21 Boulevard did not exist. Ocean Drive did not
22 exist. And you can see that the houses
23 would've been on active beach at that point in
24 time.

25 Q: And did you ask the Department to put these



1 photos together for you?

2 A: I did. Next. This is the 1953 photo showing
3 the location, future location of Ocean
4 Boulevard and the yellow dots are the wall that
5 Mr. Reddy built.

6 This is 1963. You can see that the dunes
7 are growing. You can still see that the wall
8 would've been on the beach in 1963.

9 Next. That just shows the houses
10 superimposed.

11 This is 1973. You can see that by this
12 point in time, the wall would've been in the
13 dune area.

14 Next.

15 Q: What -- from reviewing these historical
16 aerials, what did you determine?

17 A: Well, it reaffirmed what we already knew, and
18 that was that over the long-term, the area is
19 accretional but it undergoes temporary periods
20 of erosion. Those temporary periods can last
21 a few years to several years. Most of the
22 historical record for Isle of Palms, going back
23 to the late 1800s, has maps or surveys or
24 photographs that are spaced apart anywhere
25 between 12 and 41 years, I think. So, it's not



1 really enough to capture some of the erosional
2 periods.

3 Q: Do you recognize the images that are contained
4 in Joint Exhibit 51?

5 **(Joint Exhibit Number 51 was referenced at this**
6 **time.)**

7 A: I do.

8 Q: Can you tell us what this one is?

9 A: The base image in this case is the Benatec
10 imagery from 1988 that shows -- this is the set
11 of images that the state used to plot its
12 initial baselines and setback lines. It shows
13 the Reddy property and the seawall location.
14 It shows the 1991 baseline and setback line.
15 That's the purple and green line. And then it
16 shows the 2018 which would be the current
17 baseline and setback line, the red and the blue
18 lines.

19 Q: And, again, did you ask this image to be put
20 together for you?

21 A: I did.

22 Q: And what was the purpose of this?

23 A: The purpose was just to lay this on top of the
24 old lines and the new lines. I also want to
25 point out that in 1988 there's only one house



1 in the area. You can see that to the right of
2 Mr. Reddy's property. And I was in this area
3 after Hurricane Hugo in 1989 and the area was
4 overwashed quite a bit. There was erosion and
5 landward areas were buried with sand. And the
6 house did fine.

7 Q: Next.

8 A: This shows the Reddy property and adjacent
9 properties superimposed on the same image.

10 Q: This is page three of this exhibit.

11 A: This shows a little zoomed out version of the
12 same image with the Reddy property boundaries
13 in white. This also shows the 1991 baseline
14 and setback line.

15 This shows a December ---

16 Q: And this is page four. Go ahead, please.

17 A: Looking for the date. September 2023
18 photograph upon which the 1991 and 19- -- and
19 2018 lines and the future seawall location have
20 been plotted.

21 **MS. PHELAN:** Will you zoom in on the Reddy property,
22 please?

23 Q: Did you want to point out anything else on the
24 photo?

25 A: I don't think so.



1 Q: Okay.

2 A: We'll come to that later, I think.

3 Q: Okay. So what do these images tell us?

4 A: They tell us that the line has moved seaward --
5 the line -- jurisdictional lines have moved
6 seaward from 1991 to 2018. They show us that
7 the area is subject to periods of erosion,
8 which would be evidenced by the fact that the
9 erosion has receded past the setback area.

10 Q: So, the earlier lines were -- were up by the
11 house, correct?

12 A: Correct.

13 Q: So, do you know what type of zone, erosion --
14 inlet erosion zone this -- this property is in?

15 A: This is an unstabilized inlet erosion zone.

16 Q: And can you tell us what that is please?

17 A: It's a zone where the shoreline is very dynamic
18 because of changes associated with the adjacent
19 inlet.

20 Q: And what do you mean by dynamic?

21 A: I mean the shoreline advances and retreats. In
22 this case, it's mostly accretional, as I said,
23 but there are periods of erosion.

24 Q: So, there's two numbers on this figure. Do you
25 know what those are?



1 **(Joint Exhibit Number 58 was referenced at this**
2 **time.)**

3 A: Those are Department survey monuments, where
4 beach profiles are measured on an annual basis.

5 Q: Okay. And what -- what type of information
6 does that -- does the monitoring give us?

7 A: The monitoring tells us the elevations of the
8 beach as we go away from the monument, and we
9 can compare those over time to look at changes.

10 Q: And where is the Reddys' house in relation to
11 these two mount- -- monuments?

12 A: The Reddy property is about midway between the
13 two monuments and several hundred feet from
14 each one.

15 Q: Okay, thank you.

16 I'd like you to take a look at
17 Petitioner's DES Exhibit 2, which is in front
18 of you.

19 **(Petitioner's Exhibit Number 2 was referenced at this**
20 **time.)**

21 Q: Do you recognize these?

22 A: I do.

23 Q: And what are they?

24 A: These are Department beach profile from their
25 berm database.



1 **OBJECTION:**

2 **MR. REDDY:** Your Honor, we object to these.

3 **THE COURT:** Okay.

4 **MR. REDDY:** These were not in the Joint Exhibits.

5 She gave them to us five days ago, and -- right
6 around the same time we've given them exhibits
7 and which they have refused. They said it's
8 not enough time. Well, it's not enough time
9 for us either to figure out what this is,
10 especially from an expert. I have no -- I
11 would've had to study this or get an opinion
12 from my expert, since I'm obviously not an
13 expert on anything. So I object to any of --
14 all of this.

15 **MS. PHELAN:** This is publicly available. It's from
16 the ---

17 **MR. REDDY:** I ---

18 **MS. PHELAN:** --- DHEC website that you can actually
19 pull -- he could've pulled these up and done
20 his own list.

21 **THE COURT:** When you say publicly available, this
22 exhibit is publicly available or the
23 information on it is extrapolated from publicly
24 available data?

25 **A:** These are screen captures of the images that



1 you can see from the website.

2 **THE COURT:** All right, sir.

3 **MR. REDDY:** Your Honor, do we -- do they think that
4 it is -- that our job as citizens is to go scan
5 their website? So, I'll already discredit
6 their website, saying the baseline and setback
7 lines, which show jurisdictional lines on their
8 website, this whole monkey show we have going
9 here is to say they don't agree with that. Now
10 they say that we got to scour this thing, their
11 website, and put up something that we've not
12 looked at, we've not studied, we have no idea,
13 and their expert is testifying to it.

14 **THE COURT:** Any response?

15 **MS. PHELAN:** It's publicly available. They could've
16 gotten the same information. They had the
17 opportunity to depose Mr. Jones for his
18 opinions and they did not do that. And we're
19 here today and he's trying to use this to
20 illustrate his opinion.

21 **THE COURT:** I'll tell you what, I'll let him use it
22 for demonstrative purposes, and then -- which
23 means you can use it for testimony, but it
24 won't come into evidence ---

25 **MR. REDDY:** Your Honor, this is also hearsay.



1 Their website is, once again ---

2 **THE COURT:** Well, demonstrative takes care of the
3 hearsay aspect of it.

4 **(Petitioner's Exhibit Number 2 was allowed for**
5 **demonstrative purposes only.)**

6 **MR. REDDY:** Well, I don't know all these
7 technicalities. All of their stuff that we
8 tried to get in this morning were public
9 meetings, publicly available, and they were
10 arguing about which page of which publicly
11 available information, and here we go with
12 their expert, who testifies that he's been an
13 expert for about 100 years, and we have no
14 chance to even look at what he -- what he's
15 gonna say. So, on a cross, how would I cross
16 him on this, especially me?

17 **THE COURT:** Well, I'll allow ---

18 **MR. REDDY:** Prejudicial, Your Honor.

19 **THE COURT:** Okay. Proceed.

20 **MS. PHELAN:** Proceed? Thank you, Your Honor.

21 Q: Mr. Jones, can you explain to us what these
22 figures show?

23 A: These figures show the location of the toe of
24 the dune in 2016 on the first image, and then
25 ---



1 Q: Do you mind circling the toe of the dune?

2 A: Right there (indicating). And the intersection
3 of the elevation, 6.03 feet above NAVD, North
4 American Vertical Datum, mean sea level, we'll
5 call it, that is the base of the scarp, or the
6 toe of the dune. And I went through using the
7 data from the website to produce a table.
8 That's why I'm showing these figures is to give
9 some context to that table later on. So, the
10 elevation of the toe of the dune in this case
11 is 6.03 feet. Next.

12 Q: And can you tell us a little bit more about
13 what was collected to come up with this
14 graphic? I mean, are they collecting
15 elevations?

16 A: The data -- the Department is collecting what
17 we call distance elevation pairs. They collect
18 elevations at different distances from the
19 monument, going seaward, and then they plot
20 those on the vertical axis as elevation, on
21 the horizontal axis as distance from the
22 monument.

23 Q: And is this the mon- -- is this the monument
24 located near the Reddys' property?

25 A: Well, it's about midway between the monuments.



1 So, this is 3100 B, which is closest to Breach
2 Inlet.

3 This is the 2017, December 2017 beach
4 profile of the same site. And here you can see
5 that the base of the dune is listed at 6.54
6 feet, right there.

7 And the next one. For the same profile,
8 it would not be unreasonable to think that the
9 toe in this case was 7.37. So, in some cases,
10 the toe is actually ambiguous or slightly
11 ambiguous as to where it is from looking at
12 profile data.

13 Q: So, why do we care about where the toe of the
14 dune is?

15 A: We care about the toe because usually that is
16 one indication of periodic inundation and
17 vegetation on an eroding shoreline will not
18 grow at the toe of a dune. It will be up on
19 the top of the dune, will not be on the scarp.

20 Q: If -- we've heard some testimony about
21 vegetation can be on the escarpment -- and can
22 you just tell us, in general, how the
23 vegetation, again, relates to where the dune
24 is?

25 A: In an eroding situation, the vegetation will be



1 on top of the dune. In accreting situation,
2 the vegetation will be seaward of the dune as
3 the beach and the dune build. This is a photo
4 ---

5 **THE COURT:** Say that again, one more time.

6 A: In the -- in an eroding situation, the
7 vegetation will be on top of the dune because
8 will not be on the section that has eroded or
9 collapsed.

10 **THE COURT:** And the accreting ---

11 A: It won't be on the beach.

12 **THE COURT:** Okay.

13 A: In an accreting situation, you can have
14 vegetation on both sides and the top of the
15 dune and going out onto the back of the berm,
16 back of the beach.

17 Q: Landward ---

18 **THE COURT:** Okay.

19 Q: -- is that correct?

20 A: Seaward.

21 Q: Seaward?

22 A: In an accreting situation.

23 Q: Do we have an accreting situation or an eroding
24 situation at the Isle of Palms and Reddys'
25 right now?



1 A: Currently it is erosional, although it's --
2 it's accreting slightly, and it's being helped
3 along by the core nourishment project in that
4 area.

5 **THE COURT:** How can it be both? You said it
6 currently is erosional, but it's accreting
7 slightly?

8 A: Up -- up until recently, it has been erosional.

9 **THE COURT:** Okay. So, it's starting to accrete?

10 A: Starting to accrete. And it's also being aided
11 by the nourishment project, which is adding
12 sand to the beach.

13 **THE COURT:** Okay.

14 **OBJECTION:**

15 **MR. REDDY:** Objection, Your Honor. There is no sand
16 being added to the beach. This is all
17 speculation from the expert. The only thing
18 that's happening is the Army Corps is pumping
19 dredge from the intercoastal, and he's calling
20 it sand. So, how does the expert testify to
21 this? The Army Corps themselves said it's not
22 a renourishment.

23 **THE COURT:** Okay. I overrule the objection on that.

24 Q: Can you explain why you say that that the core
25 project is adding sand?



1 A: The core project is adding sand by dredging
2 sand from the intercoastal waterway deposition
3 area and piping it to the lower beach. The
4 City is then using equipment to move that sand
5 further up the beach profile.

6 Q: And ---

7 A: So, sand is being added to the beach.

8 Q: What is your understanding of why the City is
9 moving the sand up to the beach -- up the
10 beach, or landward -- landward from where the
11 Corp is depositing it?

12 A: I can't speak for the City, but I imagine it is
13 to speed up the process where the sand would
14 otherwise travel up the beach and stabilize the
15 area.

16 Q: Okay. And did you -- we're looking at Exhibit
17 -- oh, I'm sorry, it's demonstrative exhibit.
18 So, can you explain what we see here?

19 A: What we see is the face of a dune. It has been
20 subject to recent erosion. You can see the
21 plants that are falling in and there has been
22 some recovery. You can see where the sand has
23 sloughed off from the vertical face of the dune
24 back towards the beach.

25 Q: And you had -- we had just looked at the berm



1 profiles, or the dune profiles, and you were
2 talking about the toe of the dune. Where would
3 the toe of the dune be on -- in this -- this
4 image?

5 A: This is one of those cases where it would be
6 ambiguous. It would be either down here or up
7 here, somewhere in between (indicating). And
8 the toe of the profile, toe of the dune on the
9 profile would vary depending upon when you look
10 at it because the sand moves.

11 Q: Okay. I want to talk a little bit about the
12 beaches critical area definition now. Were you
13 asked to look at that definition?

14 A: I was.

15 Q: I'm gonna put the definition up on the screen.
16 Let me ask you this first, does the -- does the
17 statute have a definition of periodic
18 inundation?

19 A: It does not.

20 Q: And so how did you determine what the
21 definition of periodic inundation should be as
22 used in the definition, which we've now put up
23 on the screen?

24 A: Well, the first thing that I did was I went to
25 dictionaries to see what it said the definition



1 of periodic was. And it boils down to two
2 usages.

3 **THE COURT:** Well, he can't testify about the meaning
4 of the statute. He can testify about how he
5 applied ---

6 **MS. PHELAN:** Yeah, that's what I'm asking him, I'm
7 sorry.

8 **THE COURT:** Okay.

9 Q: How did you apply -- how did you apply this
10 definition or did you understand it?

11 A: The first thing I did was I looked in
12 dictionaries for the definition of periodic and
13 then I looked in the technical literature for
14 coastal engineering and coastal processes to
15 see how the word was used.

16 Q: Is there other information in the words of the
17 statute itself that would -- that you
18 considered in determining what periodic meant?

19 A: I'm not sure I follow the question.

20 Q: Okay. Did you consider -- the statute says
21 beaches means those lands subject to periodic
22 inundation by tidal and wave action so that no
23 nonlittoral vegetation established. Did you
24 consider tidal and wave action?

25 A: Yes. I considered tidal and wave action, and



1 I considered the absence of nonlittoral
2 vegetation.

3 Q: And why did you do that?

4 A: Because that's what the definition calls for.

5 Q: A little later on in the hearing, we expect to
6 hear from Matt Goodrich to testify as to what
7 the definition he believes should be used for
8 periodic. Can you briefly just tell us what --
9 what you expect that testimony to be from his
10 testimony?

11 A: Based on his January 9th, 2025 report, I would
12 expect him to say that the limit of periodic
13 inundation is being defined by the elevation
14 5.5 foot NAVD contour.

15 Q: And what about the periodic inundation part?

16 A: He used periodic, or he used one of the
17 definitions of periodic to mean occurring on a
18 regular cycle, just like tides. And from that,
19 he determined the highest astronomical tide
20 that occurred over the last 20 years in
21 Charleston. He added a sea level rise
22 adjustment, and then he calculated wave run-up
23 and added it to that to determine the 5.5 foot
24 contour for elevation.

25 Q: Do you have Petitioner's Exhibit 3 in front of



1 you?

2 A: I do.

3 **MS. PHELAN:** And, Your Honor, just to speed this
4 along, I'm -- I'm not going to offer this.
5 I'll just use it is a demonstrative.

6 **THE COURT:** Okay.

7 **MS. PHELAN:** Okay.

8 **(Petitioner's Exhibit Number 3 Demonstrative was**
9 **referenced at this time.)**

10 Q: Are these -- when you were determining how to
11 apply the definition that we found in the
12 beaches critical area definition part of the
13 statute, are these the definitions that you
14 looked at?

15 A: Yes. These are the definitions I found and put
16 in the document I sent you.

17 Q: Okay. Can you -- can you tell us what, what
18 you learned?

19 A: As I said before, there are two principal
20 definitions for periodic. One means recurring
21 over a period of time in regular cycles, and
22 the other means recurring repeatedly, although
23 those cycles do not need -- need to be regular.
24 And I'll point out the Cambridge Dictionary.
25 No. Let me see which one. I'm sorry, the last



1 one, Dictionary.com, periodic. The last
2 definition is repeated at irregular intervals.

3 Q: And I see that Merriam Webster has occurring
4 repeatedly from time to time?

5 A: Yes.

6 Q: And is that one you consider too?

7 A: Yes, I consider all these. And as I said, the
8 definitions can basically be divided into two.
9 One is occurring at regular intervals, the
10 other is occurring at irregular intervals.
11 Periodic has been used to describe both.

12 Q: Okay. Can you al- -- did you look at any other
13 sources besides the dictionary to determine the
14 def- -- the appropriate definition of periodic
15 to use?

16 A: I did. I looked, as I mentioned, to the
17 technical literature to see how the word
18 periodic was used in coastal engineering and
19 coastal process literature.

20 Q: Do you recognize Exhibit 180- -- Joint Exhibit
21 182?

22 **(Petitioner's Exhibit Number 182 was referenced at**
23 **this time.)**

24 A: Yes. This is an email that I sent you January
25 28th.



1 Q: And what is that email?

2 A: It includes an attachment that has excerpts
3 from two Corps of Engineers documents or
4 manuals where the use of the term periodic or
5 periodically was used.

6 Q: Is this -- did you compile the summary of it?

7 A: I did.

8 Q: Can you briefly just tell us what you've
9 learned from -- from looking at these manuals?

10 A: The dominant use -- with the exception of
11 consideration exclusively of tides, the
12 dominant use is occurring repeatedly over time
13 at irregular intervals. For example,
14 continental glaciers periodically covered vast
15 area of the northern continents.

16 **OBJECTION:**

17 **MR. REDDY:** Objection, Your Honor. He's got
18 glaciers, some continental glacier, some ice
19 movement compared to periodic tides on the
20 beach, like, what is this? Is this like a
21 Laurel and Hardy show we got going?

22 A: It is not, but I can answer that.

23 **THE COURT:** Well ---

24 (Laughter.)

25 **THE COURT:** Yeah. This is a Joint Exhibit, right?



1 It's already in evidence?

2 **MS. PHELAN:** Yes, it is, Your Honor.

3 **THE COURT:** So he's referencing a Joint Exhibit.
4 Again, you can cross examine on his use of
5 glaciers if you wish.

6 **MR. REDDY:** Glaciers.

7 A: I'll tell you what, forget the glaciers.

8 **MR. REDDY:** Thank you. Appreciate it.

9 A: It was one example of the use of the term
10 periodically. That's why it was included here.
11 Another one, the third bullet down, dealing
12 with salt marshes. Again, not beach, but
13 getting closer. Subject to periodic
14 inundation. The last one, shoreline, line of
15 demarcation between a shore and water that may
16 fluctuate periodically due to tides or winds.
17 And we know that shorelines fluctuate, but not
18 necessarily at the exact same cycle. We go to
19 the Coastal Engineering Manual, which is one of
20 the technical references that any coastal
21 engineer will have on the shelf, his or her
22 shelf, and it talks about periodic breaching of
23 spits. This would be a repeated breaking
24 across the south end of an island, such as the
25 south end of Pawley's, or wherever. Periodic



1 inundations for coastal marshes, again, the
2 second bullet. Shore protection, the third
3 bullet -- or fourth bullet down, talks about
4 periodic dredging, periodic beach nourishment.
5 These occur repeatedly, but not at the exact
6 same cycle.

7 Q: And, I think you answered it for, I think, one
8 of the manuals, but why did you choose these --
9 these manuals to refer to?

10 A: Well, the Coastal Engineering Manual, as I
11 said, is probably one of the referen- --
12 technical references that any coastal engineer
13 will use. The Coastal Geology Manual I thought
14 was also pertinent. And the next page has
15 more. Talks about periodic burial of grasses
16 by drifting sand. That does not happen at
17 regular intervals.

18 Q: So, these depositions that are contained in
19 this exhibit, are they all using the usage of
20 from time to time or irregular intervals?

21 A: They are.

22 Q: So, did you make any conclusions of what
23 definition you should be giving to periodic in
24 the use of periodic inundation, based on the
25 evaluations you did of the definitions of the



1 usage in coastal -- the coastal manual --
2 manuals?

3 A: I did. And I don't know exactly what the
4 legis- -- what the General Assembly intended
5 when they used the word, but it seems to me
6 that in the context of coastal processes and
7 coastal engineering, use of the term periodic
8 means repeatedly and very well means over
9 irregular intervals.

10 Q: In consideration of applying the definition of
11 periodic indation -- inundation by tidal and
12 wave action, so that no nonlittoral vegetation
13 is established, did you consider waves and wave
14 run-up?

15 A: I did.

16 Q: Do you recognize this figure?

17 **(Joint Exhibit Number 188 was referenced at this**
18 **time.)**

19 A: I do. It is a figure from the FEMA guidance
20 document, 2023. The guidance document, we just
21 saw the title page of, and this is a figure
22 that came out of a section that dealt with
23 mapping wave run-up for flood insurance map
24 purposes, although it would apply for anything.
25 And it's a definition sketch, and it shows the



1 wave run-up, which is denoted by R, as the
2 height of the wave run-up above the still water
3 level or the tide, reaches some landward limit
4 of wave run-up, or some upper limit of wave
5 run-up. And so we talk about run-up
6 elevations, and we talk about run-up heights.
7 When we talk about run-up height, we're talking
8 about the vertical distance from the tide to
9 the limit of wave run-up. When we talk about
10 wave run-up elevation, we are talking about the
11 elevation of the wave run-up with respect to
12 NAVD.

13 Q: How does wave run-up relate to this definition,
14 the beaches definition?

15 A: The only way that waves are going to affect the
16 definition is through wave run-up on top of a
17 tide onto the beach and the dune. I should
18 point out that wave run-up is something that
19 you can measure in the laboratory or in the
20 field, and it is often approximated by
21 equations that calculate the runoff height, R,
22 on a uniform slope, which would be the dashed
23 line that you see right here. So, given the
24 wave conditions at the toe and the slope, you
25 can calculate the wave run-up and the roughness



1 of the slope that's being run-up, you need that
2 too. So, given the waves, the slope and the
3 roughness, you can calculate wave run-up.

4 Q: And what about tides? Did you consider tides
5 when determining the periodic inundation by
6 tidal and wave action?

7 A: I did. That's what the definition calls for.

8 Q: And does the definition call to consider waves,
9 as well?

10 A: Tides and waves.

11 Q: How about king tides, did you consider king
12 tides?

13 A: I did. One of the things that Goodrich talked
14 about was using astronomical tides. That's the
15 predicted tide. I used the observed or the
16 actual tide when I looked at things. And it
17 turns out that we don't need to make wave run-
18 up calculations. We can observe the limits of
19 wave run-up in the field, which is what we did
20 from the beach profiles here.

21 Q: Did you consider storms?

22 A: Yes. Storms cause observed tides to exceed
23 astronomical ties. They cause waves. So yes,
24 storms are included.

25 Q: Okay. Is it appropriate to consider storms



1 when you're determining periodic inundation by
2 tidal and wave action?

3 A: I believe it is. I believe limiting the
4 definition of periodic inundation to exclude
5 storms is not appropriate.

6 Q: And do all these things that we mentioned,
7 waves, tides, king tides, storms, do they occur
8 periodically?

9 A: They do in the sense that they occur
10 repeatedly, over time, on an irregular basis.

11 Q: Do you know whether there is any guidance in
12 the implementing regulations to the Coastal
13 Zones Management Act as to whether the def- --
14 what definition of periodic should be used?

15 A: I don't believe there's a definition of
16 periodic, but there is a use of the term
17 periodic in periodic storms.

18 Q: Okay. And how was it used ---

19 A: It was saying that that should be one factor
20 that's considered in managing the coast.

21 Q: Do you know whether Mr. Goodrich considered
22 storms in his definition?

23 A: He excluded storms. He excluded observed
24 tides. He used astronomical predicted tides.
25 He excluded waves above the average wave



1 condition.

2 Q: So, I'm showing you 30-1(C)(4), from the
3 regulations now. Can you read the last
4 sentence of that, please?

5 A: It's always an adventure when I read. "Our
6 shoreline is suffering from its effects today.
7 It must be accepted that regardless of attempts
8 to forestall the process, the Atlantic Ocean,
9 as a result of sea level rise and periodic
10 storms, is ultimately going to force those who
11 have built too near" to the shoreline -- to
12 "the beachfront to retreat."

13 Q: Is that ---

14 **OBJECTION:**

15 **MR. REDDY:** Objection, Your Honor. This was pulled
16 out in 2018. These folks have not updated
17 their regulations. This was -- he -- he knows
18 that, the expert knows that. He incorporated
19 it into his beach management plan.

20 **THE COURT:** If that's true, I'll sustain the
21 objection. Do you know one way or the other?

22 A: May I ask you a question?

23 **THE COURT:** No, sir. Yes.

24 **MS. PHELAN:** My question was, is that the use of
25 periodic storms that he was referring to.



1 **THE COURT:** Well, I'm gonna just, at this point,
2 sustain the objection. Until I know otherwise.

3 **MS. PHELAN:** Yeah, I understand.

4 **THE COURT:** I don't know if it's that significant in
5 this case anyway.

6 **MS. PHELAN:** I don't want to -- I have the
7 regulations, but I'm going to just move on ---

8 **THE COURT:** Okay.

9 **MS. PHELAN:** --- because I don't want to take the
10 Court's time.

11 Q: So, did you consider the phrase, so that
12 nonlittoral vegetation was established, in your
13 evaluation?

14 A: I did.

15 Q: Do you know whether the use of vegetation to
16 establish critical areas is consistent with
17 other critical areas aside from the beaches
18 critical area?

19 A: Yes. It is the predominant way of establishing
20 critical area in a marsh.

21 Q: And did you lead a team of scientists with
22 Coastal Science Engineers that came up with the
23 recommendation of how to establish or set the
24 baseline in an unstabilized zone?

25 A: I did. This was the work we did for the South



1 Carolina Coastal Council back in 1988, '87 and
2 '88, and we established a procedure for
3 identifying stabilized inlet areas,
4 unstabilized inlet areas and standard erosion
5 zones. We've already seen the boundary between
6 the unstabilized inlet zone and the standard
7 erosion zone on the south end of Isle of Palms,
8 so we determined the procedure used for that.
9 And we also developed a procedure that was used
10 to develop -- to determine the baseline in both
11 standard erosion zones and unstabilized inlet
12 zones.

13 Q: And did you recommend the use of vegetation in
14 that report for establishing the most landward
15 point of erosion in the unstabilized inlet
16 zone?

17 A: We did.

18 Q: And why did you recommend vegetation for that?

19 A: Because vegetation is an indicator of erosion
20 most directly. So, if you're looking for the
21 most eroded shoreline, vegetation will be a
22 good indicator. And in areas that are
23 accreting, the vegetation line will give some
24 credit to the accretion.

25 Q: And based upon your knowledge and expertise,



1 why would one look to the absence of
2 nonlittoral vegetation to determine where the
3 beaches critical area is located?

4 A: Could you repeat that?

5 Q: Sure. Based upon your knowledge and expertise,
6 why would one look at the absence of
7 nonlittoral vegetation to determine where the
8 beaches critical area is, other than that's
9 what the statute says?

10 A: Yeah, that's what confused me.

11 Q: Yes.

12 A: That's what the statute calls for.

13 Q: Other than what the statute says.

14 **OBJECTION:**

15 **MR. REDDY:** Objection, Your Honor, the statute does
16 not say that. This is all misrepresentation.
17 The statute that he's talking about is to
18 establish the baseline and setback line. It
19 doesn't say that's the -- that's the
20 nonlittoral -- that -- all the stuff he's
21 talking about, unstabilized zones, all this,
22 this is all hogwash, Your Honor. This is to
23 establish the baseline and setback line and he
24 knows that. It is not intended to determine
25 anything in the statute. There is nothing in



1 the statute other than their contorted
2 definition of beaches. That, everything he's
3 talking about, is to establish the baseline and
4 setback line. They go through that every seven
5 to ten years.

6 **THE COURT:** Response?

7 **MS. PHELAN:** I was -- when I said the statute, I was
8 referring to the beaches definition.

9 **THE COURT:** Then rephrase your ---

10 **MR. REDDY:** Is that an accident?

11 **THE COURT:** --- your question.

12 **MS. PHELAN:** This statute includes the beaches
13 definition.

14 **MR. REDDY:** That's not ---

15 Q: Mr. Jones ---

16 **THE COURT:** Just rephrase.

17 **MR. REDDY:** Ask your question again, please.

18 **MS. PHELAN:** Yes.

19 Q: Mr. Jones, other than the definition, the plain
20 meaning of the definition of beaches as you
21 apply it, as the beaches critical area, is
22 there another -- does it -- does it make sense
23 in coastal processes and your experience and
24 expertise to use the vegetation or the lack or
25 absence of nonlittoral vegetation, as a



1 delineation for the beaches critical area?

2 A: It does.

3 Q: And why is that?

4 A: Because, as I mentioned, vegetation is an
5 indicator of the landward limit of the beach,
6 or it can be a landward limit of the beach in
7 an eroding situation. And in an accreting
8 situation, vegetation advances, and you can
9 follow that as it goes.

10 Q: And does it relate to whether the area is
11 getting periodically inundated?

12 A: I would say yes, it does relate in the sense
13 that although the beach grasses are salt-
14 tolerant, they can only withstand so much
15 flooding by salt water. They can withstand
16 some but not all, not continuous.

17 Q: Did you assess where the beaches critical area
18 was located at the site based on whether --
19 based on the out -- based on the def- -- your
20 application of the definition of beaches
21 critical area?

22 A: I didn't determine anything. I reviewed the
23 work that the Department did in establishing
24 the scarp lines and the vegetation lines, and
25 based on that, I made my determinations.



1 Q: What did you do to do that? What did you
2 review?

3 A: I've reviewed the photos, the surveys that were
4 taken.

5 Q: Did you review the feature study imagery that
6 Ms. Boynton testified to?

7 A: I did.

8 Q: Did you review the vegetation line maps that
9 she also presented?

10 A: I did.

11 Q: And you reviewed the beach profile data, I
12 believe you said?

13 A: Correct.

14 Q: Let's talk about the photographs and the videos
15 first.

16 A: Can I back up and make one comment? This had
17 to do with vegetation, nonlittoral vegetation
18 and salt-tolerant vegetation. It's adapted to
19 withstand some flooding, but if that flooding
20 becomes too frequent or is too long of
21 duration, even the salt-tolerant plants will
22 die.

23 Q: Do you recognize these photos?

24 **(Joint Exhibit Number 78a was referenced at this**
25 **time.)**



1 A: I do.

2 Q: Did you help put these together?

3 A: I selected some photos for this slide set, yes.

4 Q: Okay. Do you want to just walk us through and
5 tell Ms. DeBruhl when she can go to the next
6 one, the next photo?

7 A: Okay. We've seen this photo or one like it,
8 and it shows the vertical escarpment caused by
9 erosion. Shows the artificial turf that's
10 draped over the scarp, and it shows some
11 vegetation growing on top of the scarp.

12 Q: And you know -- do you know approximately when
13 this photo is?

14 A: I think this was May or June of 2023.

15 Q: And before we go further, what was the purpose
16 of selecting these photographs?

17 A: Just to show that there's not vegetation
18 growing on the scarp itself or at the base of
19 the dune on the back of the beach.

20 Q: And it's a collection of photos from
21 approximately May to -- May 2023 to October
22 2024?

23 A: Yes.

24 Q: All right. Proceed please.

25 A: This shows the neighboring property. Shows



1 erosion at the beach access point on the north
2 side of the Reddys' property, and it shows the
3 same vertical escarpment, again with the
4 artificial turf draped over the top.

5 This shows part of the fence that had
6 washed out. Shows the escarpment. There's a
7 -- you can see a clump of vegetation that has
8 dropped right there. You can see the wrack
9 line over here.

10 Q: And can you -- as you walk through these, can
11 you tell us whether you think that it shows
12 periodic inundation or not?

13 A: I think it shows evidence of periodic
14 inundation. Maybe not at the instant the photo
15 was taken.

16 **OBJECTION:**

17 **MR. REDDY:** Again, objection, Your Honor, this was
18 taken the day after a storm.

19 **THE COURT:** It's a Joint Exhibit?

20 **MS. PHELAN:** Yes.

21 **THE COURT:** He can testify to it, Mr. Reddy. You
22 can ---

23 **MR. REDDY:** Okay.

24 **THE COURT:** You can cross on the probative value of
25 it.



1 Q: And what did you mean by it was identified or
2 showed evidence of periodic inundation?

3 A: It shows the lack of -- lack of vegetation on
4 the beach. It shows vertical scarp indicating
5 there has been recent erosion. We can see the
6 fence that has fallen. We can see debris on
7 the beach. And I should add that to ignore
8 storms when you're talking about establishing
9 jurisdictional areas or for any purpose, for
10 building a house, for example, is crazy to
11 ignore, because it is the storms that drive the
12 change along the beach and damage the property.

13 Next. We've seen that before or one like
14 it.

15 Next. Next. All these indicate there has
16 been recent erosion and what I would term
17 periodic inundation of that area.

18 Next. Next.

19 **THE COURT:** When you say to ignore a storm, I
20 understand your point, but if you're in a -- if
21 you're in an accreting zone, then, to me, it
22 would sound like that the storm would be not as
23 reflective of where the critical area is than
24 in a erosion zone.

25 A: It depends ---



1 **THE COURT:** You've have the storm, and then you
2 would have accretion that would occur
3 thereafter, so it would not be as reflective of
4 that were -- that which is going to ultimately
5 be the critical area.

6 A: At that point in time that would represent
7 critical area, although the critical area
8 changes over time. Boundaries change over time
9 when you're at the coast.

10 **THE COURT:** All right.

11 Q: Okay. Continue, please.

12 A: Next. I'm done with that.

13 Q: Okay. This is the same series of photos
14 through the time period. Can you continue
15 walking us through the time period?

16 **(Joint Exhibit Number 78b was referenced at this**
17 **time.)**

18 A: This was June 9th of 2023.

19 **OBJECTIVE:**

20 **MR. REDDY:** Your Honor, this is commutative. Again,
21 she said it's the same set of photos. She's
22 actually admitting its cumulative. So, what is
23 the purpose of us beating this horse to death
24 on day three, so far into it?

25 **THE COURT:** Is it cumulative?



1 **MS. PHELAN:** Your Honor, this is an expert that's
2 testifying about his evaluation of periodic
3 inundation now. So, to the extent that he
4 reviewed what the Department was looking at and
5 determined in his expertise that that was
6 correct, I don't believe it's cumulative. And
7 I believe it is instructive ---

8 **THE COURT:** Well, I'll tell you, for my purposes, I
9 don't believe I need to hear -- see every
10 exhibit he reviewed if he ultimately can
11 reflect this is -- these exhibits reflect my
12 opinion, that would probably be more probative.
13 So, if I could just state that, and you take
14 that for what it's worth at this point.

15 **MS. PHELAN:** I'm going to try to move quickly.

16 **Q:** And if you would, to the extent really ---

17 **THE COURT:** Okay.

18 **Q:** --- just focus in on what you really want to
19 point out to the judge ---

20 **THE COURT:** I'll overrule it at this point in time
21 because I have been promised for quick
22 movement.

23 **MR. REDDY:** I think I'm batting 20 -- 2-0.

24 **THE COURT:** No, you've won a few.

25 **A:** This sequence is important because it is in



1 June of 2023 and you can see, for example, the
2 top of the scarp with the fabric draped over.
3 You can see sand that is washed up on top of
4 the fabric and has settled in. You can see the
5 wrack at the bottom. You can see the sand up
6 there. So, this is an indication that water
7 has been above the level of the top of the
8 escarpment. So, certainly, it has periodically
9 inundated the beach below. Next.

10 **(Joint Exhibit Number 78d was referenced at this**
11 **time.)**

12 A: I'll get the hang of this eventually.

13 So this was taken the same time. I think
14 it was the same. No, this is September. This
15 isn't June. And this shows the determination
16 of the top of the escarpment, as Jessica
17 testified earlier. Next.

18 **(Joint Exhibit Number 78e was referenced at this**
19 **time.)**

20 A: This was from October 5th, showing sand that
21 had been piled up outside the Reddy's property,
22 showing that water was reaching the sand that
23 had been piled up. Period inundation. Next.

24 **(Joint Exhibit Number 78f was referenced at this**
25 **time.)**



1 A: This was November 17, 2023 after the wall,
2 first wall had been constructed. And you see
3 no evidence of the wall here because it is
4 buried by sand that has been dumped there. I
5 don't know who dumped it.

6 **(Joint Exhibit Number 78g was referenced at this**
7 **time.)**

8 A: This, I believe, is December of 2023. You can
9 see that the wall has been exposed. You can
10 see that there's water reaching up against the
11 pool at 120 Ocean Boulevard. You can see water
12 that is going behind the wall.

13 **(Joint Exhibit Number 78h was referenced at this**
14 **time.)**

15 A: This is another shot from December of 2023.

16 **(Joint Exhibit Number 78i was referenced at this**
17 **time.)**

18 Q: The date's right under the number at the top.

19 A: Yeah. January 2nd, 2024, I believe. This
20 shows the first wall that has been completed
21 and is in place. You can see water reaching
22 the base of the wall, and in the background,
23 you can see water that penetrates behind the
24 location of the wall. Next.

25 **(Joint Exhibit Number 78j was referenced at this**



1 **time.)**

2 A: This is probably January of 2024. You can see
3 that the wall is tipping seaward in this photo.
4 You can see evidence of rock that has been
5 placed in this area, plywood that has been
6 placed alongside the returns of ---

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

8 A: --- the wing walls.

9 **MR. REDDY:** --- what has this got to do with
10 periodic? We covered all of this.

11 **MS. PHELAN:** Your Honor, I'm trying to go through
12 the basis of his opinion that there was
13 periodic inundation.

14 **THE COURT:** Well, if you could just testify about
15 the periodic inundation. We don't -- I don't
16 need to hear ---

17 **MR. REDDY:** (Inaudible due to simultaneous speakers.)

18 **THE COURT:** --- what I've already heard about.

19 **MR. REDDY:** --- continued character assassination.
20 We did something wrong. Okay, whatever.

21 **THE COURT:** Okay, Proceed.

22 **(Joint Exhibit Number 78k was referenced at this**
23 **time.)**

24 Q: Do you recognize this?

25 A: I do.



1 Q: And what time period was this taken?

2 A: February 1st, 2024.

3 Q: And this is Joint Exhibit 78k now. Does this
4 show periodic inundation?

5 A: It does.

6 Q: Signs of periodic inundation?

7 A: It does. You can see the water that has
8 splashed up on the first wall. You can you see
9 a lack of nonlittoral vegetation in that area.

10 Q: And the wall's on active beach at this time,
11 too?

12 A: Yes.

13 Q: And active beach is necessarily part of a
14 beaches critical area?

15 A: It is a subset of the beaches critical area,
16 yes.

17 Q: Okay. Joint Exhibit 7811 (sic).

18 **OBJECTION:**

19 **MR. REDDY:** Your Honor, is he saying that based on
20 the statute? I object to that, He says it's
21 a subset of the Beach Critical Area. Where are
22 we coming up with all this? We already said
23 that active beach is not in the jurisdictional
24 line. Now, he says it's a subset. Is he now
25 testifying an expert on constitutional law,



1 statute law? What is he's testifying as?

2 **MS. PHELAN:** Can I ask him?

3 **THE COURT:** You can ask him about that. He can't
4 testify about the meaning of the statute,
5 obviously, but.

6 Q: So, as the beaches critical area is defined,
7 how does that relate to the active beach?

8 A: The active beach will be, or I should say, the
9 beaches critical area will be, at a minimum,
10 equal to the active beach of any ---

11 **OBJECTION:**

12 **MR. REDDY:** Objection, Your Honor. Active beach is
13 a defined term in the statute and he's using it
14 here -- he's introducing a defined term, and
15 we've already established it is not part of the
16 beaches definition.

17 Q: Based on coastal processes ---

18 A: Based on a plain reading of those two
19 definitions, active beach and beaches critical
20 area, the active beach will be ---

21 **OBJECTION:**

22 **MR. REDDY:** Objection, Your Honor.

23 A: -- a subset.

24 **MR. REDDY:** Plain reading. He's -- now, the
25 expert's become a lawyer?



1 MS. PHELAN: Okay.

2 THE COURT: Referencing the statute.

3 MS. PHELAN: He's -- he's -- I'll just move on.

4 THE COURT: Okay.

5 MS. PHELAN: I mean, it's ---

6 Q: The act- -- do you know how the active beach is
7 defined?

8 A: Active Beach is the limit of the -- goes from
9 the water line to the escarpment or the
10 vegetation line.

11 Q: Okay. And applying your coastal background,
12 how does that relate to periodic inundation by
13 tidal and wave action so that no nonlittoral
14 vegetation is established?

15 A: I would say that on the active beach you will
16 have periodic inundation, you will have no
17 nonlittoral vegetation. Active Beach is also
18 a term that is commonly used by coastal
19 engineers to indicate that portion of the beach
20 which is moving frequently.

21 Q: Thank you. So, back to Joint Exhibit 78-11
22 (sic).

23 (Joint Exhibit Number 781 was referenced at this
24 time.)

25 A: I believe this is ---



1 Q: Exhibit L.

2 A: --- February of 2024 showing work on the second
3 wall, which is just inland of the first wall.
4 You can see evidence of periodic inundation,
5 yet again, adjacent to the -- and in front of
6 the seawall.

7 Q: Next.

8 **(Joint Exhibit Number 78m was referenced at this**
9 **time.)**

10 A: April 2024 showing periodic inundation in front
11 of and adjacent to the seawall. Next.

12 **(Joint Exhibit Number 78n was referenced at this**
13 **time.)**

14 A: May '24.

15 Q: Does that one show indications of periodic
16 inundation?

17 A: On the adjacent property it does.

18 Q: And what are you looking at when you say that?

19 A: Looking at the vegetation up here.

20 Q: Thank you. 78o.

21 **(Joint Exhibit Number 78o was referenced at this**
22 **time.)**

23 A: Shows the same thing.

24 Q: And what time period is this?

25 A: This is June of '24.



1 Q: Next.

2 A: Shows wrack on the beach. It shows vegetation
3 at the top of the scarp.

4 Q: 78p, please.

5 (Joint Exhibit Number 78p was referenced at this
6 time.)

7 A: This is August '24. Again, evidence of
8 periodic inundation. And I should state that
9 the whole reason for showing this sequence ---

10 **OBJECTION:**

11 **MR. REDDY:** Objection, Your Honor. This was when
12 the lady next door's swimming pool was drained
13 to clean it because it was filled with sand.
14 He's never been to the site. He's putting up
15 photos submitted by these people and coming to
16 conclusion.

17 **MRS. REDDY:** You can see it here.

18 **MS. PHELAN:** He can cross on it.

19 **THE COURT:** You can cross. Go ahead. I mean, it's
20 a Joint Exhibit, right?

21 **MS. PHELAN:** Yes.

22 **THE COURT:** If it wasn't a Joint Exhibit, you might
23 win on that one.

24 **MR. REDDY:** Well, that's why I fired my lawyers. As
25 an expert, I don't know what he's -- what he's



1 testifying to. He's supposed to testify to
2 periodic inundation, not to my neighbor
3 emptying her pool.

4 **MS. PHELAN:** There's no -- there's no testimony or
5 evidence right now of that. And he can cross
6 on that.

7 **THE COURT:** There's no weight of the evidence one
8 way or the other right now.

9 **MS. PHELAN:** That's right.

10 **MR. REDDY:** Burden is upon them.

11 **MS. PHELAN:** So, he's ---

12 **THE COURT:** Okay.

13 **MS. PHELAN:** --- he's walking through what he shows
14 on this photo.

15 A: All I'm saying is that this sequence of photos
16 shows that there was evidence of periodic
17 inundation at the wall and in the vicinity for
18 over a year. That's the purpose of this whole
19 sequence.

20 **THE COURT:** All right.

21 A: There's not a one-off.

22 **THE COURT:** Let's keep moving. How many more do we
23 have?

24 **MR. REDDY:** How many more we got?

25 **MS. PHELAN:** Two. I mean, we tried to go through



1 and select just one or two ---

2 **THE COURT:** Okay.

3 **MS. PHELAN:** --- from each time period.

4 **(Joint Exhibit Number 78q was referenced at this**
5 **time.)**

6 A: September of '24. Water reaching the wall.

7 Q: And was this from a pool?

8 A: Doesn't look like it. It'd be a big pool.

9 Q: Okay. And how about this one?

10 **(Joint Exhibit Number 78r was referenced at this**
11 **time.)**

12 A: Evidence of periodic inundation again. Water
13 reaching at the wall. Water reaching behind
14 the wall on the side.

15 Q: And from your review of this -- these photos
16 from May 2023 to October 2024, did you reach an
17 opinion to a reasonable degree of certainty in
18 your field of expertise as to whether the area
19 where the original wall was built was getting
20 periodically inundated?

21 A: Yes, I did. And it has been.

22 Q: What about did you reach an opinion to a
23 reasonable degree of certainty as to whether
24 the area was in beaches critical area during
25 the time that they -- that the Reddys repaired



1 the original wall, installed pins in front of
2 the -- in front of it and pulled it up and
3 straightened it?

4 A: Yes. That work was within beaches critical
5 area.

6 Q: And do you have an opinion as to a reasonable
7 degree of certainty in your field of expertise
8 as to whether the location of the Reddys'
9 alterations at the time that they built the
10 second erosion control structure was in the
11 beaches critical area?

12 A: Yes, it was.

13 Q: And was that area being periodically inundated,
14 in your opinion, so that no nonlittoral -- by
15 tidal and wave action, so that no nonlittoral
16 vegetation was being established?

17 A: Yes, it was.

18 Q: And I should've asked you, did you form an
19 opinion to a reasonable degree of certainty as
20 to whether, at the time that the Reddys
21 installed the clay on their property, that that
22 -- some of that area was within beaches
23 critical area?

24 A: It would've been in the beaches critical area
25 based on what I've read that that work had



1 already been completed before your September
2 site visit. Before the wall was constructed.

3 Q: And I wanted to take a look at this picture,
4 Exhibit 179. This Joint Exhibit 179.

5 **(Joint Exhibit Number 179 was referenced at this**
6 **time.)**

7 Q: Does this tell us anything about whether the
8 wall was being periodically inundated?

9 A: It does. The wall was periodically inundated,
10 as well as the area behind it. You can see all
11 of the debris that has washed up in the lawn.
12 You can see in the adjacent property on both
13 sides that the Beach Critical Area extends
14 further landward than it would've had that wall
15 been intact and right. Let me back up and say
16 the beaches critical area extends back further
17 than it appears that it does behind the area of
18 the wall.

19 Q: I want to take a look at some June imagery.

20 **THE COURT:** I thought you said we were about two
21 photos away. How many more photos of all of
22 this? Just curious so I can gauge kind of.

23 **MS. PHELAN:** How many more photos?

24 **THE COURT:** Yeah, are y'all gonna go through?

25 **MS. PHELAN:** I mean, I ---



1 **MR. REDDY:** We've covered these three -- I believe -
2 --

3 **MS. PHELAN:** I think ---

4 **MR. REDDY:** --- this is the third time.

5 **MS. PHELAN:** --- this is -- I think is the last.

6 **THE COURT:** Okay.

7 **MS. PHELAN:** We do -- we are going to talk about the
8 feature study.

9 **THE COURT:** All right.

10 **MS. PHELAN:** That -- but it has other photos
11 attached to that, so.

12 **THE COURT:** All right. Well, we might take a break
13 if we get there. Go ahead.

14 **Q:** What do these photos show?

15 **(Joint Exhibit Number 53 was referenced at this**
16 **time.)**

17 **A:** This shows a June 12th, 2023 image. The yellow
18 dots represent the location of the wall when it
19 was constructed in October, the first wall.
20 And also, I want you to notice this part right
21 here. This would be the top of the scarp. You
22 can see the sand laying on the horizontal
23 portion of the property. You can see wrack on
24 the seaward slope. And you can see where the
25 wall was. So, this would indicate that the --



1 in June of 2023, that the beaches critical area
2 would have extended landward of the wall
3 location.

4 Q: And did any significant events happen between
5 June and when the wall was built that would've
6 affected the beaches critical area?

7 A: Yes. There were some storms in the beaches
8 critical area where there would've been
9 additional erosion and the beaches critical
10 area would've extended further seaward --
11 further landward.

12 Q: All right. Let's go to the next page, please.
13 Do you want to talk about this one?

14 A: We've talked about that one.

15 Q: Okay. We'll go to the next. We can talk about
16 this one.

17 A: We have talked about that one.

18 Q: Okay. And this is the feature study with the
19 Department that we're going to go through.

20 **THE COURT:** How long do you think the feature site's
21 going to take?

22 **MS. PHELAN:** Five minutes?

23 **THE COURT:** Okay, let's proceed.

24 **MS. PHELAN:** I mean, I ---

25 **THE COURT:** Okay.



1 **MS. PHELAN:** I'm doing my best to estimate, it's
2 hard.

3 **MR. REDDY:** I'm sorry, I missed that. What did you
4 say?

5 **MS. PHELAN:** I said I'm doing my best to estimate --
6 -

7 **MR. REDDY:** Well, how long was it?

8 **MS. PHELAN:** Like five, but that's not -- I still
9 have other questions. We have to go through
10 his beach/dune and vegetation lines and we will
11 be finished.

12 Q: And can you scroll through? Do you recognize
13 this series, Mr. Jones?

14 **(Joint Exhibit Number 65 was referenced at this**
15 **time.)**

16 A: I do. It's a serious put together by Jessica.

17 Q: Okay. And what was the purpose of putting this
18 series together? And did she put it together
19 at your request?

20 A: Yes.

21 Q: And what was the purpose of putting these
22 photos together? Just take us through.

23 A: It was to try to estimate the distance, on non-
24 orthorectified photos, the distance to the --
25 or the location of the seawall relative to the



1 beaches critical area.

2 Q: Do these photos show the periods of June,
3 September, October, November, December and
4 January?

5 A: Yes, they do. This is September. The previous
6 one was June.

7 Q: And why would -- why would you want to focus in
8 on June, September, October, November, December
9 and January?

10 A: Because that was the period of time before and
11 after the first wall was constructed. Second
12 wall was constructed, I believe, January 31st
13 through February 13th.

14 Q: Go ahead and walk -- if you will, quickly walk
15 us through these.

16 A: So, this is a September image. The yellow line
17 is the top of the escarpment that Jessica
18 testified to this morning. You can see the
19 blue dots indicate the position of the seawall.
20 Also the two lines, the yellow line, the short
21 yellow line and the orange line, were taken by
22 3W Engineering for the Reddys. And even that
23 shows that in July the landward limit of the
24 scarp, or the top of the scarp was landward of
25 the wall.



1 This is the study that Jessica did where
2 she determined the average tile spacing and
3 measured the distance to the wall, and based on
4 that, located the wall on other photos.

5 **OBJECTION:**

6 **MR. REDDY:** Commutative, Your Honor. Can we get
7 past all this?

8 **THE COURT:** I will say this, I don't need the expert
9 witness to testi- ---

10 **MR. REDDY:** Yeah.

11 **THE COURT:** --- to summarize what another witness
12 has already testified to.

13 **MR. REDDY:** Yeah.

14 **THE COURT:** I just heard it ---

15 **MS. PHELAN:** I was gonna just ---

16 **THE COURT:** --- this morning.

17 **MS. PHELAN:** ---I was just gonna ask him if he
18 evaluated this assessment.

19 **THE COURT:** Okay.

20 A: I did.

21 Q: And do you have an opinion as to -- to whether
22 this is reliable information that you would
23 rely on in your profession?

24 A: I believe it is reliable.

25 Q: Okay. Go ahead and -- so this -- just show us



1 quickly the time periods in this.

2 A: June 2023, this was the ortho photo that she
3 used to determine the distance to the wall.
4 Next photo.

5 **OBJECTION:**

6 **MR. REDDY:** Cumulative, Your Honor. Can he just
7 conclude whatever he's concluding with us
8 walking out through the whole thing again?
9 Just -- just -- I -- we'll ---

10 **MS. PHELAN:** I'm trying ---

11 **MR. REDDY:** --- whatever he concludes, let him
12 conclude. Just say.

13 **MS. PHELAN:** We're just walking through what the
14 date shows that he shows ---

15 **MR. REDDY:** No, he's talking through every one of
16 them. Same thing that she did.

17 **THE COURT:** Well, I would like it to move along, but
18 I overrule his objection.

19 **MS. PHELAN:** I will do my best to move along.

20 **THE COURT:** Okay.

21 Q: Okay. The date on this picture, please?

22 A: October 10th, 2023.

23 Q: And do you agree that this shows that the wall
24 would've been in the beaches critical area at
25 that point?



1 A: I do.

2 Q: Next picture.

3 A: November 17th, 2023. The first wall has been
4 constructed and covered with sand. It is
5 covered with sand in the image. And it shows
6 that the wall is landward of the beaches
7 critical area.

8 Q: Next.

9 A: I'm sorry, seaward of the beaches critical
10 area.

11 Q: And this December photo, again, that we've
12 already talked about, shows the walls in the
13 beaches critical area?

14 A: Yes.

15 Q: Next. This -- is this Febru- -- the January?

16 A: This is February 2nd, 2024.

17 Q: And do we see ---

18 A: In this photo, they had poured the footer for
19 the second wall, but they had not yet
20 constructed the second wall, the vertical
21 portions of the second wall.

22 Q: And is it your opinion that periodic inundation
23 was occurring at this time, too?

24 A: Yes, it is next.

25 Q: Next.



1 **MS. DEBRUHL:** That's it.

2 **Q:** Okay. Now you also said that you looked at a
3 vegetation line map created by the Department.
4 Let's talk about those.

5 **MS. PHELAN:** Exhibit 57, please.

6 **Q:** And so, not to be cumulative since Ms. Boynton
7 has already explained these maps, I just wanna
8 ask you, once you get to that, whether you
9 formed an opinion to a reasonable degree of
10 certainty in your field of expertise.

11 **(Joint Exhibit Number 57 was referenced at this**
12 **time.)**

13 **A:** I did.

14 **Q:** From looking at this?

15 **A:** I did.

16 **Q:** And what was that opinion?

17 **A:** That is that the vegetation line has largely
18 moved in a landward direction between 2006, I
19 believe it is, and December 2023.

20 **Q:** And did this hel- -- did you form an opinion as
21 to whether the -- the Reddy site became located
22 in the beaches critical area from a single
23 event or over a longer period of time?

24 **A:** It was over a long period of time.

25 **Q:** And do you state that opinion -- you hold that



1 opinion to a reasonable degree of certainty in
2 your field of expertise?

3 A: I do.

4 Q: Now let's talk about the beach profile data.
5 What was the purpose of looking at the beach
6 profile data?

7 A: To determine the typical dune toe elevation, or
8 base of the dune elevation, to compare against
9 Goodrich's 5.5.

10 Q: And did you look to determine where the
11 nonlittoral vegetation would occur based on
12 this?

13 A: Well, I couldn't tell because I was looking at
14 beach profile data ---

15 Q: All right.

16 A: --- but I know that vegetation will not grow on
17 a steep scarp of a dune.

18 Q: Okay.

19 **(Joint Exhibit Number 185 was referenced at this**
20 **time.)**

21 A: So essentially, what this shows is the -- my
22 first and second estimates of the dune toe
23 elevation. In some cases it was unambiguous.
24 There was only one number for station 3100 B,
25 3105 B, and then the average down here turns



1 out to be about 6 to 6.6 feet above NAVD. That
2 is the typical back of beach, base of the dune
3 elevation. And that elevation varies over
4 time, and it varies spatially. And you can't
5 pick a certain number and say that's it. Can't
6 pick 5.5 and say that's the number, but it is
7 somewhere in the range of 6 to 6.6 feet.
8 Anything below that will be beach; anything
9 above that will be dune/scarp.

10 Q: Now, I believe you mentioned to me that you
11 might've had an error?

12 A: I did.

13 Q: Can you point where your error occurred in this
14 chart?

15 A: Let me find it. I believe it was this one
16 right here. I had 6.22 and it was actually
17 6.32.

18 Q: So a typo?

19 A: A typo, yes. But it does not change the
20 results.

21 Q: From your evaluation of the beach profile data,
22 did you form an opinion to a reasonable degree
23 of professional certainty in your field of
24 expertise?

25 A: Yes.



1 Q: And what was that opinion, please?

2 A: That opinion is that periodic inundation can
3 reach an elevation higher than 5.55 -- 5.5,
4 probably in the vicinity of elevation 6 to 6.6
5 feet.

6 **MS. PHELAN:** Your Honor, one more.

7 Q: Now I want to talk a little bit about the
8 structure that was built at the Reddys'
9 property. Did you evaluate whether the
10 original wall was an erosion control structure?

11 A: According to the definition, yes, a retaining
12 wall is an erosion control structure.

13 Q: I'm showing you section 48-39-270, the
14 definitions. Did you apply this definition?

15 A: I did.

16 Q: And what did you determine?

17 A: I determined that the wall was an erosion
18 control structure.

19 Q: And ---

20 A: Not a very good one, I might add, but it was an
21 erosion control structure.

22 Q: And did you determine which definition it was
23 ---

24 **OBJECTION:**

25 **MR. REDDY:** Your Honor, is this -- is this now --



1 he's now gone from whatever the tech expert he
2 was to a construction expert. What he -- what,
3 he's saying it's not a good one or a good one.
4 He's calling it. I mean, what? What is this
5 now? Is he an expert ---

6 A: How did it perform?

7 **MR. REDDY:** --- at everything?

8 A: Did it do okay?

9 **MR. REDDY:** What's that?

10 **THE COURT:** Wait a second.

11 A: Did the wall do okay?

12 **THE COURT:** Sir ---

13 **MR. REDDY:** I'm asking you.

14 **THE COURT:** --- you can't respond like that but your
15 counsel can. Go ahead.

16 **MS. PHELAN:** Can I -- do you want me to answer him?

17 **THE COURT:** Yeah.

18 **MS. PHELAN:** Okay.

19 **THE COURT:** Or we could just strike the comment
20 about ---

21 **MS. PHELAN:** He was -- he was ---

22 **THE COURT:** --- not a very good one and move on.

23 **MS. PHELAN:** Oh. Well, he was -- I think his
24 objection was he was testifying to the wall and
25 his ---



1 **THE COURT:** He said he was objecting to the fact
2 that he was making a comment about -- that the
3 wall was not a very good one. He was
4 commenting on the quality of construction.

5 Q: I think you mentioned in your background that
6 you inspected erosion control structures?

7 A: I have.

8 Q: And what -- why did you say that the wall
9 wasn't a very good one?

10 A: The fact that it was out there from October --
11 mid October to the end of December, beginning
12 of January, and it was failing to the point
13 where they needed to -- the owner needed to
14 repair the wall, to pin the wall up so it
15 wouldn't collapse and kill someone, to use his
16 words.

17 Q: Did this wall still serve as a erosion control
18 structure?

19 A: When?

20 Q: When it was originally built?

21 A: Yes.

22 Q: And what about the second wall that they built,
23 was that an erosion control structure?

24 A: It was.

25 Q: Would it affect your opinion if someone was



1 suggesting that it was not constructed to
2 sustain waves and tidal conditions?

3 A: No, it would not affect my opinion.

4 Q: And why is that?

5 A: All walls are designed to withstand certain
6 conditions, or should be designed to withstand
7 certain conditions. First wall, I don't think
8 was designed, I think it was just built. I
9 don't know, but that's my speculation based on
10 looking at hundreds of structures. The second
11 wall had some attention, design attention,
12 engineering attention. It had plans. It had
13 -- it was reinforced and it had concrete. It
14 was a substantial wall.

15 Q: And can you briefly tell us what the effects
16 are of a hard erosion control structure?

17 A: There are two principal effects. One is it
18 denies sediment to the beach that would
19 otherwise float to the beach because of the
20 presence of the wall. In other words, the sand
21 behind the wall is kept from going out on the
22 beach and nourishing the beach. The second is
23 that because the waves and tides strike the
24 wall, they scour and -- they induce scour on
25 adjacent property in front of the wall.



1 Q: Do you have an opinion whether it is more
2 likely than not that the wall will have a
3 further detrimental impact if a substantial
4 storm hits?

5 A: It will.

6 Q: And can you tell us the basis of that?

7 A: Basis will be two things. One is, when water
8 hits a structure, doesn't matter where it is,
9 but if water hits it, it will scour in the
10 vicinity of that structure. And the second is
11 the study that was done after Hurricane Eloise
12 in the panhandle of Florida, which showed that
13 the amount of additional erosion caused by an
14 erosion control structure varies for the length
15 of the structure. So, there is some science
16 behind it, as well.

17 Q: In your opinions that you have rendered today
18 about the hard erosion control structure, do
19 you hold those to a reasonable degree of
20 certainty in your field of expertise?

21 A: I do.

22 Q: And Mr. Jones, final question, could you please
23 summarize the opinions that you hold in this
24 case?

25 A: Three things. That the walls that were



1 constructed were, in fact, erosion control
2 structures; two, that they were in the beaches
3 critical area; and three, that the
4 determination of periodic inundation by Matt
5 Goodrich of 5.5 is not correct.

6 **MS. PHELAN:** And, Your Honor, we'll go back into
7 that after Mr. Goodrich testifies.

8 **THE COURT:** All right.

9 Q: And you hold those opinions to a reasonable
10 degree of -- a reasonable degree of certainty
11 in your field of expertise?

12 A: I do.

13 Q: Okay, thank you.

14 **MS. LENHARDT:** No questions.

15 **THE COURT:** All right.

16 **MR. REDDY:** Is it me?

17 **THE COURT:** Can I -- gonna take a break unless
18 you're ready to go now.

19 **MR. REDDY:** It's up to you, Your Honor.

20 **THE COURT:** I think I'm gonna take a break.

21 **MR. REDDY:** I'm ready, but ---

22 **THE COURT:** Why don't we take a quick break. I will
23 ask a question or two.

24 You said that the wall was in the critical
25 area. How far in the critical area and is it



1 still in the critical area?

2 A: The critical area moved through time. The June
3 and October surveys that we have, and the July
4 survey that was done by Mr. Reddy showed that
5 it was on the order of five to ten feet within
6 the critical area. Whether it's in there now
7 or not, I can't say since I haven't been to the
8 site recently. I haven't been to the site in
9 years, but I cannot say. I do know that sand
10 is being added to the area. At some point the
11 shoreline will return to an accretional phase,
12 if it hasn't already, and at some point in the
13 future, the wall will cease to be in the
14 critical area, the beaches critical area.

15 **THE COURT:** Okay. I'm going to take a break. Thank
16 y'all. Five minutes.

17 **MR. REDDY:** Five minutes, we're ready. Get this
18 over with.

19 (Off the record from 3:30 p.m. until 3:40 p.m.)

20 **THE COURT:** All righty. Mr. Reddy?

21 **MR. JONES - CROSS EXAMINATION BY MR. REDDY:**

22 Q: Hello, Mr. Jones. Glad you're from -- you've
23 been familiar with the Isle of Palms. So, how
24 much were you paid by the taxpayer?

25 A: My -- I've submitted three invoices. So far



1 they have totaled \$21,000, thereabouts, not
2 counting the trial.

3 Q: Would you call it 25, maybe, total?

4 A: At the rate we're going, 30.

5 Q: 30. So, \$30,000 of taxpayer money. Now, does
6 that buy -- in your opinion, you think that was
7 a budget constraint there, that they didn't
8 allow you to go visit the site before you
9 testified as an expert?

10 A: No.

11 Q: No? No budget constraint. You just chose not
12 to ever visit the site before you had all these
13 opinions on pictures they sent to you?

14 A: I've been to the site, and I've been over the
15 site many times.

16 Q: When was the last time you went to the site?

17 A: 2017 or '18.

18 Q: So, this is well before any of your testimony
19 today. So, is it fair to say that after
20 \$30,000 of taxpayer money, all of your
21 testimony is based on pictures that were given
22 to you?

23 A: That is not true.

24 Q: It's not true? Oh, yes, please enlighten me.

25 A: It was based on pictures, surveys, some



1 provided by you, some provided by the State,
2 and years of coastal engineering experience.

3 Q: Excellent, but no personal observation of the
4 site?

5 A: Not recent.

6 Q: Not in any time frame you testified, obviously.
7 Right? It's 2017? Did I even ---

8 **MR. REDDY:** Did we own the property then? I guess
9 we did.

10 **MRS. REDDY:** Uh-huh.

11 Q: Okay. So, the other thing that really
12 interested me is that you were so intimately
13 involved with the Isle of Palms, my favorite
14 place in the world. Were you involved, as you
15 testified earlier, in -- in -- what was your
16 involvement in the Isle of Palms Beach
17 Management Plan, which is, of course, each
18 municipality is required to have, right?

19 A: They're required to have a local comprehensive
20 beach management plan.

21 Q: Okay.

22 A: I've worked on that, and I worked on the City's
23 long-term beach management plan before the
24 comprehensive plan.

25 Q: Excellent. So, when you say worked on that,



1 what is the -- what is the meaning of worked on
2 that? What type of work? Was it writing it,
3 researching it?

4 A: Yes.

5 Q: All of the above?

6 A: Yes.

7 **MR. REDDY:** Your Honor, I would like to -- as the
8 expert witness I guess I have some room to
9 enter exhibits, my exhibits, 13, 15, and 16,
10 which is the Isle of Palms Beach Management
11 Plans from 2017, preliminary 2023 and final
12 2023. Any objections to that since he worked
13 on it and did all of the above?

14 **MS. PHELAN:** There is a lot of figures, data and
15 photos and everything else ---

16 **MR. REDDY:** She is not objecting.

17 **MS. PHELAN:** --- and I ---

18 **MR. REDDY:** Are you objecting to that? The ones he
19 worked on? That he ---

20 **MS. PHELAN:** I just ---

21 **MR. REDDY:** --- he's your expert.

22 **MS. PHELAN:** I don't think that just because he
23 works on this that you've established a
24 foundation to get this in through ---

25 **MR. REDDY:** What are you talking about, he's the



1 expert. He's -- I don't have to establish much
2 of a foundation for an expert, do I?

3 **THE COURT:** Well, it has to be relevant.

4 **MR. REDDY:** It's relevant. He worked on it.

5 **THE COURT:** Well, how's it relevant?

6 **MR. REDDY:** And it's directly, directly -- he --
7 first of all, he worked on it. Second of all,
8 it is for the municipality that I live in. And
9 third of all, it directly -- Your Honor, we're
10 here to address jurisdiction. It directly
11 addresses jurisdiction, as opposed to all the
12 mumbo jumbo we're talking about.

13 **THE COURT:** Well, it's ---

14 **MS. PHELAN:** Your Honor, I -- fine.

15 **THE COURT:** All right. So that's Respondent's ---

16 **MS. PHELAN:** You can take that.

17 **MR. REDDY:** Beautiful. Let's put it up.

18 **THE COURT:** Hold on a second. Respondent's ---

19 **MS. PHELAN:** No objections.

20 **THE COURT:** Respondent's Exhibits -- what's the
21 number again?

22 **MR. REDDY:** 13, 15, and 16.

23 **THE COURT:** 13, 15 and 16.

24 **MR. REDDY:** I'd like to ---

25 **THE COURT:** Whoa, whoa, whoa.



1 MR. REDDY: --- pull up -- sorry.

2 THE COURT: Are they marked?

3 COURT REPORTER: (Nods head.)

4 THE COURT: Can we hand them to the court reporter?

5 MS. PHELAN: These are the actual witness ones.

6 MR. REDDY: Thank you. Thank you.

7 COURT REPORTER: Thank you.

8 THE COURT: All right, they're admitted.

9 (Respondent's Exhibit Numbers 13, 15 and 16 were
10 admitted into evidence at this time.)

11 THE COURT: If I didn't say that earlier.

12 Q: Okay. So, that's good. So, since they're
13 admitted, which -- or can we go on Exhibit 13,
14 let's go -- it's got a couple of different page
15 numbers, and I don't know which is which, but
16 the top of the page it says page 35 at the
17 bottom of the page, it says page 31, so. So,
18 let's go to the BCM number, it might be better.
19 BCM number 9712.

20 (Respondent's Exhibit Number 13 was referenced at
21 this time.)

22 Q: Okay. So, at 4.1.2, can you -- can I call your
23 attention to the bottom of it, where it talks
24 about DC -- DHEC OCRM, as the steward of the
25 State's coastal resource, is responsible for



1 implementing this policy. Before I go into
2 this development of the policy and the policy
3 -- so, I just want to make sure that in Exhibit
4 13, that I did not in any way misrepresent it.
5 I believe there was a direct coordination with
6 DHEC OCRM, and these plans have to be approved
7 by the City of Isle of Palms and by DHEC. Is
8 that not true?

9 A: That is correct.

10 Q: Okay, good. So we're going to look at that.
11 I'm just going to read it into the record. The
12 policy is implemented by DHEC OCRM using
13 jurisdiction lines along the ocean shoreline.
14 DHEC OCRM has established two jurisdiction
15 lines -- and it talks about the baseline. It
16 talks about 48-3-29 [sic], talks about the
17 setback line, and it says the DC -- DHEC OCRM
18 baseline and 40-year setback line were last
19 updated for Isle of Palms -- it gives you a ---

20 **THE COURT:** Can you go down? Will y'all scroll down
21 a little bit?

22 **MS. MAPLES:** Yes.

23 **THE COURT:** There you go. Keep on going.

24 **MS. MAPLES:** Keep going?

25 **THE COURT:** That's it.



1 **MR. REDDY:** Where are you? I'm at the bottom of
2 9713. Keep going.

3 **THE COURT:** That's why ---

4 **MR. REDDY:** Yeah.

5 **THE COURT:** That's why I wanted you to scroll down.

6 **MS. MAPLES:** Sorry.

7 **Q:** DHEC OCRM baseline and 40-year setback lines
8 were last updated -- prior to that, I just
9 wanted to also point out the same thing I
10 pointed out in the statute earlier, which is
11 reflected up there, which is -- if you scroll
12 up a little bit, it talks about 48 -- stop.
13 48-39-280 states. And then if you go to number
14 two on there, it says the baseline for inlet
15 zones that are not stabilized, which I believe
16 he testified was the inlet zone in question
17 here, and goes through the entire rigmarole of
18 what all is taken into account in developing
19 the baseline, which is historical migration,
20 this, that, what have you.

21 **THE COURT:** Are we working toward a question here?

22 **MR. REDDY:** Yes.

23 **THE COURT:** Okay.

24 **Q:** So, page 32 and right above that, if you could
25 read that back, the thing that starts with 40-



1 year setback line, would you mind reading that,
2 Chris?

3 A: "The 40-year setback line, which establishes
4 the landlord limit of DHEC OCRM jurisdiction
5 under the Beachfront Management Act, is drawn
6 landward of the baseline a distance equal to 40
7 times the average annual erosion rate or not
8 less than 20 feet from the baseline for each
9 erosion zone based on the best historical
10 scientific data adopted for the department as
11 part of the State Comprehensive Beach
12 Management Plan."

13 Q: Okay. So, what do you -- how do you -- how do
14 you read that, since you worked on this
15 document?

16 A: What do you mean, how do I read it?

17 Q: I mean, do you read -- how do you -- how would
18 you describe, having read that, having worked
19 on it, having written it, all of the above,
20 like you said, what does that tell you for the
21 jurisdictional lines in terms of DHEC OCRM's
22 jurisdiction?

23 A: Tells me that the juris- -- those two
24 jurisdictional lines represent their authority
25 under the Beachfront Management Act.



1 Q: Thank you so much. Now, let's move on. I just
2 wanna make sure also that it's in the record
3 that these were discussed and approved by DHEC
4 OCRM, correct?

5 A: They were. And a lot of the language in these
6 plans, both the 2017 plan and the 2023 five-
7 year review were based on what I will call
8 boiler plate information, or text that was
9 included in the guidance for developing the
10 local plans.

11 Q: Beautiful. Then we're going to go to Exhibit
12 number 16. Gonna skip over 15 in interest of
13 time. And I'm going to go to BCM Reddy 10251.

14 MS. MAPLES: What page? What page?

15 MR. REDDY: Page -- this is in Exhibit 16. It's top
16 of the page is 58.

17 MS. MAPLES: Might be the other one.

18 MRS. REDDY: This?

19 MR. REDDY: No, top of the page here. No, not that.

20 MS. MAPLES: Okay.

21 MR. REDDY: It must've been the wrong exhibit. It's
22 BCM 1 -- 10251.

23 MS. MAPLES: Exhibit 15 or 16?

24 MR. REDDY: 16, 1-6.

25 MS. MAPLES: I don't think that -- that's not a



1 Bates number in this set.

2 **MR. REDDY:** Huh?

3 **MS. MAPLES:** That's not a Bates number in this set.

4 **MR. REDDY:** This -- this is the one.

5 **MS. PHELAN:** I believe it's Respondent's Exhibit 15.

6 **MS. MAPLES:** I do too.

7 **MR. REDDY:** Okay. 15?

8 **MS. MAPLES:** Yes. Thank you.

9 **MR. REDDY:** I get it wrong? Okay.

10 **THE COURT:** Ms. Phelan, thanks for helping him.

11 **MR. REDDY:** Sorry.

12 **MS. MAPLES:** And what's the page number at the ---

13 **MR. REDDY:** 10 ---

14 **MS. MAPLES:** --- top of the page?

15 **MR. REDDY:** --- 251.

16 **MRS. REDDY:** At the top of the page.

17 **MR. REDDY:** 251. Sorry about that. Slow down.

18 Yeah.

19 Q: So. here you see, these are the preliminary
20 revisions to the '23 Beach Management Plan.
21 There's a lot of redactions and redlining going
22 on. Why was that, Chris? What -- what is --
23 what is all these redactions and all that?
24 Seems like, the last one, eh, I'll delete this
25 one. There's a lot of redactions here. What



1 is this all related to?

2 **(Respondent's Exhibit Number 15 was referenced at**
3 **this time.)**

4 A: The guidance for development of these plans was
5 last updated in 2020 and it dictated language
6 that belonged in each of these sections.

7 Q: Can you read that second sentence from the top?
8 It says in 2018, the highlighted one.

9 A: "In 2018, Act 173 of the General Assembly
10 eliminated the State policy of retreat and
11 moved to a policy of beach preservation."

12 Q: Thank you. What does that mean to you? Since
13 you were writing this and you wrote that, what
14 does that mean? The 2018 policy the General
15 Assembly eliminating retreat.

16 A: They didn't eliminate retreat, they eliminated
17 the policy of retreat and moved to a policy of
18 beach preservation. This is the same thing the
19 State of Florida went through in 1984 when a
20 storm hit the east coast and they were suddenly
21 -- the state was suddenly hit with hundreds of
22 applications for structures, for erosion
23 control structures. The State didn't know what
24 to do. They had the Orrin Pilkeys of the world
25 saying, let it all fall in. They had other



1 people saying, we want ---

2 Q: Are you speculating on Florida? I'm not asking
3 you that.

4 A: I'm not speculating, I was there.

5 Q: I'm asking you about this particular thing.

6 A: I understand.

7 Q: What does that mean to you?

8 A: What I'm saying is it's a similar problem to
9 that faced by other states, including the State
10 of Florida in 1984. And the solution that the
11 State of Florida came up with was to nourish
12 the beaches. And essentially, that's what this
13 change in policy from retreat to beach
14 reservation goes from.

15 Q: Since you seem to be an expert on Florida, can
16 you tell me what initiated that change in
17 policy in Florida, South Carolina, then several
18 other states since then followed? Can you tell
19 me was there an economic reason for doing that?

20 A: Change -- what policy ---

21 Q: The change eliminating ---

22 A: --- in Florida?

23 Q: --- retreat and save -- preservation.

24 A: Florida did not have a policy of retreat in
25 1984.



1 Q: No, I'm talking about there are many states now
2 have changed a policy of retreat, not just
3 South Carolina. Let's -- let's focus on South
4 Carolina. In 2018 when it was changed, was
5 there any economic reasons for changing it?

6 A: I don't know.

7 Q: Would you say that the econ- -- if I told you
8 the economic reasons for changing it in South
9 Carolina, would you disagree with me? If I
10 said it was because retreat means the state has
11 to buy it and the tax base shrinks. And
12 Justice Scalia, would you agree with me, ruled
13 on that?

14 **OBJECTION:**

15 **MS. PHELAN:** Objection, Your Honor. Assumes facts
16 not in evidence.

17 **MR. REDDY:** I'm asking the expert his opinion, Your
18 Honor. He's an expert, isn't he?

19 **THE COURT:** Well, she says you're assuming facts not
20 in evidence, so we're ---

21 **MR. REDDY:** I'm not assuming anything, I'm asking
22 him.

23 **THE COURT:** Okay. Rephrase -- or ask the question
24 again where I can hear it specifically.

25 Q: I'm going to repeat the same question. Would



1 you disagree with an economic reason for
2 preservation versus retreat? Would you
3 disagree there's an economic reason for it?

4 A: There are economic consequences probably, but I
5 don't know what those are.

6 Q: Okay. Would you disagree if -- with the
7 economic consequence that says, if the state
8 retreats, they have to buy the land and the tax
9 base shrinks?

10 A: I don't know that that's the case.

11 Q: Okay. That's all I was asking you. At any
12 rate, the -- this policy removed re- -- seems
13 to say, eliminated -- I'm just going to use the
14 words here, eliminated the state policy of
15 retreat and moved to a policy of beach
16 preservation. To your knowledge, given that
17 you're an expert on this, as a result of the
18 General Assembly eliminating the policy of
19 retreat and moving to a policy of preservation,
20 did -- do you know if the Department or the
21 City, or anyone that you're involved with in
22 this space, that you personally are involved
23 with in this space said, okay, we gotta change
24 what we're doing. We gotta change our tactics
25 to match this new policy?



1 A: Is there a question?

2 Q: Yeah. Are you aware of anything in your sphere
3 of expertise -- because you deal with the
4 State, you know, all of these things were
5 reviewed with the State, as you said. You deal
6 with the City, because you developed these
7 things for the City, as you testified. So,
8 you're in constant contact with the State, the
9 City, and everyone else. You wrote this plan,
10 which is what you testified to. So, I'm
11 saying, are you aware of any changes that the
12 State or City made as a result of the State
13 changing their policy?

14 A: Let's take them one by one. Start with the
15 City. I believe the City had actually made the
16 commitment starting in 2008 to move to a policy
17 beach preservation.

18 Q: Excellent. What did they do actually?

19 A: Nourish the beach, manage shoal attachments.

20 Q: They manage shoal attachments. So, shoal
21 attachments are managed by municipality or they
22 happen naturally?

23 A: The municipality speeds up the process. The
24 shoal attachment adds sand to the beach at the
25 east end of -- the north end of Isle of Palms.



1 The shoal management projects were going out at
2 low tide and scraping sand from the sand bars,
3 not from the beach, and bringing it up on the
4 beach. This was as opposed to the offshore
5 dredging projects.

6 Q: So, I believe it has been testified by Mr.
7 Slagel twice -- actually, once in deposition,
8 once yesterday -- that scraping sand does not
9 qualify as renourishment. Are you saying you
10 disagree with that?

11 A: Scraping sand from the low tide beach does not
12 constitute renourishment.

13 Q: Okay.

14 A: Scraping sand from an attaching sand bar that
15 is offshore does.

16 Q: Okay. So, on the property we're talking about,
17 on the southern end of the beach, where we --
18 where we are, you know, 118, 120 which you last
19 visited in 2017, as you put these plans
20 together, would you say from 2018, from when
21 this thing passed, until now -- I'm sorry. I
22 know you said you worked for CSE. Do you still
23 work for CSE?

24 A: No. I've worked for myself since 1997.

25 Q: Okay. Sorry, yeah, I missed that. But your --



1 your ex-employer, CSE's still employed, I
2 think, by the City?

3 A: Correct.

4 Q: Do you -- are you aware of, on the stretch of
5 the beach we're talking about, the southern
6 side of the beach where my property is located,
7 how much of sand has been accreted or lost from
8 '18, when that passed, until now?

9 A: I don't know the number, but the plan has
10 documentation as to -- from 2018 through '22,
11 probably.

12 Q: And what -- what does it show? Does it show --
13 -

14 A: It shows ---

15 Q: --- addition or depletion?

16 A: Your property is in reach one of the island,
17 and it shows erosion.

18 Q: Erosion. So, if this policy was being
19 followed, do you not think new sand would be --
20 need to be added to the beach to replenish and
21 not allow it to keep eroding?

22 A: Could you repeat that?

23 Q: If this policy that is up on the screen saying
24 the Act said they're eliminated, eliminated --
25 you can interpret different ways, as you seem



1 to want to, but in my means, means it's gone.
2 We've eliminated the state policy of retreat,
3 and we have moved to a policy of beach
4 preservation. When you -- the water is water,
5 right? You know that. The water is water.
6 So, my question to you is, there's the water.
7 If you're eliminating the policy of retreat,
8 then the only way to preserve the beach is to
9 retreat the water. Otherwise you're retreating
10 the land. So, my question is, how in the world
11 do you retreat the water if the levels of sand
12 are dropping as you testified?

13 **OBJECTION:**

14 **MS. PHELAN:** I'm going to object, assumes facts not
15 in evidence.

16 **THE COURT:** Well ---

17 **MR. REDDY:** What's not in the evidence?

18 **MS. PHELAN:** I mean, he just ---

19 **THE COURT:** --- I over- ---

20 **MS. PHELAN:** --- he just told the witness that there
21 was only one way to ---

22 **THE COURT:** But he's asking a question.

23 **MR. REDDY:** I'm asking a question. Is there any
24 other way? Do you know of any other -- are you
25 an expert now?



1 **THE COURT:** Sir, no, you can't ---

2 **MR. REDDY:** Okay. I'm just asking. I'm asking the
3 expert. He's an expert. He's not just ---

4 **THE COURT:** Okay.

5 **MR. REDDY:** --- anyone else, right?

6 **THE COURT:** Can you answer the question?

7 A: Could you repeat the question? Sorry.

8 Q: Sorry about that. We're going to read that Act
9 in front of you again. The Act 173 of the
10 General Assembly eliminated the state policy of
11 retreat and moved to a policy of beach
12 preservation. So, my question to you is this,
13 water is water. It's there. It's -- if you
14 let it erode -- eroding the land. The State
15 says, huh, no more. So, if you don't retreat
16 the land, you have to retreat the water.
17 Something's gotta give.

18 A: You have to implement the policy, is what
19 you're saying. And one way to implement the
20 policy is to add sand to the beach.

21 Q: Bingo. We could've saved a lot of time.
22 That's kind of what I was getting at. And so
23 do you know now, with your knowledge of Isle of
24 Palms -- as a matter of fact, I need to consult
25 you afterwards because there's a lot of bad



1 stuff going on there. So, with your knowledge
2 of Isle of Palms, in this section of the beach
3 we're talking about, since 2018 -- again, I'm
4 trying to narrow the time frame, because it
5 can't go on forever, right? Since this Act was
6 passed, has any new sand been added?

7 A: Just sand that has been brought in from upland
8 sources by truck. Up until the Corps of
9 Engineers project that's ongoing now.

10 Q: Do you know how much sand was brought in by
11 truck from upland sources?

12 A: I do not.

13 Q: You do not? I thought you were involved with
14 them. You're not?

15 A: Property owners do that, and the City has been
16 involved in that since I worked for the City.

17 Q: No, no, no, no, no. That's not -- I'm sorry,
18 that's not my question. Property owners are
19 not going to renourish the beach, a public
20 beach.

21 A: But they truck ---

22 Q: They bring in some sand to protect their prop-
23 --immediate property. I'm talking about
24 renourishing the beach. What this is talking
25 about, not building a dune around -- a berm



1 around the house because getting washed away.
2 I'm talking about renourishing the beach. Do
3 you -- let me ask you another question. Do you
4 know after the State passed this policy in the
5 2024 state budget, how much money has been put
6 in to all of beach renourishment for the entire
7 state?

8 A: I do not know.

9 Q: Would you be surprised if I told you it's three
10 million?

11 A: That's not much.

12 Q: Okay. So, you have -- we have a situation here
13 where the State has eliminated it. We have a
14 situation with homeowners where new sand in
15 that section of the beach, some of which Matt
16 testified yesterday to, was scheduled to be
17 added, but was not added. Added in Wild Dunes.
18 In this situation, you testified earlier, the
19 beach levels are depleting. Now, how in the
20 world, in your opinion, does a homeowner
21 protect their property, by your testimony,
22 storm by storm, day by day?

23 A: I would say two ways. One is to lobby the City
24 to get a nourishment project in that area that
25 would give meaningful relief. And the second



1 would be the emergency protective measures that
2 are available for the State.

3 Q: And what are those measures?

4 A: Sand scraping, on occasion, through emergency
5 order or bringing in sand, adding fence and
6 plants.

7 Q: So, I'm glad you said on a limited basis. So,
8 are you aware, since you do work in other
9 states, of other states' opinions with scraping
10 sand? Massachusetts, for example.

11 A: I don't know the Massachusetts language
12 specifically, no.

13 Q: Would you be surprised if you said -- if I told
14 you they banned it?

15 A: I would not.

16 Q: Okay. Why?

17 A: Because Massachusetts tends to have a pretty
18 hard line when it comes to beach management.

19 Q: Would you ---

20 A: The other thing is that beach scraping has not
21 been proven effective.

22 Q: Thank you. Yeah, that's what I was getting at,
23 it -- that it's not -- that it's not effective.
24 So, now we're going to go to the same page,
25 further down the page, you know, it talks about



1 the same thing, a baseline, 40-year setback
2 line. The purpose of these jurisdictional
3 lines -- you see that line?

4 A: I do.

5 Q: Can you read that?

6 A: A policy of beach preservation line, is that
7 what you want me to read?

8 Q: No, no, I'm sorry, not that. The sentence
9 above that, it says the purpose of the
10 jurisdictional line.

11 A: "Purpose of these jurisdictional lines is to
12 implement Section 48-39-280(A) of the statute,
13 which reads as follows."

14 Q: You wrote this, right?

15 A: This came out of the boilerplate language the
16 State required in all the plans.

17 Q: So, you disagree with it when you wrote it?

18 A: No. I'm not saying I disagree, but ---

19 Q: Oh, okay.

20 A: --- you asked if I wrote it.

21 Q: Okay. So, this document says -- and I just
22 wanna -- wanna get your thoughts on this. It
23 says these baselines and setback lines are
24 established, and the purpose of these
25 jurisdictional lines is to implement 48-39-280



1 of the statute. And then it quotes the
2 statute. And then it quotes the baseline and
3 setback line. And then, let's go to the very
4 next page, which is 12- -- 10252. And can you
5 read that? 10252.

6 **MS. MAPLES:** Uh-huh.

7 **Q:** Okay. So, can you read that thing that starts
8 with 40-year setback line, the first
9 highlighted bullet point?

10 **A:** That's the same language I read before,
11 wherever I read it, "40-year setback line,
12 which establishes the landward limit of DHEC
13 OCRM jurisdiction under the Beachfront
14 Management Act, generally is drawn landward of
15 the baseline" "equal to 40 times" blah, blah,
16 blah.

17 **Q:** Okay, thank you. So, this document then was
18 finalized pretty much with these changes. I
19 wanted to show these changes because of the
20 change in the 2018 Act that eliminated retreat,
21 which was under some discussion with the last
22 witnesses. But so now that we've established
23 it's there, I will tell you that in Exhibit 16,
24 which was -- also been submitted into evidence,
25 I believe the thing -- the same language was



1 finalized. So, we don't need to -- we don't
2 need to -- I want it in evidence to just show
3 that there's no difference between the redline
4 that we read and the final -- final language
5 that's finalized. So, it seems like as
6 recently as 2023, when this was last updated,
7 seems like -- I want to once again establish
8 that even the 2023 plans had to be reviewed
9 with DHEC before they were finalized and
10 reviewed by the City.

11 A: Correct.

12 Q: Thank you. So, as recently as 2023, to the
13 citizen looking at Isle of Palms local beach
14 management plan reviewed by the state agency
15 DHEC and all of these people here who say they
16 don't know anything about it, and reviewed by
17 the City, and published, clearly seems to say,
18 do you not agree, that the baseline and setback
19 line established the limit of jurisdiction?

20 A: Under the Beachfront Management Act ---

21 Q: Correct.

22 A: --- Section 48-39-280(A).

23 Q: Yeah, which is part of that statute, that's the
24 statute. So, without belaboring this point,
25 I'm going to ask you, now that we've gone



1 through all the excellent work involved with
2 that, I think we can move on to something
3 different, maybe more interesting. I was kind
4 of curious, you know, about your -- some of
5 your testimony. I wrote a -- I wrote some
6 notes down, as a matter of fact, not very good
7 at this, but I did write some notes down. So,
8 I want to ask you something without in any way
9 insulting you. I think you were there for
10 Hugo, in that time frame, you're not -- you're
11 not like Jacques and some of these guys that
12 may not have been born by then, right? So, you
13 were around for Hugo?

14 A: I was.

15 **OBJECTION:**

16 **MS. PHELAN:** Your Honor, I'm gonna -- I would like
17 him to stop disparaging -- the remarks. It's
18 not appropriate.

19 **MR. REDDY:** Agreed. Agreed, agreed.

20 **THE COURT:** Okay.

21 **MR. REDDY:** Let's keep moving.

22 Q: So ---

23 **THE COURT:** I sustain the objection.

24 Q: So, in Hugo, most of the barrier islands were
25 destroyed, would you agree?



1 A: No.

2 Q: No, okay. What was destroyed in Isle of Palms?
3 Let's, let's focus on Isle of Palms.

4 A: Dunes were destroyed. And at the east end the
5 island and the central part of the island,
6 there were a lot of buildings that were
7 destroyed.

8 Q: Yeah.

9 A: Or heavily damaged.

10 Q: Were you here?

11 A: I was in Columbia at the time.

12 Q: Did you ---

13 A: I ---

14 Q: --- come down and take a look?

15 A: I came in on a Thursday night. I drove down on
16 a Monday.

17 Q: Did you get to Isle of Palms?

18 A: I did.

19 Q: Okay. When you got to Isle of Palms, you know
20 Ocean Boulevard ---

21 A: Uh-huh.

22 Q: --- that you referred to earlier was -- in your
23 observation at that time, was Ocean Boulevard
24 covered in sand?

25 A: It could have been, I don't really remember,



1 but I know it was not clear pavement.

2 Q: Okay.

3 A: But it was not so deep that I couldn't drive
4 it.

5 Q: Yeah. No, I agree with that. We were here
6 fortunately. And so just take -- let's take a
7 situation like that, which could happen again,
8 would you agree?

9 A: It could.

10 Q: So, under your definition that we went through
11 earlier, one big storm like that comes through.
12 Let's say, eh, the inundation has been
13 happening, been coming, like I told the
14 previous witness, maybe up to here, just normal
15 inundation (indicating). However you want to
16 call it, run-up, this, that, whatever. Hugo
17 comes along, goes "wow" (noise) to the door,
18 takes everything out. Vegetation's out.
19 Everything's covered in sand. You can't see
20 anything. So, would it be your testimony,
21 since you said storm should count, that that
22 would mean that that whole thing from here to
23 the door has been periodically inundated?

24 A: I would say yes, however, how I treat that area
25 might differ based on a catastrophic storm like



1 Hugo from a, what I will call a garden variety
2 nor'easter or small hurricane.

3 Q: So, you would make a distinguish -- you would
4 actually distinguish between a named storm,
5 that's a, eh, tropic- -- say category one, and
6 a named storm. I don't know who names them.
7 Does anyone know? I don't know. Someone names
8 them, some very smart people. So, there's a
9 named storm that's category one, and a named
10 storm that's category five, and you would make
11 a distinction saying, hey, that's a category
12 five. So, umm, I'm gonna count it. This a
13 category one, so I think I'll count it.

14 A: And the question?

15 Q: That's the question. Would you make that
16 distinction in assessing periodic inundation?

17 A: It depends, not just on the category of the
18 storm, but where it hits, what tide cycle it
19 hits at, whether it's bypassing or whether it's
20 coming in perpendicular to the shoreline. The
21 effect is what's important, not the category of
22 the storm.

23 Q: I agree. I'm saying the effect is the same.
24 So, I'm -- I just take the same ---

25 A: If the dunes were destroyed, and if there was



1 significant overwash and the vegetation that
2 was there was buried, then I think there are
3 ways that can be used to estimate where the
4 dune and vegetation would be when it returns.

5 Q: That went over my head. So, I'm gonna go back
6 to the hypothetical question. I'm gonna go
7 back to normal inundation keeps coming in line
8 with this desk. Category five, Hugo, comes and
9 washes stuff out to the door. It's gone.
10 Taken it all out, covered in sand. And then a
11 category one storm comes and takes out halfway
12 to the door, to the bench. Gone. Destroyed,
13 no vegetation. In your description, you would
14 view these two incidents differently. You
15 would say the first storm that went all the way
16 to that door, this is not critical area, but
17 the second storm, because it was not that big
18 a storm, but still went halfway to the door,
19 this is critical area.

20 A: I did not say that.

21 Q: I'm asking you. I'm not saying you said that,
22 I'm asking you.

23 A: Here is what I would do. When the interim
24 baseline was established for standard erosion
25 zones, there was a procedure that was



1 developed, and it was called ideal profiles, or
2 average profiles, where you take an average
3 profile for a section of beach and you can
4 superimpose that on the post storm profile.
5 Slide one landward relative to the other and
6 determine where the dune would be based on the
7 volume of sand on the beach. And something
8 like that could be used as a guide to tell
9 people where the vegetation is likely to
10 return, or where to build a dune, or where to
11 plant vegetation and have it a reasonable
12 chance of surviving.

13 Q: Sounds logical but complicated. But do you
14 know, or do you believe that whatever process
15 you just described was followed with me in
16 claiming 1,255 feet of Beach Critical Area the
17 day after a storm?

18 A: I do not believe it was. I wasn't there, but
19 I don't think you need to use that process for
20 all storms. I would use that for the
21 catastrophic storms, the ones that remove the
22 dune and bury the area to the landward in sand.
23 That's when the vegetation would be gone or
24 buried.

25 Q: It's getting very complicated.



1 A: It's not that complicated.

2 Q: Well, I'm trying to understand because this was
3 a named storm and never happened before, right?
4 Do you know if it had ever happened before?

5 A: What?

6 Q: The -- well, we're gonna get -- well, well,
7 let's get to the pictures on that in a minute.
8 So, let's --

9 **MR. REDDY:** Can we go to the same pictures we went
10 to -- maybe just start at -- no, no. I wanna
11 use the ones we used with Jessica this morning.

12 Q: Oh yeah. Let's, let's go through these
13 pictures, because y'all used these. This is
14 one version of the same picture. You -- go to
15 the next one, which is another view of this
16 picture. This is the other version, where you
17 called it periodic inundation on June --
18 September 19 -- September 9th ---

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

20 Q: --- 19th, 2024. Would you happen to know on
21 that particular day what the NOAA tide was?

22 **(Joint Exhibit Number 78q was referenced at this**
23 **time.)**

24 A: I do not.

25 Q: Would you be surprised if I told you it was 7.6



1 feet?

2 A: Could be, I don't know.

3 Q: Is that a normal tide, 7.6 feet at Isle of
4 Palms, since you're familiar with it?

5 A: That would be a king tide. Anything over 6.6
6 above mean low or low water is a king tide.

7 Q: Okay. So, that's one picture.

8 **MR. REDDY:** Can you put up the other picture they
9 used? Not that. The destruction after the
10 storm.

11 **MRS. REDDY:** December?

12 **MR. REDDY:** Yeah. The first picture guys, come on.
13 We went over this. Yeah, this one.

14 Q: So, this is a picture you used to describe
15 periodic inundation on 12/18/2023. So, is it
16 your testimony that when you have a significant
17 storm like that nor'easter was, as you can
18 see, that debris is not from my house, that
19 debris is from homes north of me, docks,
20 everything washed out. You believe that's
21 periodic inundation? Because I believe that
22 was your testimony.

23 **(Joint Exhibit Number 179 was referenced at this**
24 **time.)**

25 A: It is, and I do.



1 Q: Okay. So, now let's go to the pictures we used
2 this morning but start one month earlier.

3 MR. REDDY: When -- you know the -- before the
4 storm, before the ---

5 MRS. REDDY: That one.

6 Q: So, this is a picture from April 19, 2022. I
7 just want you to take a look at that picture.
8 And if you look at the picture, what do you see
9 past the fence?

10 (Exhibit Number 69 was marked for identification
11 purposes.)

12 A: Do you have a shot looking back the other
13 direction?

14 MRS. REDDY: Not on this day.

15 A: Taken from the beach?

16 Q: We're just taking a picture from the house to
17 see how beautiful the beach was. You can --
18 actually you can see this -- I don't know if
19 you can see it on your screen, you see those
20 sand fencing things, do you see those?

21 A: Yes, by the walk over steps.

22 Q: Yeah, yeah, exactly. So, that's -- would you
23 say that's a dune?

24 A: I can't really tell from this angle, but it
25 could be.



1 Q: Okay. Would you say that this is all
2 established vegetation?

3 A: It appears to be.

4 Q: Excellent.

5 A: Just outside the fence.

6 Q: Just outside and inside the fence, right?
7 Inside the fence, as well. I don't know what
8 you mean by outside. I'm saying ---

9 A: Not in you're your yard ---

10 Q: --- land- -- landward ---

11 A: --- not in your fenced yard.

12 Q: --- landward of the fence and outside the fence
13 there's some -- some of it -- some of that is
14 littoral. You can't see it from this angle.
15 We're gonna come to this. And there's the very
16 famous palm you're going to see in the next
17 picture.

18 **THE COURT:** Was this -- what year -- what time frame
19 was this, sir?

20 **MR. REDDY:** 2022, the previous year.

21 **THE COURT:** I have to ask quicker. 2022?

22 **MR. REDDY:** Yeah, that's the previous year. That's
23 the -- that's how the yard used to look before
24 the things. I just wanted to show the
25 established vegetation, how beautiful it all



1 was.

2 **THE COURT:** Is this before the second ---

3 **MR. REDDY:** Before any storms. This is when we have
4 ---

5 **THE COURT:** --- before the second retaining wall or?

6 **MR. REDDY:** That was before ---

7 **MRS. REDDY:** Before either.

8 **MR. REDDY:** Before any wall.

9 **THE COURT:** Okay.

10 **MR. REDDY:** Before any wall, before any storm.

11 **THE COURT:** Okay.

12 **MR. REDDY:** This is 2022.

13 Q: Fence, dune. We had a dune at that time, which
14 is what he -- well, you can see in the
15 background, had a -- had a beautiful boardwalk
16 and established vegetation. Now, we're going
17 to go to May of 2023 which you had some
18 pictures for. So, just wanted -- I wanted to
19 see this. You went over this before. Would
20 you say this is a line of vegetation?

21 A: I would. I would say that's an escarpment with
22 vegetation on top.

23 Q: Do you see one panel of the back fence there,
24 and one panel of the back fence kind of leaning
25 down?



1 A: I do.

2 Q: Right. Now we're going to go to the very next
3 -- hold on. Come back. I want you to keep an
4 eye on this palm. So, we're going to go to the
5 very next picture. So, can you tell us from
6 June -- from May, which is that picture, to
7 June, which is this picture, which I think you
8 had some testimony to, what -- what do you
9 think, in your opinion, happened to all the
10 plants on either side of the palm that you saw
11 the month before?

12 A: I do not know.

13 Q: Okay.

14 A: I see the artificial turf draped over the
15 escarpment. I don't know if the plants were
16 removed by you or by nature.

17 Q: So, Chris, would you be surprised to tell you
18 -- if I told you that I got in a lot of trouble
19 with them because I took out all their favorite
20 rose bushes and had my guys staple turf to the
21 top to protect the escarpment, which Matt
22 testified to?

23 So, that top area up here is stapled turf.
24 The top of that, stapled turf. All of these
25 plants below that had to be taken out so we



1 could protect the dune and -- if you -- there
2 was another picture from another angle, I think
3 you testified to, that shows my neighbor's
4 yard. I did it for her, as well.

5 Okay. So, now, keep an eye on the palm
6 again.

7 **MR. REDDY:** No. So, we're going to go -- yeah.

8 Q: So, we're going to go to this picture that we
9 talked to Jessica about this morning.

10 **MR. REDDY:** And I will ask my co-counsel to come up
11 here for a second. The infamous, so far, it's
12 like the O.J. Simpson whatever, palm is right
13 there. Circle it. Circle the vegetation on
14 either side.

15 Q: So, as I established, the vegetation had been
16 there for years. I showed you the picture, and
17 you agree that that was vegetation from '22,
18 before any storms. There was a fence there.
19 We then went to the next picture which you saw
20 the established line of vegetation was still
21 there, but no protection and no dune. So, we
22 -- we took out some of the plants, and we -- we
23 -- scraped over it. So, my question to you is
24 this, so you come to this picture that the
25 common thread is the palm. What -- what --



1 this yellow line, Jessica testified, that was
2 used to claim the 1235 (sic) square foot of
3 critical area with one data point, what -- why
4 do you think if you were doing this, and I know
5 you're not a GIS expert, but just from a
6 vegetation expert, why would you bypass this
7 vegetation here, this vegetation here, this
8 vegetation here, and go in (indicating)?

9 A: Can you clear the red from the screen?

10 **MR. REDDY:** Can you clear the red?

11 **THE COURT:** I'll clear it.

12 **MRS. REDDY:** Thank you.

13 **MS. MAPLES:** Thank you, Your Honor.

14 A: Can you zoom in? So, you're asking about this
15 area here (indicating)?

16 Q: Which one? I'm sorry.

17 A: The one I circled.

18 **MS. MAPLES:** He circled it on the right.

19 Q: Ah.

20 **MRS. REDDY:** Yeah.

21 Q: Yeah. That area here ---

22 A: Okay. Let's ---

23 Q: --- that palm there.

24 A: Let's go one at a time.

25 Q: Yeah, okay.



1 A: So, I can't really see vegetation where it hits
2 the ground on this photo.

3 Q: You know, Chris, because it's -- you know --
4 you know, it can get -- where it hits the
5 ground. Let's just focus on the palm. There's
6 the palm. There is that -- you know, this is
7 a great shot that shows the top of the bank
8 where the turf was stapled. So, you see the
9 palm there? Do you see the palm there?

10 A: I do.

11 Q: That's the common theme from 2022 to here. I
12 want to -- I want to back up one picture to
13 just make another point. The one in ---

14 **MRS. REDDY:** June?

15 **MR. REDDY:** June, yeah.

16 **MR. REDDY:** Oh, yeah, yeah. No, I think y'all
17 passed it. No?

18 **MS. MAPLES:** Right here?

19 **MR. REDDY:** Not that. Next one. Next one.

20 Q: So, Chris, this is another one I wanted to talk
21 to you about. You testified that you -- your
22 belief was that this sand up there came from
23 wave up rush. Is there some reason you
24 concluded that versus an incredible -- without
25 the dunes now, incredible amount of sand



1 blowing in, which, if you had gone to the site
2 today, like you haven't been there since '17,
3 you will see there's actually fabric over here
4 and over there to keep the sand from coming
5 into the yard. Could it be? Could it be it's
6 blowing in and not from waves?

7 A: I would say it's highly doubtful.

8 Q: It's highly doubtful in your opinion?

9 A: Correct.

10 Q: So, the waves, in your opinion, were so high
11 between May of 2023 and June of 2023, that one
12 month period, that, in your opinion, you're
13 saying the waves actually climbed -- I don't
14 know, what does that look like, Chris, six,
15 seven feet up the embankment? Do you have any
16 proof of that? Do you have any king tide, or
17 some other tide, or some other storm that
18 happened in that one month period that would
19 justify that opinion? Or did you even look for
20 that?

21 A: All I can say is that what I'm viewing right
22 now is consistent with water splashing up on
23 the embankment and carrying wrack and sand with
24 it.

25 Q: Okay. But you -- you don't believe that all of



1 this sand, even up here -- actually, from other
2 angles you'll see it all over the yard if it's
3 sitting up there. You don't believe it
4 could've blown in?

5 A: Some sand could've blown in if it was piled up
6 high enough adjacent to the yard.

7 Q: Okay. Would you be surprised if I told you
8 that we have fabric on either side protecting
9 sand from blowing in because it's damaging to
10 the turf?

11 Yeah. Here's an overhead picture that
12 actually -- actually, you know, you see all
13 over, you know, going around the corner, as
14 well, is sand. All the beds, even on the side,
15 are covered with sand. But it's okay. It's
16 his opinion. I just -- I'm just saying there
17 could be another one.

18 So, you went back, I think you started off
19 your testimony with Ocean Boulevard. I believe
20 your first slide, if I wrote this down right,
21 was all the way in 1953 where Ocean Boulevard
22 really wouldn't have existed, would've sort of
23 been in the ocean, possibly.

24 A: Correct, on the beach.

25 Q: Correct. So, do you think that whoever it is



1 that owned that property properly permitted it
2 from the City, properly platted it? Do you
3 have any reason to believe that all those
4 properties were not properly permitted and
5 platted, regardless of whether people believe
6 they should be there or not, that they were all
7 properly done and approved by the proper
8 authority? Do you have any reason to believe
9 these properly -- these properties were
10 improperly built?

11 A: I have no knowledge of that one way or the
12 other, proper or improper.

13 Q: But do you think you could build a house there
14 without all the permits, since you've been
15 involved ---

16 A: You're talking today?

17 A: Or any day, anytime. All those homes, all
18 those homes, an entire row of homes, would have
19 been in the water.

20 A: I don't understand the question.

21 Q: So, you testified in 1953 Ocean Boulevard --
22 it's not just my house, but all that entire
23 strip, the southern end of the island, would've
24 been in the ocean?

25 A: On the beach.



1 Q: On the beach. So, since then, it accreted,
2 someone who probably did extremely well,
3 platted the property, permitted the property,
4 and sold the property so people could build
5 homes. Do you -- do you have any reason to
6 believe that was not done properly with the
7 proper permits and the proper approvals by
8 state and local and whoever needs to approve
9 those lands being platted with plats filed in
10 Charleston County and city permits and all
11 that?

12 A: I have no knowledge as to whether it was proper
13 or improper.

14 Q: Okay.

15 **OBJECTION:**

16 **MS. PHELAN:** I -- it seems like we're getting way
17 far afield here.

18 **MR. REDDY:** Way far?

19 **MS. PHELAN:** Yeah.

20 **MR. REDDY:** 1953.

21 **MS. PHELAN:** Objection ---

22 **MR. REDDY:** That's way far, wouldn't you think, Your
23 Honor? I'm just addressing the 1953 issue she
24 tabled.

25 **THE COURT:** Well, you actually did -- I was about to



1 tell him -- and him why it's relevant, but then
2 you did have testimony about that.

3 **MS. PHELAN:** 1953, that it was ---

4 **MR. REDDY:** That's all. I'm just saying ---

5 **MS. PHELAN:** But he's talking about ---

6 **MR. REDDY:** -- what it's got to do with today?

7 **MS. PHELAN:** --- whether it was properly permitted.

8 **THE COURT:** Yeah, that's true.

9 Why is it relevant about the properly ---

10 **MR. REDDY:** Because my point is that government --
11 you know, there's a -- there's an entire school
12 of belief that believes that we got attacked on
13 many times saying, you shouldn't have built
14 there. You shouldn't have built that because
15 that, that used to be the thing. So, if your
16 property gets washed out, it's your fault.

17 **THE COURT:** Well, they're not alleging that today,
18 though, so ---

19 **MR. REDDY:** Well, they make those comments in social
20 media. But I'm just saying ---

21 **THE COURT:** Are y'all making any allegations to that
22 effect?

23 **MS. PHELAN:** Your Honor, we don't make comments on
24 social media ---

25 **MR. REDDY:** So, was '53 brought up?



1 **MS. PHELAN:** --- comment on acting lit- -- you know.

2 **THE COURT:** Okay.

3 **MR. REDDY:** So, why was 1953 -- what was the reason
4 for '53 being discussed? I don't know ---

5 **THE COURT:** You can ask him.

6 **MR. REDDY:** --- that was even before I was born.

7 A: Because we had an aerial photo from 1953.

8 Q: Just wanted to put it up for fun?

9 A: No, it wasn't for fun. It was one of the few
10 photos we had.

11 Q: Okay, excellent. So, you testified, I believe,
12 earlier, that the section of the beach with
13 unstabilized inlet, or whatever it's called,
14 goes through periods of erosion and accretion.

15 A: Correct.

16 Q: And it seems like you go to the statute, 48-39-
17 280. The Honorable Judge corrected me this
18 morning because I wasn't reading it right.
19 (A) (2). 48-39-280 (A) (2).

20 A: I don't have it in front of me.

21 Q: Okay. Would you mind if I read it to you?

22 A: No.

23 Q: I'm gonna -- I'm not gonna make it up, so I'm
24 just going to read it. It says, "The baseline
25 for inlet erosion zones that are not stabilized



1 by jetties," which is -- which is what the
2 section of the beach would be, would you agree?

3 A: Correct.

4 Q: "... terminal groins, or other structures must
5 be determined by the department as the most
6 landward point of erosion at any time during
7 the past forty years, unless the best available
8 scientific ..." -- dah, dah, dah, dah, dah.
9 And in calculating this, they need to take into
10 account, among other factors, historical inlet
11 migration, inlet stability, channel and ebb
12 tidal delta changes, the effect of sediment
13 bypassing on shorelines, and the effect of
14 nearby beach restoration projects. So, my
15 question is this, it seems to me like the
16 General Assembly is saying, hey, I want you to
17 establish baseline and setback lines, and I
18 want those baselines and setback lines to do
19 that. Would you agree? I want to take into
20 account all the things that could impact
21 erosion or accretion, some of what you
22 testified to you. You said, you know, they
23 accrete, they erode, they do whatever things.
24 So, every seven to ten years, it seems to me
25 like they go through this elaborate process.



1 I don't know how much money they spend, but
2 they do it. And I think the General Assembly
3 there is saying, yeah, I want you to do it and
4 look at all of this stuff. And based on that,
5 we'll adjust those lines. And as you testified
6 earlier, all of these plans and everything else
7 describe these lines that are taking into
8 account the long-term erosion as the limits of
9 jurisdiction, would you not -- doesn't it all
10 make sense to you, Chris?

11 A: I disagree that that's the limit of
12 jurisdiction. There are multiple jurisdictions
13 here. One is beaches critical area. One is
14 beach/dune, which is what we're talking about
15 here.

16 Q: So, you disagree with the manuals that you put
17 together, that you testified to earlier for, I
18 don't know, the first one we talked about was
19 2017, I think. The second one we talked about
20 was 2023. Multiple reviews with DHEC OCRM.
21 You testified that you were involved in
22 writing, developing all of the above, I think
23 is the word you used, but -- and you're saying
24 when that document says that is the limit of
25 jurisdiction, that is not your opinion today?



1 A: Those documents say that is the limit of
2 jurisdiction under the Beachfront Management
3 Act.

4 Q: Which is part of the statute?

5 A: Correct. But it is not the entire statute. It
6 does not cover all critical areas.

7 Q: So, I'm just asking you a question, Chris,
8 about ---

9 A: I'm just answering.

10 Q: --- are you saying you disagree -- you
11 personally -- you wrote that, but you disagree
12 with that should be the limit of jurisdiction?
13 And did you communicate that disagreement to
14 anyone?

15 A: It does not say limit of jurisdiction. Go back
16 and read it again.

17 Q: Oh, I'm happy to read it again. I will be here
18 a long time, but I'm happy to read it again.
19 So, let's tee it up again. Let's go back and
20 tee it up again. We can just start with this
21 first one. Should -- you want me to read it,
22 or you want to read it, Chris? Either way.

23 A: I don't have it.

24 Q: I'm on BCM 009713. The 40-year setback line,
25 which establishes the landward limit, landward



1 limit of DHEC OCRM jurisdiction. So, you're
2 saying it doesn't say that?

3 A: Under the Beachfront Management Act. It says
4 that, but it has a phrase after where you read.

5 Q: I get -- I get it. But was -- that is part of
6 the coastal zone management, and was it
7 reviewed with DHEC? Did you ever discuss it
8 with DHEC?

9 A: Discuss what?

10 Q: The whole manual, the whole beachfront
11 management plan.

12 A: Yes.

13 Q: You did, yeah, because there's testimony that
14 your -- you talk to Adam Bode, Bode --

15 A: Bode.

16 Q: Bode about it, with Jessica about it.

17 A: I didn't talk with Jessica about it.

18 Q: Jessica put you on to Adam, I believe, that's
19 the testimony. I can pull it up if you want.
20 We can keep going around here in circles. So,
21 this -- the main issue is, for ten years you
22 put together a plan, you reviewed it with DHEC.
23 DHEC signs off on it. You testified DHEC had
24 to approve it, the preliminary and the final,
25 all the discussions. The City has to approve



1 it. And nowhere did -- is it your testimony
2 nowhere did you say, oh no, I disagree with
3 that reading of jurisdiction?

4 A: Because of the phrase under the Beachfront
5 Management Act, which references the
6 jurisdictional lines.

7 **MR. REDDY:** Your Honor, this is circle talk. So,
8 let's just move on.

9 **THE COURT:** Are you saying the Beachfront Management
10 Act didn't include the phrase beaches? I'm
11 just trying to understand what the Beachfront
12 Management Act was from your perspective.

13 A: From my perspective, the Beachfront Management
14 Act in 1988 added the baseline and the setback
15 line to overall coastal management for the
16 State.

17 **THE COURT:** Okay.

18 A: Which included beaches. Before the beach/dune
19 system was -- the term was coined.

20 **THE COURT:** Say that again, I didn't hear you.

21 A: Before the beach/dune system was coined to
22 represent the limit of the 40-year setback
23 line, beaches were still within the purview of
24 State's jurisdiction.

25 **MR. REDDY:** Let me ask a question, Your Honor, just



1 to be clear what he was saying, because what I
2 understood him to say is, yes, these plans say
3 it is the limit of jurisdiction under the
4 Beachfront Management Act. And he, I think is
5 implying, the Beachfront Management Act is not
6 connected to the statute.

7 Q: Is that what you're saying?

8 A: No.

9 Q: It doesn't -- it's not determinative to what's
10 in the statute, or it's inconsistent with the
11 statute?

12 A: The Beachfront Management Act, as I understand
13 it, was a separate piece of legislation which
14 modified the statute.

15 Q: So, is it part of the statute or not?

16 A: It is.

17 Q: Okay, it is. And so under that, a statute,
18 part of the statute, under this Beachfront
19 Management Act, as part of the statute that's
20 been reviewed by OCRM and DHEC, preliminary,
21 final, over a period of many years, most
22 recently in 2023, it says this establishes the
23 landward limit. Now we're going around in
24 circles. So, I'm gonna -- I'm just gonna move
25 on.



1 I'm also going to say it is your testimony
2 now that despite saying there are temporary
3 periods of erosion, and you answered the
4 Honorable Judge that there's erosion and there
5 may be some accretion in that portion of the
6 beach, I believe were -- was the conversation
7 you had, despite that, and despite what the
8 Section 280 says about every seven to ten
9 years, which is what we read about, taking into
10 account all these different factors and coming
11 up with jurisdictional lines, despite the Beach
12 Management Act saying this, it is your
13 testimony that, in your opinion, jurisdictional
14 lines can change from day to day and storm to
15 storm?

16 A: No, that is not what I said.

17 Q: Okay.

18 A: I did not say jurisdictional lines change. I
19 said jurisdiction, through the beaches
20 definition, changes.

21 Q: Okay, I'm sorry. Maybe I didn't use the right
22 word. Jurisdiction by the agency can change
23 day by day and storm by storm?

24 A: Correct.

25 Q: Okay, thank you. Let's -- let's move on from



1 that and go to the Army Corps project. I think
2 you have said the Army Corps project is pumping
3 sand. Is that what they call it?

4 A: They do not call it beach nourishment or
5 renourishment.

6 Q: What do they call it? You used the word sand.
7 What do they call it?

8 A: I don't know what the exact language is without
9 looking at the City's website, but they are
10 pumping sand to the low tide beach and the City
11 is moving that sand higher up on the beach
12 profile.

13 Q: So, let me ask you a couple of questions since
14 you've testified as an expert on that. Would
15 you be surprised if I said they call it
16 intracoastal spoils?

17 A: No, I wouldn't. That's just ---

18 Q: Okay.

19 A: --- where the sediment comes from.

20 Q: And would you be surprised if they said this is
21 experimental, and they're doing it for the
22 second time ever, and they have no idea what
23 they're doing? And they said it's not -- like
24 you testified, they did say that it was not
25 renourishment.



1 A: I don't know that they said they don't know
2 what they're doing because there has been near
3 a shoal disposal of sand or sediment for years
4 up and down the coast. That's what they called
5 near a shoal disposal ---

6 Q: Do you know that they have never pumped sand on
7 a beach. They have spoil areas that are full.
8 Are you saying they pump sand on the beach for
9 years?

10 A: I don't follow.

11 Q: I mean, dredging on the beach?

12 A: I don't follow the question.

13 Q: You just said -- I thought you just said, so I
14 want to clarify it, that you said they pump
15 spoils, intracoastal spoils onto the beach for
16 years.

17 A: What I said was the Corps has practiced near
18 shore disposal of sediment from some dredging
19 projects, wherever they are, intracoastal,
20 inlets, wherever, onto the low tide beach.
21 They do not call that beach nourishment because
22 of the authority that they have under the
23 Rivers and Harbors Act. They call it something
24 else.

25 Q: Sorry. Do you follow the public meetings that



1 Isle of Palms with the Army Corps? Do you
2 follow that or do you ---

3 A: I have.

4 Q: You have, okay. Do you recall what they said
5 at the meeting as to the reason why they were
6 doing this?

7 A: Reason why they're doing it, as I understand
8 it, was they needed more capacity to dredge
9 spoil areas. And they killed two birds with
10 one sand -- one stone.

11 Q: They think they did, yeah. Moving on. I want
12 to get to periodic inundation and ask a couple
13 of questions on that. So, I'm going to put up
14 Joint Exhibit 182.

15 **(Joint Exhibit Number 182 was referenced at this**
16 **time.)**

17 Q: Would you look at that -- is this -- is this an
18 email you wrote to Sallie?

19 A: It is.

20 Q: And you say you looked through a couple of
21 manuals. In those manuals there are many
22 references to periodic that help us. Who's us?

23 A: The Department and me. Making our arguments
24 about periodic to counter Matt Goodrich's
25 assertion.



1 Q: Okay.

2 **MR. REDDY:** Do you have the foot of the memo on
3 that? The attachment on that that basically
4 says ---

5 **MS. MAPLES:** Yeah, it's on here.

6 **MR. REDDY:** There is a piece of it ---

7 **MS. MAPLES:** Do you want the January 14th memo?

8 **MR. REDDY:** Yeah.

9 **MS. MAPLES:** Is this what you want?

10 Q: So, do you -- do -- do you recall this thing?

11 A: I do.

12 Q: Okay. So, it seems in this memo that you wrote
13 to her, one position seems to be a definition
14 that somewhat is consistent with the -- with
15 the statute, inundated or saturated at a
16 frequency and duration sufficient to support a
17 prevalence of hydroquatic -- I don't know.

18 **MR. REDDY:** Keep going. Yeah, that one. That one
19 there.

20 Q: So, this is a -- this is the email to her, so
21 you have two definitions. One says inundated by
22 water at a frequency and duration sufficient to
23 preclude establishment of nonlittoral. That's
24 from the National Academies of Science and
25 Engineering and Medicine, which seems very,



1 very close to the definition of beaches in the
2 statute. The second definition is from
3 Microsoft Word. So, do you recall writing
4 these two definitions about helping us?

5 A: I do.

6 Q: Okay, good. Now that we have those two
7 definitions of helping us, I just wanted to go
8 through a couple of quick questions. You had
9 a very complicated thing on wave run-up. You
10 were starting to lose me there, but I have a
11 couple of questions for you. My understanding
12 is you use the ACES wave run-up.

13 A: That's one of the programs I used.

14 Q: Did you read the manual before you used it?

15 A: I did.

16 Q: You did? You did or did not?

17 A: I did.

18 Q: Okay. Does the manual tell you to input the
19 slope of the foreshore area?

20 A: It -- I don't recall the exact words, but the
21 slope is one of the inputs.

22 Q: Did you input the slope of the foreshore area?

23 A: I use the same slope that Matt Goodrich used.

24 Q: So, you -- I'm gonna ask you a question here.
25 Would you get a different wave run-up if you



1 actually followed the manual and input the
2 foreshore slope rather than the upper beach
3 slope?

4 A: I didn't use the upper beach slope.

5 Q: Did you use the foreshore slope?

6 A: I did. And as I said before, I used the same
7 inputs that Matt Goodrich used in terms of wave
8 height, slope and roughness ---

9 Q: Okay.

10 A: --- to use different programs to see whether --
11 if I would get different results, and I did.

12 Q: I ---

13 A: So, I used the same inputs Matt used. And that
14 was intentional.

15 Q: Okay. My question was very simple, yes or no.
16 Did you use -- when you calculated the wave
17 run-up, if you input the fore- -- if you
18 actually used the upper beach slope. And
19 you're saying the answer to that is yes?

20 A: No. I did not use ---

21 Q: I'm sorry; you actually used the foreshore
22 slope?

23 A: I used the slope that went from the toe of the
24 dune back to the low tide terrace.

25 Q: Is that in the manual ---



1 A: Which is ---

2 Q: --- defined as a foreshore slope?

3 A: More or less.

4 Q: More or less?

5 A: But that's what Matt used, so I used it.

6 Q: I -- do you think it's a good idea to follow
7 the manual, or follow what Matthew did or
8 someone else did?

9 A: I do.

10 Q: Okay.

11 **THE COURT:** That was a two-part question.

12 A: I know.

13 **THE COURT:** Which -- which one was the I do to?

14 A: It was to either or both.

15 Q: So, you testified also that you are an expert
16 on erosion control structures, and the erosion
17 control structures. I don't know exactly what
18 you used, but you said it was poorly done or
19 something.

20 A: You're talking about your first wall?

21 Q: Correct.

22 A: Yes.

23 Q: So, how much expertise do you have with an
24 erosion control structure? Would you say --
25 would you say ten years?



1 A: I'd go back 35 or 40.

2 Q: Oh, 35 -- that's excellent. Really good. So,
3 under any circumstances, if someone calls
4 something an erosion control structure, in your
5 30 years of experience, would you say it should
6 be engineered to be able to withstand the
7 water?

8 A: Yes.

9 Q: So, you -- is it your testimony that with 30
10 years of expertise, a wall that they testified
11 and put up text messages yesterday, which was
12 -- which is in the testimony from yesterday, a
13 wall that is six feet in the ground and two
14 feet wide, with no engineering, that you
15 testified to, is actually made to withstand
16 water?

17 A: That was my point. It didn't withstand very
18 well.

19 Q: So, your conclusion was, we put in an erosion
20 control structure, and a guy who ran a
21 construction company in 50 states is so stupid
22 that he would actually say there's an erosion
23 control structure that is six feet deep and two
24 feet wide?

25 A: I have no idea what he said.



1 Q: You have no idea what I said?

2 A: No, what he said.

3 Q: No, I'm saying. Do you realize I ran a multi
4 million dollar construction company that
5 installs turf fields for stadiums and NFL,
6 college in all 50 states? Did you realize
7 that?

8 A: I do now.

9 Q: Did you know that I have construction crews all
10 across the country?

11 A: No.

12 Q: Okay. So, you think, in my own house, I would
13 say, you know what, honey, we need an erosion
14 control structure, so let's pour a six foot
15 wall with no engineering in the ground. You
16 think I would do that? Is that reasonable?

17 **OBJECTION:**

18 **MS. PHELAN:** Objection, speculation. How is he
19 supposed to know what he would do?

20 **MR. REDDY:** I'm asking him. I'm saying he
21 speculated that ---

22 **THE COURT:** Well, you're asking him to speculate
23 what you would do.

24 **MR. REDDY:** I'm asking him to say an erosion control
25 structure is supposed to be designed to be



1 water facing.

2 **THE COURT:** You can ask him that.

3 Q: And I'm asking you, the six foot, in the ground
4 two feet, which they testified via text, that
5 cost \$27,000, that's also in the text, would be
6 an erosion -- 100 -- 100 feet long, also in the
7 text. So, I don't know, what is that, if you
8 do the math? 100 feet, two wing, 120 feet,
9 \$27,000. What is that per foot? Probably the
10 cost of a hot dog. So, you think that would be
11 an erosion control structure in your mind, and
12 you think that's what would be cost-wise
13 reasonable?

14 A: I'm not going to comment on the cost, but the
15 definition of erosion control structure in the
16 statute includes bulkheads and retaining walls,
17 and that's essentially what this was.

18 Q: You know, you're an expert, and I know they
19 paid you \$30,000 to talk about this. I'm
20 trying to ask your opinion, not on what they
21 taught -- want you to say, but on 30 years of
22 experience you've had -- you testified you had
23 30 years of experience with erosion control
24 structures. Have you, in that 30 years of
25 experience, ever seen an erosion control



1 structure that is meant to be -- on a
2 beachfront that's meant to protect erosion
3 being six feet deep and two feet wide for 100
4 feet under all the texts they put up yesterday,
5 that cost 27,000?

6 A: I have seen all manner of erosion control
7 structures, from homegrown structures to those
8 that are engineered. I have no idea the
9 history of this structure. All I know is the
10 performance, and it didn't perform well.

11 Q: Do you think there's another reason it didn't
12 perform well, because it was not meant to be
13 water facing?

14 A: You keep sitting water facing. What do you
15 mean?

16 Q: I mean when the structure was put in, there was
17 30 feet of land and fence and grass and dunes,
18 and it was never designed, for \$27,000, to ever
19 conceive that it would be sitting there staring
20 at the ocean. That's what I mean.

21 A: Okay.

22 **OBJECTION:**

23 **MS. PHELAN:** Objection. Assumes facts not in
24 evidence.

25 **MR. REDDY:** What? This is the evidence you put in.



1 Six feet deep, two feet wide ---

2 **MS. PHELAN:** The 30 feet, it's ---

3 **MR. REDDY:** What?

4 **MS. PHELAN:** The 30 feet reference that you made.

5 **MR. REDDY:** No, I said 100 feet.

6 **MS. PHELAN:** Oh, 100 feet.

7 **MR. REDDY:** Yeah, 100 feet was the linear footage
8 that I ---

9 **MS. PHELAN:** Maybe I misunderstood. I apologize.

10 **MR. REDDY:** Yeah. You said ---

11 **THE COURT:** I think ---

12 (Inaudible due to simultaneous speakers.)

13 **THE COURT:** --- he was saying it was behind the
14 dunes is ---

15 A: It sounds to me like it was a retaining wall
16 intended to retain the yard, the land behind
17 it, correct?

18 Q: Thank you. Yes, that's ---

19 A: Retaining walls are defined as an erosion
20 control structure.

21 Q: You think I -- I'm not talking about what they
22 define. I'm just saying -- so, I'm trying to
23 get your expertise. Would you ever design a
24 wall like that if I said, hey, Chris, come
25 design a wall for me that's an erosion



1 controlled structure?

2 A: No, I wouldn't.

3 Q: Thank you. The next thing I want to talk about
4 is ---

5 **MS. PHELAN:** Your Honor, if it's gonna be much
6 longer, I need to take a break.

7 **THE COURT:** Hold up.

8 **MS. PHELAN:** If it's gonna be much longer, I need to
9 take a break, please.

10 **MR. REDDY:** I can probably be done in five to ten.

11 **THE COURT:** Well, do you want a break?

12 **MS. PHELAN:** I would like one, but if ---

13 **THE COURT:** I'm gonna take a break because I think
14 you may not be done in time.

15 **MS. MAPLES:** I think you may be right.

16 **MR. REDDY:** Have some faith in me. I know nothing
17 about the law. I'm finding my way through it.

18 **THE COURT:** And that's why I think you may not be
19 done in five to ten.

20 **MS. PHELAN:** Okay.

21 **THE COURT:** Okay. Let's just take a short break.

22 (Off the record from 5:00 p.m. until 5:14 p.m.)

23 **THE COURT:** All right.

24 Q: All good?

25 A: Good.



1 Q: Last few questions. Inlet management. You --
2 you've done the work, as you testified, in
3 Florida and other places. In your opinion, do
4 these places have inlet management plans, where
5 they manage the -- the -- you know, the
6 direction or the flow of the inlet, making sure
7 it's flowing and oriented in the right
8 direction?

9 A: Inlet management plans in Florida are the ones
10 I'm most familiar with. North Carolina has
11 some also. But in Florida, they are mostly
12 concerned with dredging sand from jettied
13 inlets and placing that sand on the down drift
14 shoreline. How much sand, how often to put it,
15 so forth and so on.

16 Q: Are you familiar that -- Breach Inlet is a big
17 inlet at the southern end of the island about
18 five, six homes south of me, do you know if
19 they have an inlet management plan with the
20 City or anyone?

21 A: Not to my knowledge.

22 Q: Do you know if they've ever had an inlet
23 management plan?

24 A: I don't believe so.

25 Q: Do you believe that when you have an inlet



1 where the southern side of the inlet is
2 actually fortified, right? I don't know what
3 y'all call it. It's the opposite of un- --
4 what's the word when you ---

5 A: Stabilized.

6 Q: Stabilized. So the southern side has got all
7 the rocks and the groins and all that somewhat
8 stabilizing it, the Isle of Palms side does
9 not, would you agree?

10 A: Correct.

11 Q: So, when the southern side is stabilized, the
12 inlet tends to move north to south, so that by
13 -- by -- by stabilizing the southern side so
14 they could develop Sullivan's Island, what does
15 that tend to do?

16 A: I think it prevents the south end of Isle of
17 Palms from migrating further to the south.

18 Q: Correct. And so -- you said you haven't been
19 there since 2017, so it may not be a good
20 question. If you don't know, just say you
21 don't know.

22 A: I've seen photos.

23 Q: Okay. So, would you say, in your opinion, that
24 there are secondary channels now in the inlet
25 that are kind of on the Isle of Palms side?



1 A: There are always secondary channels. There are
2 the -- what we call the marginal flood
3 channels, where the water flows towards the
4 inlet on a -- on a rising tide. And then we
5 have the ebb channel, which is the dominant
6 channel, straight out, largest channel, which
7 fills on a falling tide.

8 Q: So, without an inlet management plan, and as I
9 understand inlet management plan -- and a very
10 simplistic business standpoint, technical might
11 be different, I'll let you comment on that, an
12 inlet management plan, I believe, sort of
13 optimizes -- compromises -- optimize is better
14 word, erosion on either side of either island.
15 In that case, it would optimize Sullivan's and
16 Isle of Palms if you had inlet management plan,
17 orients the inlet to sort of balance the two
18 off. Would you agree?

19 A: I'm not sure that I would. Most inlet
20 management plans, like I said, are intended to
21 determine how much sand needs to be dredged or
22 bypassed.

23 Q: Yeah, when ---

24 A: Trying to balance erosion and accretion on
25 either side.



1 Q: Correct. Yeah, that's what I was saying. I
2 maybe didn't say it right. It's just trying to
3 balance out the erosion or accretion on either
4 side of the channel, right?

5 A: Right.

6 Q: And that keeps it in balance. And you
7 testified earlier that Florida has things like
8 that. They have an evergreen permit that they
9 keep renewing. Would you agree? They almost
10 always seem to have an inlet ---

11 A: I don't know what the evergreen permit is.

12 Q: Let me describe what it is and you tell me if
13 you know anything about it. An evergreen is if
14 a, if a permit is for five years, in year three
15 they begin the renewal process so by the time
16 that permit expires, they have another permit
17 coming in, so they have the ability to manage
18 that channel on ongoing basis without waiting
19 for permits. If you don't anything about it,
20 just say you don't know anything about it.

21 A: Okay, I don't.

22 Q: Okay, great. So, we -- just to summarize some
23 of the things we talked about on the beaches.
24 We have no -- your testimony, I believe, is we
25 have no inlet management plan to your knowledge



1 on that side of the island. We -- Matt's
2 testimony yesterday, we have never done any
3 type of major renourishment on that strip of
4 the island. We have scraped sand -- do you
5 know how long we've been scraping sand, by the
6 way?

7 A: Where?

8 Q: On the -- in my section, southern -- southern
9 part of the beach.

10 A: Since '23 probably.

11 Q: Correct.

12 A: Not counting post Irma.

13 Q: Correct. So, we've been scraping sand from
14 2023 and -- the offset to that right now is
15 we're saying, yeah, we do all this. You
16 haven't been there, again, but I'm sure you've
17 seen pictures. When's the last time you saw a
18 dune in that part of the beach of any kind?
19 The southern part of the beach.

20 A: Probably, Irma.

21 Q: Okay.

22 A: Before Irma, in '17.

23 Q: So, there's little or no dunes in that part of
24 the beach. And the -- doesn't it mean that the
25 beach preservation plan at that point is



1 essentially keep backing up properties and
2 backing up private properties and basically
3 saying, I'm preserving the beach. Is that --
4 is that the plan? Is that what's going on?

5 A: I don't think that's the plan.

6 Q: Okay. Do you think that's happening, though?
7 Do you think we're just backing up -- you
8 haven't been there, but -- so it's hard for you
9 to comment, but ---

10 A: I think erosion has continued.

11 Q: Right. What do you think is the best ----

12 A: And structures are in the way.

13 Q: Sorry. Pardon me?

14 A: And structures are in the way.

15 Q: Yeah. What do you think, if someone came to
16 you and hired you as the expert, Isle of Palms
17 -- Isle of Palms is probably a good, good
18 client, and said, Chris, we've got this 2018
19 thing that says, no. We have eliminated
20 retreat. We're going to replenish, renourish.
21 The beaches, you testified earlier, had
22 dropped. You testify right now there's no
23 dunes. There's no inlet management plan. What
24 would you tell them if you -- if you were
25 hired, what would you tell them? Hey, guys, we



1 gotta fix this. We can't keep backing up
2 because the law doesn't allow us. What would
3 you tell them to do?

4 A: I would tell them to put ---

5 **OBJECTION:**

6 **MS. PHELAN:** Objection, misstatement. I mean, he
7 said the law didn't allow him to back up.
8 There's ---

9 **MR. REDDY:** Oh, we wanna talk about that. Okay. So
10 ---

11 **THE COURT:** Are you going to rephrase the question?

12 **MR. REDDY:** Yeah. No, I'm gonna go back and put up
13 that -- I can put it up if you want, but we
14 talked about it. The 2018 Act 173 that says we
15 have eliminated retreat and have basically
16 adopted preservation. That's a commonly known
17 term.

18 **MS. PHELAN:** Your Honor, the State policy has
19 switched from eliminating the policy of retreat
20 to beach preservation. There's nowhere in
21 there that says you can't retreat.

22 **MR. REDDY:** What? Your Honor, this is ---

23 **MS. PHELAN:** It says that the policy ---

24 **MR. REDDY:** --- circle talk.

25 **MS. PHELAN:** --- is changing.



1 **THE COURT:** Okay. Do you wanna rephrase your
2 question?

3 **MR. REDDY:** Your Honor, if a General Assembly says
4 we've eliminated the policy of retreat, it
5 means that the General Assembly is saying no
6 more retreat. As a matter of fact, Your Honor,
7 if you'd allow us to introduce all those
8 documents that are there, which they have
9 objected to public documents, it will -- they
10 have sometimes said, hold the line.

11 Q: Regardless, Chris, let's keep moving on. The
12 Judge doesn't need to be staying late every
13 day.

14 **THE COURT:** I'm okay.

15 Q: I think you've testified, so we can get past
16 this, that the definition of periodic, you
17 said, includes storms. So, I think that that
18 was your testimony. But the second part of it
19 I want to talk about, periodic tidal and wave,
20 so -- so that, cause and effect, right? Would
21 you say, so that, cause and effect?

22 A: Correct.

23 Q: No nonlittoral vegetation is established.

24 A: Correct.

25 Q: I wanna focus a little bit on what the last two



1 words mean. Is established. What is your in
2 -- what is your definition of is established
3 mean?

4 A: At the time of the inspection, or whatever, the
5 viewing, there would not be vegetation
6 established in a particular location. Has
7 nothing to do with history. It is that point
8 in time when you're making the observation.

9 Q: Ah. So your interpretation of that is
10 established is not anything to do with the fact
11 that vegetation may have been there for 50
12 years, nor is it to say if a storm came
13 through, I'm going to give you a certain amount
14 of time to establish it, it just says, on the
15 day I show up, in my particular case the day
16 after the storm, I don't see vegetation. And,
17 therefore, it means it's not established. Is
18 that ---

19 A: The language is is established, it is not was
20 established or will be established.

21 Q: Okay. So, it doesn't say exists. Don't you
22 think it should say exists?

23 A: No.

24 Q: No vegetation exists at the point we inspect
25 it?



1 A: I think it's fine as is.

2 Q: It's okay. I'm just -- I'm just trying to
3 understand your interpretation. I'm not here
4 to argue with you. The last issue, I just
5 wanna bring to your attention, because you have
6 worked on the beach management areas, the laws,
7 you've written the beach management laws --
8 not the beach management laws, the beach
9 management act ---

10 A: Plans.

11 Q: Plans. You're sort of familiar with beach
12 management in general?

13 A: Yes. But I haven't written the Act.

14 Q: I understand that. I know you didn't write the
15 Act, but I'm just saying -- I'm going to read
16 a section of the Act and ask you how you would
17 read it. And the section I'm going to read is
18 48-39-30(C).

19 **MR. REDDY:** So, if everyone has 48-39-30, 3-0. 48-
20 39-30(C). Can you highlight C? Okay.

21 A: "In the" implement -- "implementation of the
22 chapter, no government agency shall adopt a
23 rule or regulation or issue any order that is
24 unduly restrictive so as to constitute a taking
25 of property without the payment of just



1 compensation in violation of the Constitution
2 of this State or of the United States."

3 I want to ask you how you read -- how you
4 see this. Can I ask you a question about this?

5 A: You can ask.

6 Q: Okay. So, under this scenario, I'm just going
7 to ask you a question. So, Beach Critical Area
8 has now been determined, as you said, storm
9 comes, next day, someone comes out with a
10 handheld GIS, like she testified, and marked
11 the critical area with one data point, and, oh,
12 my gosh, guess what? My wife's favorite rose
13 bush got washed away, and she is broken. And
14 she wants to put the rose bush back. Can she
15 do it, in Beach Critical Area?

16 A: I don't know.

17 Q: Matt ---

18 **THE COURT:** I couldn't hear you?

19 A: I don't know.

20 Q: Matt's answer yesterday on testimony was it has
21 to be beach compatible. In Beach Critical
22 Area, you only have to put beach compatible
23 material. And if the material, anything you
24 put in there is not beach compatible, it can't
25 go in there. So, would that be unduly



1 restrictive? She would say, yes. What would
2 you say?

3 A: I would not say.

4 Q: You would not say?

5 A: I think there's plenty of language in here for
6 attorneys to argue about for a long time.

7 Q: No, I'm just asking a simple question.

8 A: I know. That's my answer. I don't know.

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

10 A: I'm not gonna comment.

11 Q: Thank you.

12 **MR. REDDY:** Your Honor, we have concluded the last
13 witness, I believe.

14 **MS. PHELAN:** I've got questions.

15 **THE COURT:** For today, or the last witness?

16 **MR. REDDY:** The last witness for them.

17 **THE COURT:** Oh. Is there a -- is that your last
18 witness?

19 **MS. PHELAN:** Yes, Your Honor.

20 **MR. REDDY:** Yes, sir.

21 **THE COURT:** All right.

22 **MS. PHELAN:** Anybody else wanna ---

23 (Laughter.)

24 **THE COURT:** What was it? Go ahead.

25 **MS. PHELAN:** I have a couple of questions on re-



1 direct.

2 **THE COURT:** Okay. Well, I had -- I have one or two
3 myself.

4 **MR. JONES - REDIRECT EXAMINATION BY MS. PHELAN:**

5 **MS. PHELAN:** Can you put up Exhibit 57, please?
6 Page 3.

7 Q: All right. You were asked several questions
8 about that palm. Is the wall built seaward or
9 landward of that palm?

10 A: It looks like seaward.

11 **THE COURT:** Do you consider that palm non -- what is
12 it, nonlittoral vegetation? Now, I see the
13 line goes way behind the palm, and I don't see
14 why it would.

15 A: I don't know that particular plant, but the one
16 that we were looking at before, I think, was a
17 palmetto. And palmettos are native.

18 **THE COURT:** Well, then, if you were to run the line,
19 would you run the line where the dot- -- the
20 dotted lines are, or where would you run the
21 line?

22 A: I would need to see it on the ground. Because
23 I believe one of the ground photos shows that
24 that palm or palmetto, whatever it is, was on
25 the slope.



1 **THE COURT:** It was on the slope?

2 A: On the slope, I believe. It had the turf
3 wrapped around the trunk or the roots.

4 **THE COURT:** Well, if that ---

5 A: So, I don't know.

6 **THE COURT:** I mean, if that palm had been there for
7 quite a while, would you not consider that
8 established vegetation?

9 A: I'll give you that. And even if I move the
10 yellow line to the right of the palm, it would
11 only affect that little corner right there
12 where the palm is.

13 **THE COURT:** That's all I was asking about.

14 A: Yeah.

15 **THE COURT:** I'm just curious about that.

16 A: Yeah.

17 **THE COURT:** So, it would go straight along the
18 dotted lines of the palm, and then ---

19 A: Then it would go back.

20 **THE COURT:** --- you think it would move -- then it
21 would move back?

22 A: Yes.

23 **MR. REDDY:** Sorry. Were you talking to me?

24 **THE COURT:** No, sir.

25 **MR. REDDY:** Okay.



1 **THE COURT:** Go ahead.

2 Q: Would you consider the health of the palm?

3 A: I probably would, but I'm not a palm expert.

4 Q: Fair enough. Mr. Reddy had asked you a couple
5 of questions about if a storm wiped the dunes
6 and the vegetation out here, and -- let me back
7 up. Do the dune and vegetation form any
8 protective function for the landline?

9 A: They do.

10 Q: What would that be?

11 A: They're sacrificial. They're eroded during
12 storms as a means of protection, at least
13 initially, during a storm. If the storm is
14 severe enough, the dune will be wiped out, and
15 a lot of the sand will be carried to the back
16 part of the property.

17 Q: So, if the -- if a storm comes in and washes
18 out all the vegetation and dunes to here, I
19 think is what he asked you, and he said a
20 second big storm comes and washes all the
21 vegetation and dunes back there. Would it be
22 sound coastal management policy to allow
23 somebody to build ---

24 **OBJECTION:**

25 **MR. REDDY:** Objection, Your Honor.



1 Q: --- here?

2 **MR. REDDY:** That was not what I -- the testimony.
3 That was not the example. She's twisting the
4 example. My -- my -- my example was one storm.
5 It's a hurricane which is either a category
6 five or I was trying to distinguish between his
7 guess of a category five and category one. I'm
8 not talking about multiple storms. I'm not
9 sure where -- if that's the question she wants
10 to ask, that is a separate question than my
11 question.

12 **THE COURT:** Response?

13 **MS. PHELAN:** That was my question.

14 **THE COURT:** Okay.

15 Q: Would it be wise if the storm came out and
16 wiped out all the vegetation and dunes, would
17 it be a wise coastal management policy to not
18 regulate that area and let someone come in and
19 build something right in the area where it's
20 been wiped out the next day?

21 A: I think I would also look at the elevation of
22 the ground that we're talking about. And if
23 the elevation of the ground was -- is high
24 enough, it wouldn't bother me that sand had
25 buried the ground. If the property had eroded



1 to the point when the elevation was low was a
2 beach elevation, then yes, it's not prudent.

3 Q: Thank you. No further questions.

4 MR. REDDY: I have a question.

5 **MR. JONES - RE-CROSS EXAMINATION BY MR. REDDY:**

6 Q: I wanna go back to what she said on re-direct
7 about the palm.

8 MR. REDDY: Love that palm, Your Honor.

9 Q: We're going to now show the palm on -- not
10 handheld GISs and all that, but actually a
11 professional survey. So, we don't come to all
12 these conclusions without a professional
13 survey, which I wanna talk about. So, I'm
14 gonna go back to the picture we used before.
15 This is a professional survey.

16 **(Joint Exhibit Number 50 was referenced at this**
17 **time.)**

18 Q: There, the green lines there is a fence line.
19 As you can see, it's marked. They actually
20 marked the infamous palm that you can see over
21 there. Now, we're going to go one -- one down,
22 same professional survey and here --you can
23 come down a little bit -- you can see the same
24 fence line right there, and you can see the
25 original wall and the second wall both there.



1 All -- the third one is a demonstrative one
2 that literally takes the first two and overlays
3 them. And if you overlay one on -- one over
4 the other, there is the fence line, there is
5 the palm and there is the wall. So, instead of
6 all this mumbo jumbo, if we could just use a
7 professional survey, you wouldn't have to go
8 through all this stuff. Regardless, I have a
9 question for Chris. All these things you just
10 -- in the re-direct that she said, you just
11 introduced another factor, something about in
12 making that decision, you would think about
13 elevation, which is actually nowhere in any
14 statute. However, all of the things you're
15 talking about, elevation, tidal inundation,
16 channel that we talked about, channel
17 migrations, you talked about shoal attachments,
18 all of these things are taken into account
19 every seven to ten years in establishing the
20 baseline and setback lines. It's an elaborate
21 process. But then that all takes into account
22 for the same reasons you testified to, which
23 is, there's accretion and erosion, and the
24 General Assembly said every seven to ten years
25 that makes sense. Would you agree that that's



1 a more sensible way of doing it than going
2 property by property, storm by storm, day by
3 day, where you would end up with different
4 property lines for each property that no one
5 can predict other than agencies?

6 A: And the question is?

7 Q: Would you agree that setting setback lines,
8 taking into account all the things you said,
9 which I don't disagree with by the way, that
10 you should look at elevation. You should look
11 at inundation. You should look at channel --
12 what the channels are doing. You should look
13 at restoration. All the things it talks about
14 in 280, the statute in 280 when you set -- when
15 you set the setback lines. Don't you -- and it
16 looks at -- looks at it over a period of time.
17 Don't you think that's -- the General Assembly
18 would say that's a more sensible way of doing
19 it, and that doesn't get in the way of the
20 takings that I read earlier, as opposed to all
21 this mumbo jumbo that they're going on with.

22 A: Let me answer this way. There are two ways to
23 establish jurisdiction and coastal setbacks.
24 One is to do it on a case by case basis. The
25 other is to establish a fixed line which may or



1 may not be reviewed. In the case of South
2 Carolina, they review it every seven to ten
3 years. That does not mean that the beach will
4 not encroach behind the setback line in certain
5 places. As a matter of fact, I looked at the
6 jurisdictional line viewer last week, and I
7 spotted three places where that has occurred,
8 south end of Isle of Palms, the north end of
9 Debordieu Island, and the south end of Waties
10 Island. So, each of these inlet areas had the
11 same issue. And the State, I think, has
12 testified that it has happened in Garden City
13 and the other end of Isle of Palms. So, the
14 setback line handles most of the common
15 situations. The Beach Critical Area
16 accommodates those areas where the erosion has
17 proceeded behind the setback.

18 Q: Are you answering the judge? He didn't ask you
19 the question, I asked you the question.

20 A: I'm talking to the judge.

21 Q: Oh, you're talking to the judge. You're not
22 allowed to do that. You're supposed to talk to
23 me unless he asks you a question.

24 **THE COURT:** Well, he can look at me when he answers.

25 **MR. REDDY:** I like him looking at me, Your Honor.



1 **THE COURT:** Well.

2 **MR. REDDY:** That's why I asked him the questions.

3 **THE COURT:** Look at him.

4 **MR. REDDY:** Yeah.

5 (Laughter.)

6 Q: So ---

7 A: My point is that I'm not going to say one
8 method is preferred to the other. In the case
9 of South Carolina, they have a hybrid approach,
10 where every seven to ten years they establish
11 lines, but in the interim they have another
12 procedure for establishing lines, or
13 jurisdiction if they need it.

14 Q: Which is a con- -- which you would agree is in
15 contradiction of their own beach management
16 plan that -- that's written.

17 A: No, it is not.

18 Q: That is they don't -- that they don't have that
19 in the beach management plan. It says the
20 limit of jurisdiction is the setback line.

21 A: But it says -- I don't remember the exact
22 language.

23 Q: I can pull it up if you want.

24 A: Okay, let's do it.

25 **MS. PHELAN:** Your Honor, this has been covered like



1 three times now.

2 **MR. REDDY:** Well, they keep changing it, Your Honor.

3 I just wanted to establish that he worked on
4 the beach management plan for over a decade and
5 multiple plans, reviewed the plan with this
6 Department. They have to approve it. Approve
7 the plan with the City. And the plan is very
8 specific. It simply says the limit of
9 jurisdiction is the setback line on beaches.

10 **THE COURT:** That's been -- you're on re-cross, so,
11 you're -- it's a narrower area where you're
12 allowed to ask about.

13 **MR. REDDY:** Okay. No, no. I'm fine. I want to
14 stick with this whole thing that we're talking
15 about, which is the infamous palm ---

16 **THE COURT:** Okay.

17 **MR. REDDY:** -- that was raised on re-direct. Beyond
18 that, I thought he was answering your question
19 because he was looking at you.

20 **Q:** And the last question I'll ask, and then we're
21 done. I want to take the reverse, you know,
22 where we talk about erosion, erosion, erosion.
23 She talked about it a little bit on palms and
24 all that. Let's say, as you mentioned earlier,
25 it could accrete, right?



1 A: It could.

2 Q: If it accretes, everything accretes, can I then
3 put up a structure in that accreted land?

4 A: You have to ask the Department.

5 Q: So, you don't know. So, you're sure that if it
6 comes back, they got it the next day, but if it
7 accretes I don't get it.

8 A: There's a difference between jurisdiction and
9 building a structure.

10 Q: Jurisdiction means ---

11 A: You're conflating the two.

12 Q: What is the difference? It says jurisdiction
13 is -- I'm talking about permitting
14 jurisdiction. It's a line of regulation,
15 that's all it is.

16 Q: Okay. So, permitting jurisdiction, which is
17 what we're talking about, it says -- I think
18 your testimony, which relates to the palm that
19 we talked about, is that we have a squiggly
20 yellow line that somehow ignores the palm. But
21 it -- if it gets back, my wife can't plant her
22 rose push, which is his testimony. But if it
23 gets forward in, I don't know, 60 days, I'd
24 have to ask them whether I would need a permit.
25 All very confusing, I think. I don't know.



1 I'm done.

2 **THE COURT:** I wanted to ask you, you said that the,
3 in your expert opinion, that the retaining wall
4 was five -- five feet -- five feet or five
5 yards, within the beaches.

6 A: Yes.

7 **THE COURT:** All right. Which one? It was five ---

8 A: Five feet.

9 **THE COURT:** Five feet, okay. If -- so if I was to
10 find, and I'm asking questions not making a
11 ruling ---

12 A: And that five feet was predicated upon the date
13 of encroachment, also, of the beaches.

14 **THE COURT:** Based upon what?

15 A: Based on the date of encroachment of the
16 beaches critical area.

17 **THE COURT:** Okay.

18 A: Behind the wall.

19 **THE COURT:** if I was to find that, okay, currently
20 the property is -- or his retaining wall and
21 area is five feet too far into the beaches, how
22 would I -- I would remove the wall, remove five
23 feet of land or -- and then restore that to ---

24 A: The City also -- the City also has a 250 foot
25 setback from mean high water.



1 **THE COURT:** Well, I -- I'm not dealing with the City
2 right now.

3 A: I understand. But he couldn't put the wall
4 back.

5 **THE COURT:** Okay.

6 A: He couldn't just move it five feet.

7 **OBJECTION:**

8 **MR. REDDY:** Objection, Your Honor. He's
9 speculating on the City -- the city ordinance,
10 but we're outside of the city ordinance, as
11 well, because as that statute says ---

12 **THE COURT:** I -- okay, I want to stay -- I'm just
13 trying to figure out what I would do in this
14 situation. So, the wall -- the wall that's
15 facing the beach would have to be removed. And
16 then five feet of fill would have to be
17 removed. And then what would happen ---

18 A: Five feet of fill ---

19 **THE COURT:** --- thereafter, I wouldn't -- that
20 wouldn't be my concern.

21 A: I don't understand the five feet of fill.
22 Where's the fill?

23 **THE COURT:** Well, you said it encroaches into the
24 beach for five feet.

25 A: It did at one time. And then at another time



1 was encroaching 10 or 20 -- 10 or 12 feet.

2 **THE COURT:** Well, I'm asking now, though.

3 A: I don't know what it is now. But we've talked
4 about, or it has been discussed about how long
5 you have to wait before you determine
6 vegetation is established, right. That's kind
7 of what we're getting at here. And it's my
8 opinion that we should have at least one
9 growing season before we count vegetation as
10 established. That gives us time for the plants
11 to grow.

12 **THE COURT:** Well, what's a growing season? So, now
13 we're switching gears, apparently, because what
14 -- how long is the growing season? Are you
15 talking about an entire year?

16 A: Talking April through October.

17 **THE COURT:** You're telling me now that you can't
18 discern how far this retaining wall encroaches
19 into the beach; is that what you're telling me
20 now?

21 A: Well, what I'm saying is at one point the
22 retaining wall encroached into the beach.

23 **THE COURT:** I know at one point ---

24 A: If ---

25 **THE COURT:** --- but does it now?



1 A: I don't know what it is now.

2 **THE COURT:** Okay.

3 A: Because I don't know where the beach is now.
4 The beach may still be, based on one of those
5 lines of encroachment, because the area has not
6 accreted and become established with vegetation
7 yet. It may happen in the future, we don't
8 know.

9 **THE COURT:** All right. Well, thank you. You may
10 step down.

11 A: Thank you.

12 **THE COURT:** All right. So, the Department rests?

13 **MS. PHELAN:** Oh, I'm sorry. Yes, Your Honor, the
14 Department rests.

15 **CLOSING DISCUSSION:**

16 **THE COURT:** How about -- where is Coastal in this
17 scenario?

18 **MS. MILTON:** So, we have not gotten started yet. I
19 guess if you would like us to get started we
20 are ---

21 **THE COURT:** No. I just want to know if y'all have
22 got witnesses.

23 **MS. MILTON:** So, we will be reading in Emily's
24 designation. I suppose it all depends if we're
25 still going on the designated witness list or



1 going freestyle. I don't know what we're gonna
2 do.

3 **THE COURT:** Well, I would prefer not freestyle.

4 **MS. MILTON:** I would also prefer that.

5 **THE COURT:** Okay. All right. We've gotta come back
6 anyway, so I guess I can get y'all to read that
7 when we come back. Now, we had proposed the
8 19th, I think. Any thoughts?

9 **MS. PEREZ:** Are we gonna need more than one day?

10 **MR. REDDY:** We can make it -- I ---

11 **MS. PERE:** Do we need more than one day?

12 **MS. PHELAN:** Your Honor, we'll -- we can do the 19th
13 and 20th, but two of our -- two of our staff
14 members will not be here. That was -- you
15 know, in full disclosure, that were under
16 subpoena for these three days by --

17 **THE COURT:** Okay.

18 **MS. PHELAN:** --- by Mr. Reddy.

19 **THE COURT:** All right. Well, Mr. Reddy, can you do
20 the 19th and 20th if we have to?

21 **MR. REDDY:** Let's do it, Your Honor. It's time to
22 get this over with.

23 **THE COURT:** Okay. Can you -- oh, you said you
24 could?

25 **MS. LENHARDT:** We can. And I just was hoping that



1 Mr. Reddy would tell us -- he listed about
2 seven live witnesses. Can he tell us who he's
3 gonna call to make sure that we can get it done
4 in two days?

5 **THE COURT:** Do you know who you're gonna call?

6 **MR. REDDY:** The -- of course, we will have our
7 expert witness. We intend to call Chris Stout,
8 I believe, he's on the list, from their side.
9 And, Your Honor, this is where we can cut this
10 down, if they would let us put our -- our
11 exhibits that we have into evidence. If they
12 don't, we intend to call Ms. Leslie Lenhardt,
13 which we've informed them, and Mr. Brad Churdar
14 as witnesses so we can actually get this into
15 evidence.

16 **THE COURT:** Well, I'll -- that's a more difficult
17 legal task, but I'll address that later. From
18 ---

19 **MR. REDDY:** I recognize. I just want to say ---

20 **THE COURT:** Y'all can discuss this after we adjourn
21 today. I give -- I am more than happy for
22 y'all to discuss whether to introduce exhibits
23 that would cut down on any legal arguments that
24 I might have to hear, so.

25 **MS. PHELAN:** Are you looking at the 19th and the



1 20th?

2 **THE COURT:** Yes. I'm looking at both ---

3 **MS. PHELAN:** I hate to ---

4 **THE COURT:** --- based on what I've seen.

5 (Inaudible due to simultaneous speakers.)

6 **MS. MILTON:** Judge ---

7 **MS. PHELAN:** --- I'll reserve ---

8 **THE COURT:** All right. Now, you said there will be
9 two staff members who will not be here?

10 **MS. PHELAN:** Yes.

11 **THE COURT:** Their names are?

12 **MS. PHELAN:** Jessica Boynton and Matt Slagel.

13 **THE COURT:** Will that be acceptable to you?

14 **MR. REDDY:** Totally.

15 **THE COURT:** Okay. Well, with that said -- oh, yeah.
16 Well, 10:00 a.m. or 9:00 a.m.?

17 **MR. REDDY:** Whatever, it's your choice, Your Honor.

18 **THE COURT:** I'll start at 10:00 a.m. with hopes that
19 we can move along.

20 **MR. REDDY:** Your Honor, I want to make one other
21 comment. We're going to be, starting June 5th,
22 we're going to be out of the country. We're
23 going to be out of the country a good part of
24 June. And again, we have to go with our
25 daughter to Boston in July. She's got a --



1 she's signed up a program at MIT, so we would
2 like to finish it up before we start these
3 trips.

4 **THE COURT:** Okay. Well, hopefully we'll -- let's
5 just start at 9:00 a.m. just recognizing that.
6 I'm probably going to ask for proposed orders.

7 **MR. REDDY:** Proposed?

8 **THE COURT:** Proposed orders. You can talk to your
9 assistant over there about that. So, if y'all
10 are going to be out of the country, maybe
11 somebody else can help you, maybe your
12 assistant. And we can keep this moving. So,
13 but just something to think about, all right.

14 **MR. REDDY:** Yes, sir.

15 **THE COURT:** Okay. Thank y'all.

16 **MS. LENHARDT:** Your Honor, one more thing for
17 clarity sake before we go off the record. You
18 had discussed or mentioned that they had filed
19 a motion to reconsider.

20 **THE COURT:** I've already ruled on that.

21 **MS. LENHARDT:** Oh, you have, okay. The deadline was
22 tomorrow, and I just wanted to make sure we
23 weren't under any obli- -- you know ---

24 **THE COURT:** That got ruled on at the beginning of
25 the hearing when I explained.



1 **MS. LENHARDT:** Okay. That's what I thought.

2 **THE COURT:** That was the whole purpose of the -- I
3 mean it -- it wasn't Mr. Reddy who made the
4 motion, his attorneys did.

5 **MS. LENHARDT:** Right.

6 **THE COURT:** But I think, Mr. Reddy, you can perceive
7 what I'm doing here is the motion for
8 reconsideration was not needed.

9 **MR. REDDY:** Not needed. Throw it out.

10 **THE COURT:** Because I'm certainly considering the
11 case.

12 **MS. LENHARDT:** Thank you.

13 **THE COURT:** All right.

14 **MR. REDDY:** Thank you.

15 **THE COURT:** Thank y'all very much.

16 **MR. REDDY:** You've been very gracious to me, so
17 thank you very much.

18 **THE COURT:** That's my job, Mr. Reddy.

19 Thank y'all very much. We'll reconvene on
20 the 19th at 9:00.

21 **(Day Three adjourned at 5:51 p.m.)**

22 .

23 .

24 .

25 .



1 DAY 4 - MAY 19, 2025

2 **COURT REPORTER:** All rise.

3 **THE COURT:** Y'all be seated. Thank you. Give me a
4 chance to get logged in.

5 **CALL TO ORDER:**

6 **THE COURT:** All right. This is one more fun day in
7 the matter of South Carolina Department of
8 Environmental Services and South Carolina
9 Coastal Conservation League, Petitioner, versus
10 the -- I'll just say the Reddys, Respondents.

11 **PRELIMINARY MATTERS:**

12 **THE COURT:** All right. I've already made some
13 motions, I've ruled on those, although I will
14 tell you I made a ruling on -- based on what I
15 have. If things change, I'll address the law
16 again later. Are you ready?

17 **MS. LENHARDT:** Your Honor, the League -- I believe
18 DHEC rested and the League had ---

19 **THE COURT:** Yeah. He was just rising, so ---

20 **MS. LENHARDT:** I'm sorry.

21 **MR. REDDY:** So, since DHEC has rested, Your Honor, I
22 would like to make a directed verdict.

23 **THE COURT:** Well, that would be a direct verdict
24 motion ---

25 **MR. REDDY:** A directed verdict motion pursuant to



1 Rule 58 of the South Carolina Rules of Civil
2 Procedure.

3 **THE COURT:** That wouldn't be the proper motion. It
4 would be a motion for involuntary non-suit.
5 But same kind of idea. So proceed.

6 **RESPONDENT'S MOTION FOR INVOLUNTARY NON-SUIT:**

7 **MR. REDDY:** Your Honor, the burden of proof on the
8 plaintiff is to show jurisdiction based on two
9 key issues, the authority to step landward of
10 the setback line and claim jurisdiction on
11 private property. But their own testimony
12 could not name one instance prior to me for 24
13 years. If they were -- if they were now
14 allowed to unilaterally cross that line, the
15 second issue is they would have unlimited
16 jurisdiction, day by day, property by property,
17 storm by storm, as their expert said on page
18 133, line 24 of the transcript. Then they have
19 to show that the 1255 square foot of my
20 property they claimed on jurisdiction, quote,
21 unquote, was the beach. The testimony showed
22 a blow -- blow by blow sequence of things we
23 did that they disagreed with but never proved
24 the above two jurisdictional issues which they
25 would need to do to have the right to tell me



1 what to do on my land.

2 So, let me address the first issue on the
3 setback line and jurisdiction. The whole case
4 rests on a new interpretation of the statute.
5 I will address that statutory interpretation
6 last and remind this Court that they want you
7 to forget -- what they want you to forget
8 before we get to this new interpretation. They
9 want the Court to forget 35 years of practice
10 prior to 2023 when they ventured landward --
11 landward of the setback line once with Summer
12 House in 1998, using R30-10-B, that was quickly
13 corrected by the General Assembly in 1999.
14 They want the Court to forget their own
15 regulations, R-30-10D, R-30-21-H3, and R-30-
16 N3A, all of which in 2023 restricted
17 jurisdiction to the setback line. They want --
18 they want the Court to forget all DHEC
19 guidelines, including their own jurisdiction
20 lines used by contractors and residents and
21 municipalities for 35 years that are posted
22 online. Their own guidance does include
23 updates to the Senate as recently as 2021 as
24 Ms. Boynton testified, that said the purpose of
25 these jurisdiction lines is to delineate the



1 extent of DHEC's OCRM's direct permitting
2 authority for activities within the defined
3 beaches and beach/dune systems critical area.
4 They want the Court to believe that Piping
5 Plover Hilton Head, where five homeowners built
6 a 30-foot deep sea wall, two feet inside the
7 setback line after severe destruction from Irma
8 and Matthew was a mistake, quote, unquote.
9 Despite every level of DHEC being involved,
10 signing off plans and Ms. Reese, who currently
11 heads the Department, actually signing the
12 consent order one year after the bill with no
13 claim of jurisdiction. The mistake has still
14 not been corrected after seven years. The wall
15 still stands. They want the Court to believe
16 that the enforcement action against my family
17 ignores all this history because they have the
18 right to interpret the statute the new way 35
19 years later. No change to the underlying
20 statute.

21 I'm going to use a couple of demonstrative
22 slides, Your Honor, to address the statute and
23 the issues around the statute. The first one
24 I want to talk about is waterfront is a very,
25 very difficult situation. It's where



1 government and private property intersect. And
2 when government and private property intersect,
3 it raises -- it's just not oceanfront. I'm
4 talking about waterfront in general. It raises
5 major issues with private land and
6 constitutional issues if the government grabs
7 private property with no concept, with no
8 compensation. Therefore, 48-39-30(C) in the
9 statute is put in there. It's the only place
10 in the entire Act where the word Constitution
11 shows up. It shows up nowhere other than in
12 48-39-30(C). It's the only place it shows up.
13 It's put in the statute, I believe, to provide
14 guidance in interpreting these many, many, many
15 rules, regulations and statute. That's why
16 it's in there.

17 **THE COURT:** 48-39 what?

18 **MR. REDDY:** 30(C), can you pull it up?

19 **MS. REDDY:** We're trying, but it might take a while.

20 **THE COURT:** It's taking a while.

21 **MR. REDDY:** May I?

22 **THE COURT:** Yeah.

23 **MR. REDDY:** Give you a paper copy of it?

24 **THE COURT:** That's fine. Hand it to ---

25 **MR. REDDY:** There -- So, as you see, 48-39-30(C)



1 says, no agency shall adopt a rule or
2 regulation ---

3 **THE COURT:** That's fine. I got it.

4 **MR. REDDY:** --- or issue any order that's unduly
5 restrictive. So, you saw testimony, Your
6 Honor, about what -- what happens when they
7 term something a Beach Critical Area. On a
8 Beach Critical Area, only beach critical
9 material can be put in which is primarily sand.
10 So, that means no plants, no dirt, no grass, no
11 fence, no play set. More importantly, how does
12 the public tell the difference between a public
13 beach and a private beach? They don't. And
14 how can nonlittoral -- they talk about
15 nonlittoral vegetation. You only put sand.
16 Well, nonlittoral vegetation can't grow in
17 sand. So, that's the end of that once it's a
18 Beach Critical Area. It cannot be that way,
19 and it's never been that way for this very same
20 reason, because this is a guiding statute.

21 And I want -- I'd like to go to the next
22 slide. And we've covered this a little bit.
23 48-39-10, beaches means those lands subject to
24 periodic inundation by tidal and wave action.
25 So, that is a defined term, beaches means. And



1 there are several statutory construction
2 considerations, Your Honor. And I've listed
3 two Supreme Court cases, two South Carolina
4 cases, and it's very simple. It says the
5 statute -- statutory definition supersedes the
6 ordinary meaning of the word whenever the
7 definition applies. Where a statute includes
8 an explicit definition, the courts must follow
9 that definition, even if it varies from the
10 term's ordinary meaning. In South Carolina,
11 where the legislature has provided a specific
12 definition of a term, which they have here,
13 that definition controls. A statutory term is
14 not to be given a different meaning merely
15 because its definition is at odds with its
16 ordinary usage. Also, South Carolina. The
17 only conclusion you can reach from this is
18 beaches is a defined term, and for the purposes
19 of this statute, the meaning of -- the defined
20 meaning of the word must be used wherever in
21 the statute that word applies. That's the case
22 law on defined terms.

23 So, now I'm going to go to the next, and
24 we've covered this -- it's in the statute 48-
25 39-10(F), means, means, means, means primary



1 oceanfront means, and then it says critical
2 area means. And it's got four areas, and it
3 says beach/dune system, which is the area from
4 mean high water mark. So, if you actually
5 substitute the defined meaning of the term in
6 number four, it would read, those lands subject
7 to periodic tidal and wave inundation, so that
8 no nonlittoral is established is restricted by
9 the setback line. All you have to do is
10 substitute the meaning of the word beach into
11 that which is a statutory consideration. Now,
12 the question has come up, why is beach there?
13 Well, why is another term beach there sitting
14 by itself? Well, if -- it's so simple. At the
15 time the Act was established, approximately 30
16 percent of the coast had no setback lines,
17 including portions of Charleston, Georgetown,
18 Edisto, Debordieu, and portions of Cape Romain.
19 So, beach was put in the -- in the statute as
20 a catch all. There are still some places on
21 this coast that do not have a setback line, and
22 so beach is a catch all. If it is not,
23 statutorily, the beach/dune system has to
24 include the defined meaning of the word beach.
25 And if you include the defined meaning of the



1 word beach, it's, by definition, restricted to
2 the setback line. And the conclusion that you
3 see, the statutory definition of beach when
4 substituting for restricts the definition to
5 the setback line. Beach follows a statutory
6 definition for catch all where no setback
7 exists. If you follow this -- this line of
8 thought, if you go to the next slide, then
9 everything the legislature and the General
10 Assembly did makes sense. They said, listen,
11 we've got to be guided by making sure that we
12 don't violate the South Carolina Constitution,
13 the U.S. Constitution and the Act in one fell
14 swoop, by getting in the way of a
15 constitutional issue where private property and
16 government property intersect. Therefore, they
17 define these terms the way they are, beaches is
18 a defined -- statutorily defined term. It's
19 not whatever we want to come up with. And then
20 the rest of it flows. But 280 then says it
21 defines a policy of beach preservation, and it
22 takes into account they -- you've heard a lot
23 of words in the testimony, dynamic water,
24 dynamic. Well, it's a dynamic setback line.
25 The setback line is adjusted every seven to ten



1 years, and it directly -- directly addresses
2 beach preservation by saying you can't do it
3 day by day, storm by storm, property by
4 property, and not get completely balled up at
5 the Constitution. And that's why it says every
6 seven to ten years there's a process. The same
7 department who talks about dynamic waters is
8 the same department that evaluates this, looks
9 at the 40-year erosion rate, takes into account
10 all the other factors with sediment transport
11 and all that, comes up with these new lines.
12 The legislature approves the new lines. So,
13 there is a process to manage that interface
14 between private property and government
15 property, not what they are trying to do now.
16 And they have never done this. And, you know,
17 you also get -- get away from the type of
18 testimony you saw, where, on page 27 of the
19 expert's testimony, it said, it's currently
20 erosional, but they're treating slightly. This
21 is what the General Assembly doesn't want us to
22 do, Your Honor. That's why they have a
23 process. That's why beaches is a defined term.

24 Now, I'm going to go back -- I'm going to
25 go -- the next step that says -- what -- what



1 about -- I'm not going to dwell on this, go to
2 the next slide. 48-39-290 then goes on to
3 define what you can do seaward of the setback
4 line in the area that government says I have
5 control over until the next setback line is set
6 seven to ten years from now.

7 Can you go to the next slide? Consistent
8 with all of these statutes, all of these
9 regulations were developed over the years, and
10 they were in place in 2023, every one of these
11 read exactly like that. I believe two out of
12 the three of those, they changed the first one
13 in '24 which wouldn't apply to me, but the
14 remaining two are still in place with the
15 regulations, which talks about -- it's all --
16 it's all, again, consistent with what we're
17 saying. It's also consistent with all the
18 Department guidance. So, that's -- that's now
19 addressing, can you cross this line randomly
20 and talk about nonlittoral and this and that
21 when beaches is a defined term statutorily?
22 And you can't just come up with a different
23 version of it. And if it's a defined term,
24 then it says it ends at the setback line. And
25 if you say that, it keeps 48-39-10(C) in line,



1 it keeps 280, 290, all the regulations they've
2 ever had, all the guidance they've ever had,
3 all consistent. What they're looking to do
4 right now is -- is -- is so out there that it's
5 almost unbelievable, unless you listen to 90
6 percent of what's presented, which is, here's
7 what he did, and here's what he did, and here's
8 why they're bad people. Okay. But that's my
9 property.

10 So, the next thing I want to address is,
11 let's assume that Your Honor decides that
12 nothing here that I talked about applies, and
13 they, in fact, can step across this line that
14 they have not stepped across. Let's assume
15 they can. Now, they have to prove, and go to
16 the next slide, that this is a beach. And to
17 prove that this is a beach, we go back to the
18 definition of beach, which is periodic tidal
19 and wave inundation, so, that no nonlittoral is
20 established. The property as -- they have
21 never proved during their testimony that they
22 saw any inundation prior to 2023 Idalia. I've
23 never been cited for it. They've never claimed
24 Beach Critical Area. There is absolutely no
25 proof that they put on during this time that



1 would -- that would qualify for that.

2 The next thing I want to make sure we
3 understand is, you know, their expert testified
4 that periodic can actually be one storm, and
5 without getting into that, it could be a whole
6 lot of different things. I believe he also
7 testified that the first thing he did was look
8 it up in the Webster and Cambridge dictionary.
9 Well, it can be many things, and many
10 dictionaries can tell us many different
11 versions. But it is not once. There is
12 nothing that says it is once. The first --
13 once we get past that, they claim -- how did
14 they claim that 1255 square feet that this
15 entire thing is all about? One day. One day
16 after the storm, they testified that they came
17 out with a handheld GPS unit, that they did not
18 verify with a professional survey, that they
19 testified would be the more accurate thing to
20 do, especially when you're talking about
21 interfering with private property. So, and
22 then, as we showed you the pictures, the very
23 famous palm, the line was marked landward of
24 existing vegetation, the little squiggly line
25 as we -- as we showed in their testimony. And



1 then you have once -- once you buy into this
2 that it's periodic, and it's Webster and Miriam
3 and all these dictionaries, that it could be
4 one thing, or one storm, or many storms, or
5 inundation, or a wave comes up, and it's
6 inundation. If you buy into all that, then you
7 get very deep into all kinds of other stuff.
8 As their expert testified, he would consider
9 using the first visible sign of nonlittoral
10 vegetation, regardless of the cause, but he
11 just won't -- I don't see it, which is what
12 they've been doing and planting flags. So,
13 yes, that's the cause. He says that on page 45
14 of the -- of his -- of his testimony. He then
15 also says, for a catastrophic storm, he might
16 use something else, like a beach profile, so he
17 gets to decide that it's a catastrophic storm,
18 so, now we're going to use a beach profile.
19 That's on page 162. Then he says that -- and
20 I'm going to -- and I'm going to quote this, he
21 says the jurisdiction can change -- to the
22 question, can the jurisdiction change day by
23 day, storm by storm, on page 133, his answer is
24 yes. This is after testifying that every IOP
25 beach management plan he worked on for over a



1 decade said the 40-year setback line
2 establishes the landward limit of DHEC
3 jurisdiction.

4 So, you look at all of this stuff, Your
5 Honor. First, you have to get past the
6 statutory definition of beaches and say you can
7 step back and go past many, many, many years of
8 past practice to say, yes, I have the
9 authority, because it's a different area.
10 Well, you -- no one is contesting and I am not
11 contesting that there's four areas defined.
12 There's no question about it. I give it -- I
13 agree with it. So, that's not a contest. I'm
14 just saying beaches has to be used there
15 statutorily. And I believe there's a question
16 that was raised as why is beach a separate
17 area? It's a separate area because almost 30
18 percent of the coast at the time of the Act did
19 not have a setback line. So, if you get past
20 that, then you get to beaches, and the
21 definition of beaches. What happened at my
22 property with one day's worth of data with a
23 handheld GPS that they claim, and everything
24 after that is -- is -- is basically based on
25 that. And a very, very critical issue that was



1 not addressed, they, have the burden of proof,
2 and they did not prove it. Which is what, in
3 fact, constitutes lack of vegetation from
4 periodic inundation. And here we said it
5 includes storms; it includes named storms. And
6 what happens in a named storm, Your Honor, you
7 have -- you have washout of the soil.
8 Everything washes out. Buildings washout,
9 pools washout, sewer lines washout, the soil
10 washes out. It is not a destruction of
11 littoral -- nonlittoral vegetation from salt
12 water toxicity happening day in and day out.
13 This is a soil washout. So, now we have a new
14 theory that soil washout, where you just wash
15 it out, and you could washout food, you washout
16 your home, you can washout anything. It washes
17 out the entire soil. And how in the world
18 would a plant be there? And that -- and that's
19 -- this is the dangerous path to get down. And
20 when you get down that path, it says there is
21 no limit to this jurisdiction. There is no
22 limit. It is a judgment of multiple people.
23 This is wrong, Your Honor. They have the
24 burden of proof. They did not prove either one
25 of these jurisdictions were achieved. So,



1 therefore, based on that, I move -- I move to
2 -- they've failed to meet the burden of proof.

3 Also, Your Honor, with respect to my wife,
4 Renee, so, I'd like to make another motion to
5 that. She's not on the property deed. They --
6 other than some sort of harassment, I'm not
7 sure, multiple times we've said she has no
8 standing. She's not on the deed. She was not
9 in any way should be in this case, and she's
10 been on this for a year and a half. So, I
11 would also like a directed verdict, Your Honor,
12 to remove Ms. Renee Reddy so she can not have
13 to attend these sessions and stay with our 14
14 year-old daughter when she has absolutely no
15 standing in this -- in this case.

16 Finally, I ask Your Honor if you would
17 also like me to address the issue in the
18 interest of time on CCL, because I have read
19 they don't -- they don't have a witness. I
20 have read their testimony. I -- I can't, for
21 the life of me, figure out what's going on
22 here, because they can't -- they seem to be
23 from their objections and from their comments
24 during trial, they seem to be aiding and
25 abetting a government agency in an enforcement



1 action against me, which is absolutely not only
2 is that cannot be their role, that violates the
3 conditions of their IRS application for a tax
4 exempt charity. So, beyond that, I have no
5 idea. Their -- their -- their -- their witness
6 -- the only witness that's on deposition says
7 she has no knowledge about access issues. She
8 says that in her deposition. So, if you say
9 she has no real knowledge of that, and they
10 should not be aiding and abetting a government
11 agency in an enforcement action. I -- I take
12 responsibility for whatever my attorneys did.
13 That is -- that is -- I own it. And hopefully
14 I've done something about it. But at this
15 point in time, I don't know how to address
16 this, because I'm defending myself against
17 charges that I don't know what they are.

18 **THE COURT:** All right. Any response? Can I go
19 ahead and address the first one? Is there any
20 reason to keep Renee Reddy in the case?

21 **RESPONSE TO MOTION:**

22 **MS. MILTON:** You want me to?

23 **MS. LENHARDT:** Ms. Milton has ---

24 **MS. MILTON:** Absolutely, Your Honor. Your Honor
25 actually -- it's kind of out of your hands.



1 So, from my understanding of what happened in
2 this case ---

3 **THE COURT:** It's out of my hands?

4 **MS. MILTON:** Yes, Your Honor. On July 1st, 2024,
5 the Administrative Order was issued against
6 both Rom and Renee Reddy. On July 18th, 2024,
7 there is a request for contested case hearing
8 that was filed alone in the name of Rom Reddy.
9 There's no Renee Reddy that ever filed a
10 request for contested case hearing.

11 **THE COURT:** So, no Renee Reddy ever filed a request
12 for a contested case hearing?

13 **MS. MILTON:** That's correct, Your Honor.

14 **THE COURT:** His motion is to have her removed from
15 this case because she shouldn't be in it.

16 **MS. MILTON:** Then I would probably agree that
17 there's no reason that she should be in this
18 case ---

19 **THE COURT:** Oh, that's what I'm asking.

20 **MS. MILTON:** --- but the Administrative Order is
21 completely enforceable against her, as we stand
22 here today, Your Honor.

23 **THE COURT:** That's the question. Why is it
24 enforceable against her?

25 **MS. MILTON:** Because she never contested it.



1 **THE COURT:** I'll think about that later. That
2 sounds pretty weak to me, honestly, because
3 this is -- at least in this case, this is the
4 decision about the Administrative Order.

5 **MS. MILTON:** That's correct, Your Honor. Which she
6 never formally requested a ---

7 **THE COURT:** So, I don't know how ---

8 **MS. MILTON:** --- contested case hearing.

9 **THE COURT:** Well, you wouldn't have to -- you would
10 not be bound to contest that -- to make a
11 request for a contested case hearing if the
12 Department never had jurisdiction over her to
13 begin with, because they improperly brought an
14 action against somebody that hasn't -- that
15 does not have, you know, any name on the deed
16 and, therefore, is not responsible for any
17 actions that occurred on the property. So ---

18 **MS. MILTON:** With all due respect, Your Honor, the
19 statutes that speak to critical area
20 construction or manipulation don't speak to
21 property ownership or anything else. They
22 speak ---

23 **THE COURT:** You can go after whoever you want to go
24 after?

25 **MS. MILTON:** It speaks to who actually contracted,



1 worked with those contractors and who actually
2 caused the work to be done.

3 **THE COURT:** Right. I've heard no evidence that she
4 worked with anybody in this case so far, so.
5 There -- therein lies the motion.

6 **MS. MILTON:** If she -- if you would like her removed
7 from this action, Your Honor ---

8 **THE COURT:** I'm not saying what I like, I'm asking
9 about the law.

10 **MS. MILTON:** Well, I would say ---

11 **THE COURT:** I don't make decisions on what I like.
12 I mean, if I wanted to make decisions on what
13 I like, I would have adjourned this hearing and
14 gone home many days ago, because it would have
15 been convenient for my life.

16 **MS. MILTON:** We all appreciate that, Your Honor.
17 But what I would say is that, you know, it --
18 the work that has been done here, there has
19 been evidence that has been presented about
20 what work she contracted with ---

21 **OBJECTION:**

22 **MR. REDDY:** Objection, Your Honor. There's no
23 evidence of anyone she contracted ---

24 **THE COURT:** You don't have to object because I
25 haven't heard it myself.



1 **MS. MILTON:** Okay.

2 **THE COURT:** I mean, I don't remember it, but you --
3 refresh my recollection.

4 **MS. MILTON:** So, when we were discussing on her
5 working with the enforcement authorities on
6 this, she was discussing -- basically, you
7 know, telling them to get off of her property.
8 She's been working with DES; she worked with
9 the contractors that were at the wall.

10 **THE COURT:** All right. Can I ask you a question?

11 **MS. MILTON:** Yes, Your Honor.

12 **THE COURT:** If you are on someone else's property,
13 just taking this as far as it can go, let's say
14 she was on a neighbor's property, and she told
15 them to get off their property or that property
16 because they had no right to be there, and the
17 neighbor was fully supportive of it, do y'all
18 have -- does the Department have a right to
19 bring an action against her because she told
20 the -- the Department to get off the neighbor's
21 property, had the permission of the neighbor?

22 **MS. MILTON:** You know, it goes beyond her
23 communications with DES. It goes with her
24 working with contractors, her having apparent
25 authority from this ---



1 **THE COURT:** There's what I was asking. Is there any
2 evidence in the record that she was working
3 with contractors?

4 **MR. REDDY:** Zero.

5 **MS. MILTON:** Yes. I was gonna say that there are
6 text messages between Mrs. -- Mr. Rom Reddy and
7 CNT discussing that Renee was overseeing the
8 work, that she would Venmo for payments for the
9 work, that she was paying for the work, that
10 she was overseeing the work that was done
11 there. I have several text messages. Did we
12 put in 202 where Renee Reddy is mentioned by
13 Rom Reddy in texts related to construction
14 activities, such as needing a dumpster picked
15 up so a dirt guy can fill in behind the wall
16 with a bobcat. August, 15th, 2023, she's
17 involved in communication with Rom Reddy
18 regarding work on the property, including Rom
19 Reddy stating that she's been overseeing the
20 contractors. Renee says that they left after
21 completing the clay work. She completed a
22 survey and manipulated the survey with William
23 Weathers in Exhibit 213. Again, working with
24 William Weathers on July 6 in Exhibit 213 as to
25 the survey. July 10th, 2013, working with



1 William Weathers on the survey.

2 **THE COURT:** Wait a minute -- I'm sorry.

3 **MS. MILTON:** Sorry. Do you want me to continue?

4 **THE COURT:** Yeah, go head.

5 **MS. MILTON:** July 11th, 2023, when she was still
6 working, manipulating the survey and changing
7 the survey with William Weathers. On September
8 10th, 2023, Exhibit 192 when Rom Reddy texted
9 Carl relaying that Renee had been overseeing
10 the workers, and they had left after finishing
11 the clay work. September 2023 when she was
12 working with DHEC on enforcement. December
13 27th, 2023, Exhibit 202, where Rom texted Brian
14 that Renee was sending funds to complete the
15 construction. That was to Brian.

16 **THE COURT:** Again, what -- if she was a just a
17 friend of Rom Reddy and she was doing all this,
18 y'all are going to issue a fine against her?
19 Y'all on behalf of the Department?

20 **MS. MILTON:** I cannot speak for the Department, Your
21 Honor.

22 **THE COURT:** Okay.

23 **MS. MILTON:** All I am here to say is that an
24 Administrative Order was issued against her,
25 that she did not file a request for contested



1 case hearing on and that there is evidence in
2 the record that she was responsible for the
3 construction. That's all.

4 **THE COURT:** Okay. Anything else on that one and
5 then I'll move to the other issues? From the
6 Department?

7 **MR. CHURDAR:** Your Honor, I would mention that
8 Joint Exhibit Number 2, which has been
9 admitted, is a copy of the Summons and
10 Complaint that has been filed by both Rom Reddy
11 and Renee Reddy in Circuit Court, and it's
12 about this action. And, in particular, it is
13 a request for relief, and it's inverse
14 condemnation. It is trespass. These are the
15 causes of action, recovery of attorneys fees,
16 and a declaratory judgment action regarding the
17 statute. And so I believe that that is a -- a
18 justification for her inclusion in the
19 Administrative Order.

20 **MR. REDDY:** May I respond?

21 **THE COURT:** Yeah.

22 **MR. REDDY:** Your Honor, this is an enforcement action
23 for jurisdiction on my property. I go back to
24 the two things. It's an enforcement action for
25 jurisdiction on my property. What I did on my



1 property is my business, whether Renee -- she
2 talks about like she knows what she's talking
3 about. She talks about paying Brian. Brian is
4 my employee. He -- he -- he -- he works for
5 me. He's my employee at my -- my company. So,
6 I don't know what these people are talking
7 about, but this is an enforcement action where
8 they are saying they have jurisdiction. As I
9 mentioned in the -- in the judicial -- in the
10 in the request for a directed verdict, they
11 have to show that they can get past that line.
12 Then they have to show that it is beaches. I
13 am the property owner. They are on my
14 property.

15 **THE COURT:** All right. I'll rule on that in a
16 little while. Let's move on to the other
17 issues.

18 **MR. CHURDAR:** Okay. Okay. Your Honor, as far as
19 the ---

20 **THE COURT:** I will say this ---

21 **MR. CHURDAR:** I'm sorry.

22 **THE COURT:** I'm going to look at it, but when the
23 Department pushes the envelope on who they
24 should pursue in cases, it just makes your
25 whole case start looking bad, Mr. Churdar.



1 **MR. CHURDAR:** Well ---

2 **THE COURT:** It's just something to think about.
3 That's all I want to tell you. But let's just
4 move on to the other.

5 **MR. CHURDAR:** Okay. Your Honor, could I just
6 mention a couple of ---

7 **THE COURT:** Yeah.

8 **MR. CHURDAR:** --- things in the Summons and
9 Complaint.

10 **THE COURT:** That's in Circuit Court.

11 **MR. CHURDAR:** Right, but I think it bears on the
12 question that you're deciding.

13 **THE COURT:** But it's not in the evidence.

14 **MR. CHURDAR:** It is in the evidence.

15 **THE COURT:** Oh, it is?

16 **MR. CHURDAR:** Yes, sir.

17 **THE COURT:** Okay.

18 **MR. CHURDAR:** Yes, sir. Paragraph 21 of the
19 Complaint says plaintiffs purchased their home
20 at 118 Ocean Boulevard. Paragraph 28,
21 plaintiffs began repairing their property after
22 the storm. Paragraph 29, plaintiffs placed the
23 temporary fence. Paragraph 30, plaintiffs
24 installed an inward facing retaining wall.
25 Paragraph 31, DHEC sent plaintiffs the attached



1 cease and desist directive. And it goes on.
2 I would ---

3 **THE COURT:** Well, do you know if it -- if it is
4 their property, or -- he's making the assertion
5 it's only his property, and, therefore, he's
6 the only property owner you should be pursuing.
7 And if it's their property, I see your point
8 entirely. But ---

9 **MR. CHURDAR:** Well, there is ---

10 **THE COURT:** Do y'all know one way or the other?

11 **MR. CHURDAR:** Well, that -- there is -- there is a
12 deed that has Mr. Reddy listed, and this is --
13 this is saying plaintiffs, plural, but there is
14 a deed that has Mr. Reddy listed as the
15 property owner.

16 **MR. REDDY:** Can I respond to that, Your Honor?

17 **THE COURT:** You don't need to at this point. And,
18 plus, I want to hear other argument. Go ahead.
19 Anything else on that?

20 **MR. CHURDAR:** I just wanted to mention that.

21 **THE COURT:** Okay. How about his other arguments?

22 **MR. CHURDAR:** So, Your Honor, just -- just briefly,
23 the statute -- statutory definition of beaches
24 critical area is -- is clear. Periodic
25 inundation such that no nonlittoral vegetation



1 is established. It is -- Mr. Reddy was -- was
2 -- he goes kind of in the preamble to -- to one
3 of his questions, he was -- he even agreed, if
4 my memory is correct, that when it says so that
5 is, is a cause and effect relationship between
6 the periodic inundation and then the lack of
7 nonlittoral vegetation. And if I was
8 understanding him correctly, you know, the
9 staff is not going to be out at the beach 24/7
10 watching the inundation. It is the lack of the
11 vegetation that is -- that is the proof of the
12 periodic inundation.

13 **THE COURT:** Well, he made the argument about a
14 catastrophic storm changing the entire beach
15 profile.

16 **MR. CHURDAR:** Right.

17 **THE COURT:** And then what is the -- did it seem like
18 there could be potential government overreach,
19 or -- you know, I'm really not so much
20 concerned about government overreach as I am
21 about how do you properly apply the statute.
22 So, because if you had a tremendous storm, you
23 know, apparently y'all, at least on his version
24 of the facts, he said that after Idalia, you
25 know, you have a storm, you come out with a



1 handheld unit that's not as accurate as land
2 surveying, and you make a determination of
3 what's critical area just after a storm.
4 What's your response to that argument?

5 **MR. CHURDAR:** Well, Your Honor the testimony of Ms.
6 Boynton, and I'm going from my memory over
7 three days from a trial, but my testimony --
8 recollection of the testimony that Ms. Boynton
9 gave when asked about that was, you know, going
10 out and looking at where the vegetation was and
11 whether, you know, it was recoverable or not.
12 It was not -- it was not a black and white way
13 of deciding it. I mean, you know, it -- you
14 have to monitor it for recovery and see if it
15 is -- if it is going to come back, so to speak.
16 I mean, this is, you know, the whole coastal
17 processes is -- is ---

18 **THE COURT:** So that I can understand your argument,
19 are you saying that on the day that they -- the
20 Department came out after Idalia, you didn't
21 make a firm conclusion as what the critical
22 area was or not? I'm just trying to ...

23 **MR. CHURDAR:** Your Honor, on that day, they were not
24 looking at the critical area. There is a
25 damage assessment process that staff goes



1 through after -- after a storm, and that was
2 the reason that they were out there. I believe
3 that Mr. Reddy has referred to this as a new
4 interpretation of the statute, and that is --
5 that is simply not in accord with the
6 testimony.

7 **THE COURT:** I'll tell all y'all, Mr. Reddy, I don't
8 know if it's worked against the Department in
9 the past, it certainly has worked against the
10 Department of Revenue, what I'm about -- what
11 I'm about to say, and that is, however many
12 I've had -- I don't know if y'all have or not.
13 I've had so many departments come in and tell
14 me, well, this is the way we've always done it.
15 Well, see, I always say I don't really care how
16 you've always done it. I care about the law.
17 So, that may work against you, potentially, I
18 don't know, in this case cause ... It would
19 work in your favor on the penalty, but on the
20 on the law, I'm going to interpret the law in
21 accordance to how I think it should be
22 interpreted. So, I say you don't need to go
23 into that in depth on as far as the
24 jurisdiction. Okay.

25 **MR. CHURDAR:** Okay. Well, that takes away a lot of



1 what I was going to say, because I think that
2 -- that that is relevant -- well, that was
3 relevant prior to what you just said.

4 **THE COURT:** Well, he said -- he made other
5 arguments. I mean, he made the argument that
6 the beach/dune system -- and I don't want to
7 give my version of it -- basically supersedes
8 the definition of beach if there's a setback
9 line. If you look at the intention of the
10 General Assembly under his theory that I would
11 not examine the definition of beach if there's
12 a setback line. And I only examine that
13 definition or the application of that
14 definition in areas where there is no setback
15 line. And since there is a setback line in
16 this case, that definition would be
17 inapplicable. So, what's your argument on
18 that?

19 **MR. CHURDAR:** Well, there was -- there was testimony
20 by Ms. Jessica Boynton about the context of --
21 of the beaches critical area within the
22 beach/dune system, and -- and the point of that
23 was that that is still today in the vast
24 majority of oceanfront on the coast, that is
25 the case, that the profiles, if you recall when



1 Mr. Slagel testified about what a -- what a
2 beach looks like, and kind of what a typical
3 beach looks like, and he had overlaid, you
4 know, the coastal waters and then the
5 beach/dune system, and then the beaches
6 critical area. And are the beaches typical --
7 typically is within the beach/dune system. But
8 there has been the application of the beaches
9 critical area in other properties in the State.
10 In fact, Ms. Flake testified to that in -- in
11 her testimony ongoing right now where beaches
12 is -- has overrun or has gone landward of the
13 beach/dune system. And so while the common
14 profile that we see is beaches within the
15 beach/dune system, beaches critical area as a
16 definition, statutory definition, does not make
17 that limitation. It just -- it just says this
18 is one of the four critical areas that the
19 Department has jurisdiction over. And while it
20 typically is and has been in the past within
21 the beach/dune system, occasionally, it is
22 landward of that. And that's -- that's what
23 the discord dealt with in Summer House. That's
24 what has happened with the Reddys' property.
25 That's has happened with other properties that



1 are currently in the enforcement process right
2 now, as Ms. ---

3 **THE COURT:** Well, I was asking about the legal
4 interpretation. You've kind of gone into the
5 factual, and I guess your argument the facts of
6 how the system operates gives me insight into
7 how I should interpret the law, and that's
8 literally why I wanted to have this hearing, as
9 further inquiry into the facts may determine
10 the application of the law. But do you have
11 any argument regarding the legal purposes of
12 the setback line in that regard?

13 **MR. CHURDAR:** Well, to -- to -- I mean, obviously
14 stating -- stating something that's obvious,
15 but that is the -- the landward limit of the
16 beach/dune system critical area. And there is
17 -- there is nothing in the statutory language
18 that intends to shrink or minimize or limit
19 beaches critical area jurisdiction. I mean,
20 the statute -- statutory definition, and I
21 think this is getting to -- to your question is
22 -- is -- has no such limitation. And it is ---

23 **THE COURT:** There's a statute that says that in
24 interpreting the law and regulations, the
25 policy says that you should take every effort



1 to avoid thinking. What is the implication of
2 that?

3 **MR. CHURDAR:** Well, first of all, that -- that is --
4 I mean, that isn't a matter that they have
5 filed the Summons and Complaint in Circuit
6 Court, I mean it's captioned -- I mean it's the
7 cause of action is listed as not inverse
8 condemnation, but ---

9 **THE COURT:** Yeah.

10 **MR. CHURDAR:** --- you know, nonetheless, that is --
11 that is a matter that is -- that is dealt with
12 in Circuit Court. And, I mean, to go into the
13 regulatory takings analysis, when you look at
14 the -- the three-prong test under the Penn
15 Central case for partial regulatory takings,
16 one of the biggest factors is the -- the
17 reasonable economic expectations, and there has
18 been within that body of law, cases that talk
19 about, have you purchased in a highly regulated
20 field. You know, in other words, is it -- is
21 it -- it is -- -- it is -- I'm going from my
22 memory, but it is concrete -- concrete products
23 is ---

24 **THE COURT:** If -- if the reasoning was, if you
25 purchase property in a highly regulated field,



1 and the -- this area is a highly regulated
2 field pursuant to the statute, then that would
3 render the statute meaningless when it says you
4 should take in account the potential of the
5 takings, because the -- that policy would in
6 essence be void just by the fact that the
7 regulations that the General Assembly has set.

8 **MR. CHURDAR:** Respectfully, I disagree with that.

9 **THE COURT:** Okay. Tell me why.

10 **MR. CHURDAR:** Because the analysis that the Supreme
11 Court did in Penn Central and in that concrete
12 -- concrete products case, I can't remember the
13 name, but anyway, concrete is the one of the
14 parties. You know, they talk about what --
15 what the diminution in value is such that this
16 has created a regulatory taking, you know,
17 that, in and of itself, is a -- a very
18 significant issue to go into.

19 **THE COURT:** I guess, how about let me ask it this
20 way, and I don't know if I should have even
21 gone in on this, may be going a little far
22 afield, but if there is a policy regarding the
23 Department should avoid interpreting the law as
24 a result in a taking ---

25 **MR. CHURDAR:** Uh-huh.



1 **THE COURT:** --- what's the reason for that based on
2 y'all's analysis -- your analysis -- the
3 Department's analysis?

4 **MR. CHURDAR:** Well, I mean, I think it's so that --
5 so that the ---

6 **THE COURT:** I mean, that's got a purpose, I assume,
7 right?

8 **MR. CHURDAR:** Sure. I mean, I think it's ---

9 **THE COURT:** Well, then what's its purpose? That's
10 all I want to hear.

11 **MR. CHURDAR:** I think the purpose is just exactly
12 what it says. I mean, it's just, you know, the
13 -- the -- a regulatory taking, as you well
14 know, is -- is very different than ---

15 **THE COURT:** Imminent domain?

16 **MR. CHURDAR:** --- the City saying we need to widen
17 the road and we need to cut-off part of your
18 yard.

19 **THE COURT:** Imminent domain.

20 **MR. CHURDAR:** Right. And -- and so -- so, to say,
21 apply the regulations in such a way as to not
22 incur a regulatory taking is -- is, I think
23 it's -- it is -- the guidance is just apply the
24 regulations in accordance with the analytical
25 framework set up by the U.S. Supreme Court in



1 Penn Central so that the Department is not
2 engaging in a regulatory taking. And, I mean,
3 I think that's -- I think that's the purpose of
4 the statute, if you ... I don't know if that
5 answers your question or not, but anyway.

6 **THE COURT:** I'll cogitate upon that.

7 **COURT REPORTER:** I'm sorry; I didn't hear what you
8 said.

9 **THE COURT:** I will cogitate upon that. Thank you.
10 Anything else?

11 **MR. CHURDAR:** Well, just, I mean, I think that this
12 is -- this is -- I mean, there's been no
13 teasing out as to whether this is brought up as
14 a facial challenge or an as applied challenge,
15 but I mean, it's your -- Your Honor knows,
16 those are separation powers as you ---

17 **THE COURT:** I'm well aware of my jurisdiction, yeah.

18 **MR. CHURDAR:** So, that. And then that's all I have,
19 Your Honor.

20 **MS. LENHARDT:** Your Honor, I would like to address
21 Mr. Reddy's motion and give you context and
22 address some of the things he said relating to
23 the League.

24 **THE COURT:** Yeah. And other stuff, too, if you
25 don't mind.



1 **MS. LENHARDT:** Yeah. Okay. So, first of all, just
2 with regard to our burden of proof, we haven't
3 even offered up the designations for Ms. Cedzo
4 so, that's a -- it's premature.

5 **THE COURT:** This is really -- well, at the
6 Department right now.

7 **MS. LENHARDT:** That's correct. But, Your Honor, the
8 whole reason that the League filed their motion
9 to intervene, and we laid out in our motion, is
10 to protect the members and their interests, and
11 their interests are going to be negatively
12 impacted by the location and the continued
13 location of Mr. Reddy's wall. There is no
14 point in intervening in a case to take a
15 neutral position. I do understand that that
16 was consented to, but there was no limitation
17 by this Court as to how we were involved.
18 Nevertheless, our primary -- primary interest
19 is to protect the members and advocate for the
20 enforcement of the Order.

21 **THE COURT:** All right. I understand that law, so,
22 you can move on.

23 **MS. LENHARDT:** Okay. So, addressing the motion for
24 the non -- involuntary nonsuit, I don't think
25 it's been mentioned that the standard is to



1 prove a prima facie case. The bar is, did they
2 prove their case such that Mr. Reddy needs to
3 rebut those allegations. I believe they have
4 done that. Now, Your Honor may conclude, we're
5 confident you won't, but Your Honor may
6 conclude and side with Mr. Reddy, but at this
7 point, it would be inappropriate to grant an
8 involuntary nonsuit based on -- based on what
9 they -- what the agency has put in. Again,
10 they may have evidence to rebut the testimony,
11 but the testimony was offered. And I also
12 recognize that the most -- the Order on denying
13 summary judgment is not binding on you, and you
14 can make -- you know, you can find -- make
15 findings as you move forward, but it certainly
16 does inform what this Court was interested in
17 hearing in the first place, which was factual
18 development based on the allegation of
19 inconsistency in permitting, you know, having
20 to do with Pip- -- Piping Plover. There was
21 evidence introduced in that. And whether or
22 not it was in beaches critical area. I think
23 the legal argument of the superseding of the
24 beach/dune system would be more appropriate for
25 you to determine after you hear all of the



1 evidence. So, again, based on the low bar,
2 essentially that is set for an involuntary
3 nonsuit, I believe it's inappropriate to grant
4 it.

5 **MR. REDDY:** May I respond?

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

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

8 **THE COURT:** I tell you what, even before you respond.
9 Mrs. Reddy, what is your position concerning
10 whether you should be involved in this case?

11 **MRS. REDDY:** Your Honor, I don't believe I should be
12 involved in this case. Our previous attorneys
13 had asked on numerous times to please remove
14 me. I don't have any standing. I'm not on the
15 deed. I don't pay the bills. I don't -- I run
16 our house with our child.

17 **THE COURT:** Okay. Thank you. All right.

18 **MR. REDDY:** I'm not a legal scholar, so, maybe it's
19 not a surprise to Your Honor, but I have no
20 idea what he said. That -- that having been
21 said, I am not arguing takings at all. I know
22 he got into a lot of detail on that.

23 **THE COURT:** Yeah, I said I probably went a little
24 far afield on that.

25 **MR. REDDY:** Yeah, I'm simply saying that there is a



1 guiding statute, 48-39-30(C), that says should
2 not adopt a rule or regulation, issue any order
3 that is unduly restrictive. It says that for
4 a reason. It appears in the Constitution, the
5 word Constitution for a reason. That said, my
6 argument, Your Honor, is not any of the stuff
7 about things moving and moving back and forth.
8 It is a -- beaches is a defined term. There
9 statutory history in the Supreme Court and in
10 South Carolina courts that I read out to you
11 when I presented it, simply says, you have to
12 use the meaning of that term. It's just a --
13 it is, like, I completely agree with what you
14 said. You know, it doesn't matter -- I know
15 our old lawyers talk about practices. This is
16 about the law and -- and I just want to focus
17 on this issue. Maybe it gets into a lot of
18 detail in beaches when we get to the second
19 issue. But on this issue, it is about the law,
20 and the law simply says, if a -- if a term is
21 a defined term, it has to be used that way
22 throughout the agreement. It's as simple as
23 that. And if you use that word beaches, which
24 is a defined term, then by definition, number
25 four says, if you use the statutory definition



1 of beach and substitute it in for, it restricts
2 it to the setback line. It is as
3 straightforward as that. I -- it is not
4 complicated or getting into what happens and
5 dynamic motions and all this kind of stuff. It
6 is as simple as that. It's purely about the
7 law. It says the General Assembly is saying,
8 hey, be careful when this happens. There's a
9 constitutional issue. Be careful. Don't be
10 too restrictive. And all I'm saying is, you
11 saw the testimony, and you can see if it meets
12 that standard they're asking you to meet, a
13 restrictive. When something says you can only
14 do this in a yard, then I make the
15 determination unilaterally and unlimited, and
16 you can't -- she can't put her rose bush back.
17 She can't put her yard back. She can't put a
18 fence back, which means her dog can't go out
19 there; her child can't go out there. A
20 swingset can't go back in there. Her furniture
21 can't go out in there. What would be unduly
22 restrictive if that isn't? And this is
23 specifically saying, don't do that. And that's
24 how -- that's how this thing has worked for
25 years and years and years, and now we're



1 changing it.

2 Then there's the second issue of the law,
3 which simply says, beaches means what it means.
4 That's what we say it means. If they want to
5 change the meaning of beaches, they got to go
6 back to the General Assembly and say, hey, can
7 you change the meaning of beaches, because I
8 don't like what it says, because of all the
9 reasons they gave you, dynamic, undynamic,
10 whatever. Just say, I want to change the
11 definition of beaches. But that's not what
12 they've done, and that's not what the General
13 Assembly has done. The General Assembly says
14 beaches means this, and if you just substitute
15 the meaning of beaches by definition, it says
16 it's limited to the setback line. It's as
17 simple as that. So, I don't really know what
18 he's talking about, but -- but to me, that's --
19 this is about the law, and it's -- it's as
20 simple as that. If you look at 48-39-10, and
21 you look at this ... The only interesting part
22 beyond that is if you actually follow it this
23 way, like it appears to be, if you follow --
24 just followed it, then all the rest of it makes
25 sense. 280 makes sense. 290 makes sense.



1 Everything -- everything makes sense. If you
2 don't follow it this way, now, it's chaos. We
3 have unleashed chaos in the State like you
4 would never see before. And the liability it
5 would subject the State to up and down the
6 coast would be unheard of. So, I really don't
7 know what it is they're talking about, but
8 that's how I see the law. Thank you, Your
9 Honor.

10 **THE COURT:** I'm going to take a short break.

11 (Off the record from 10:00 a.m. until 10:08 a.m.)

12 **COURT REPORTER:** All rise.

13 **THE COURT:** All right. Y'all be seated. Thank you.

14 **COURT'S RULING:**

15 **THE COURT:** All right. As it stands at this point,
16 I just think, based on the standard for
17 involuntary nonsuit, I'm going to deny your
18 motion and let the case go forward. It doesn't
19 mean I'm not going to consider the issues that
20 you raised, just means I want to consider at
21 the conclusion of the case.

22 Now, regarding Renee Reddy, I understand
23 that there was confusion at the beginning of
24 the case about whether she was a property owner
25 or not. Based on the facts that I have heard at



1 this point in time, I don't think there's
2 sufficient evidence that she should be a party
3 in this case. That doesn't mean that -- I
4 think there's a separate enforcement action, is
5 that what I understood, and -- and that she did
6 not appeal. And regarding that enforcement
7 action, I'm making no ruling on that. Although
8 she's not a property owner, I'm not sure how
9 you go about that, but ... So, I'm going to
10 dismiss her as a party in this case.

11 **MS. PHELAN:** Your Honor, it's not a separate
12 enforcement action, it's the same enforcement
13 action.

14 **THE COURT:** That's what I kept asking about.

15 **MS. PHELAN:** I'm sorry, I ---

16 **THE COURT:** Yeah.

17 **MS. PHELAN:** So ---

18 **THE COURT:** And I didn't -- I never got any clarity
19 from Mr. Churdar on that argument -- Ms. ---

20 **MS. PHELAN:** It was an administrative -- this same
21 administrative action was brought or was -- was
22 against both Mr. and Mrs. Reddy, and the basis
23 for that is the statute says any person who
24 violates. It's not any owner. There's no ---

25 **THE COURT:** I don't ---



1 **MS. PHELAN:** And that's why ---

2 **THE COURT:** I don't -- haven't heard -- I've heard
3 evidence that she was involved in asking people
4 to leave the property. Haven't heard evidence
5 regarding whether she made decisions concerning
6 the building of the retaining wall in this
7 critical area.

8 **MS. PHELAN:** I don't want to continue arguing if
9 you've made your ruling.

10 **THE COURT:** No, I'll -- if you think I've missed
11 that, I'll hear it ---

12 **MS. PHELAN:** I would just say that ---

13 **THE COURT:** --- really, really briefly.

14 **MS. PHELAN:** Briefly, the Joint Exhibit 2, the
15 Complaint that's been admitted, it does say
16 that the plaintiffs installed the erosion
17 construction -- erosion control structure. And
18 also this the various texts ---

19 **THE COURT:** That was the Summons and Complaint?

20 **MS. PHELAN:** Yes, it's a sworn statement. And the
21 various texts with the subcontractors show that
22 she was at one point in the CNT text that has
23 been admitted also, that she was telling them
24 that the metal pins or poles were too high,
25 that it was obstructing, and so they -- they



1 redid those. And I think -- I think Ms.
2 Milton, you know, gave several lists of things
3 that she was involved with.

4 **THE COURT:** Now, that didn't, to me, go to the
5 actual building of the retaining wall. I'll
6 let you respond to that.

7 **MR. REDDY:** Your Honor, she's my wife. She helps me
8 out, just like she's helping me out. So, I
9 don't -- I don't sit in the office like they
10 do. I'm traveling. I'm on the road. My
11 contractor calls me and tells me something, or
12 asks me something, I would tell her, hey, can
13 you -- can you help me out, can you do this,
14 can you do that. She was never involved -- she
15 was never involved in any decision. She's
16 talking about some original retaining wall.
17 The original retaining wall was -- was being
18 built, she was so, like, nervous about how
19 these guys were going to destroy the yard. She
20 was more concerned about the yard being
21 destroyed.

22 **THE COURT:** Well, I'll tell you what I'm going to
23 do. I ---

24 **MR. REDDY:** They have no -- they have not presented
25 any proof.



1 **THE COURT:** I don't think they've submitted
2 sufficient proof at this point in time, but I
3 do want to look at what you just argued. What
4 is your position on the Summons and Complaint
5 being sworn testimony, where it says
6 plaintiffs, says she ---

7 **MR. REDDY:** Okay. So, this is what happened, when
8 they first came after us, they came after us
9 both. It was not -- it was just not me. They
10 started out this thing with both of us on
11 there. So, when the attorneys were responding,
12 they were responding to both. We said, why is
13 she on here? Then we've made several attempts
14 to get her off. And we filed for, I don't
15 know, a year and a half now, we've been saying
16 she's not on here. They should -- they
17 initiated it. They initiated it against both
18 of us. And so, when they initiated against
19 both of us, we were responding ---

20 **THE COURT:** Okay.

21 **MR. REDDY:** --- that way. They didn't initiate
22 against me and then we responded a different
23 way. They initiated against both of us simply
24 because they didn't bother to look up the deed.

25 **THE COURT:** I'm going to take this decision what I



1 call under advisement. That means I'm not
2 going to rule one way or the other ---

3 **MR. REDDY:** Okay.

4 **THE COURT:** --- at this point in time. I see your
5 point. Okay. All right. Proceed.

6 **PETITIONER CCL'S CASE IN CHIEF:**

7 **MS. LENHARDT:** Your Honor, Petitioner, Coastal
8 Conservation League, case consists of
9 deposition designations that we filed with the
10 Court in advance of the hearing of Ms. Emily
11 Cedzo and we would like to read them into the
12 record. Didn't know if you had a preference.
13 Would it be more boring for me to read it all
14 myself or Lauren Milton and I can do question
15 and answer format.

16 **THE COURT:** I don't make decisions on the level of
17 boredom ---

18 (Laughter)

19 **THE COURT:** --- to which the Court would ---

20 **MS. LENHARDT:** Do you have any other preference?

21 **THE COURT:** I mean, if y'all want to stipulate that
22 the Court has authority to make decisions in
23 this case regarding its level of boredom ---

24 (Laughter)

25 **THE COURT:** --- I would love to hear that.



1 **MS. LENHARDT:** Well, I retract that. I retract
2 that.

3 **THE COURT:** Okay.

4 **PUBLISH DEPOSITION DESIGNATION OF EMILY CEDZO:**

5 **MS. LENHARDT:** And we -- okay. And, for the record,
6 I'm going to publish the designations that we
7 have identified as page 1, line 1 through 13,
8 line 2; page 13, line 17 through 13, line 22;
9 page 66, line 17 through 67, line 14; page 69,
10 line 8 through 70, line 5; Page 72 through 19
11 -- page -- wait, 72:19 through page 21. Page
12 73, lines 4 through 6; 73, lines 11 through 13.
13 And then finally, page 83, line 8 through page
14 85, line 17. And so we would -- we would offer
15 those designations into evidence.

16 **THE COURT:** All right. Your position ---

17 **COURT REPORTER:** Is there an exhibit number?

18 **MS. LENHARDT:** Well, they're just designa- --
19 they're deposition designations, so, they
20 weren't -- they were filed on May 1st.

21 **THE COURT:** Position of the Department?

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

23 **MR. REDDY:** Your Honor, we have counter
24 designations.

25 **THE COURT:** Okay.



1 **MR. REDDY:** And I don't know how to read all this,
2 Judge, can I just submit it?
3 **THE COURT:** Do you have it on paper?
4 **MR. REDDY:** Yes.
5 **THE COURT:** Can you show it to them?
6 **MS. LENHARDT:** We don't have any objection to
7 counter designations, Your Honor.
8 **THE COURT:** All right. Can we ---
9 **MR. REDDY:** And I'd like to submit ---
10 **THE COURT:** Whoa, whoa, whoa. Can you have the
11 counter designations marked ---
12 **MR. REDDY:** Yes, it's highlighted.
13 **THE COURT:** Well, if it's not in -- she read it in
14 the record. If you're not going to read it
15 into the record, I need you to have it marked
16 as an exhibit. It doesn't have to be admitted.
17 So, that at least it'll be in the record for me
18 to know what your counter designations are.
19 **MR. REDDY:** Sure, we're happy to.
20 **THE COURT:** Yeah.
21 **COURT REPORTER:** Thank you.
22 **MR. REDDY:** Can I submit the exhibits that go with
23 them?
24 **THE COURT:** Yes, you may.
25 **COURT REPORTER:** As one exhibit or separate?



1 **MR. REDDY:** No, two.

2 **COURT REPORTER:** Two. Thank you. And this will be
3 -- I've just got to scroll down and get to the
4 number. It will be 109 and 110.

5 **(Respondent's Exhibit Numbers 109 and 110 were marked**
6 **for identification purposes.)**

7 **MS. LENHARDT:** Your Honor, in the interest of time,
8 if Mr. Reddy is doing an offering of a marked
9 exhibit, we can do the same thing, and you can
10 -- we can outline the testimony in our proposed
11 order, assuming you want one, or ---

12 **THE COURT:** However you wish to do it.

13 **COURT REPORTER:** Yours would be -- let me scroll.
14 Yours would be Petitioner CCL 1.

15 **MS. LENHARDT:** Uh-huh.

16 **COURT REPORTER:** Bottom right-hand corner, please.
17 **(Petitioner CCL's Exhibit Number 1 was marked for**
18 **identification purposes.)**

19 **MS. LENHARDT:** So, Your Honor, we're offering
20 Petitioner's Exhibit 1.

21 **THE COURT:** Any objection?

22 **MR. REDDY:** No.

23 **THE COURT:** No?

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

25 **MS. MILTON:** No.



1 **THE COURT:** All right. It's admitted.

2 **(Petitioner CCL's Exhibit Number 1 was admitted into**
3 **evidence.)**

4 **MS. LENHARDT:** And, Your Honor, that -- we'll rest.

5 **THE COURT:** Okay. I will go along with what you
6 said earlier, it may surprise y'all, but the
7 Court is able to read, so, I will read that
8 which you have submitted. All right. With
9 that said, we can have a break or are you ready
10 to start?

11 **MOTION:**

12 **MR. REDDY:** Your Honor, I would like -- on the -- I
13 would like -- at the risk of sounding like a
14 broken record, I would like to make an ALC Rule
15 20(B) grounds for intervention have not been
16 met by CCL. I'd like to make another motion to
17 have them removed.

18 **COURT'S RULING:**

19 **THE COURT:** I've got to overrule that one.

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

21 **THE COURT:** It's preserved for the record.

22 **MR. REDDY:** Okay.

23 **THE COURT:** All right. Now, it's your time to
24 present your evidence. Do you wish a break
25 before you do so?



1 MR. REDDY: No, Your Honor, I want to keep moving.

2 THE COURT: Okay.

3 MR. REDDY: If you're okay with it.

4 THE COURT: Yes, sir.

5 RESPONDENT'S CASE IN CHIEF:

6 MR. REDDY: So, I would like my expert witness, Your
7 Honor, Matt Goodrich.

8 THE COURT: Oh, you did submit an email about you
9 presenting testimony.

10 MR. REDDY: Yes.

11 THE COURT: You do not have to ask yourself a
12 question and answer it, just -- the Court
13 normally lets you take the stand and you just
14 present your case. So, that's how we're going
15 to ---

16 MR. REDDY: Thank you.

17 THE COURT: --- address that. With that said,
18 you're calling ---

19 MR. REDDY: Mr. Matt Goodrich. Right there. Where
20 is it? Is it there?

21 COURT REPORTER: Raise your right hand, please. Do
22 you solemnly swear the testimony you're about
23 to give in this matter is the truth, the whole
24 truth, and nothing but the truth, so help you
25 God?



1 **MR. GOODRICH:** I do.

2 **COURT REPORTER:** Thank you.

3 **MR. MATT GOODRICH,** being first duly sworn, testifies
4 as follows:

5 **MR. MATT GOODRICH - DIRECT EXAMINATION BY MR. REDDY:**

6 Q: Good morning, sir.

7 A: Good morning.

8 Q: You look a little tense. You can relax.

9 A: Thank you.

10 Q: Can you tell us about your education and your
11 experience?

12 A: Yes. I'm a licensed professional engineer in
13 civil engineering in the states of North
14 Carolina, South Carolina, Georgia and Florida.
15 I have a Bachelor's of Science in civil
16 engineering from Lehigh University, and I have
17 a Master's of Science in coastal and
18 oceanographic engineering from the University
19 of Florida. For my work experience, my first
20 employment as an engineer was with Applied
21 Technology and Management in 1997, and I worked
22 there on coastal engineering related projects
23 and water resources related projects through
24 2011, at which time, I resigned to start my own
25 consulting company, MG Associates, in 2011. I



1 met my business partner, John Durkee, in 2013
2 and we decided to merge our two consulting
3 companies and start Water Environment
4 Consultants in 2015. And since that time, I've
5 been a partner at Water Environment Consulting
6 -- Water Environment Consultants doing a wide
7 range of projects. I did have one other
8 employment during that time period, where I
9 also worked with GEO Engineering in 2016 for
10 the purposes of a single project. My work
11 experience has primarily been related to
12 waterfront projects in the coastal and
13 estuarine environment. Types of projects range
14 from analysis of conditions to support analysis
15 -- excuse me, to support permitting and design
16 of waterfront projects, such as ports, marinas,
17 ocean piers and other waterfront types of
18 projects. My experience includes analysis of
19 extreme waves and water levels for the purposes
20 of evaluating coastal structure designs, such
21 as ocean piers. It includes use of coastal
22 hydrodynamic sediment transport and wave models
23 to evaluate environmental impacts or design
24 conditions for coastal projects. I have
25 experience deploying instrumentation to measure



1 tides, currents, waves and sediment transport.
2 I've deployed tide gauges in current years in
3 the ocean to continuously observe waves and
4 currents, and I have experience analyzing that
5 data. I have experience evaluating extreme
6 water levels and wave conditions and storm
7 surge conditions at project sites, such as
8 potential marina sites and things of that
9 nature.

10 Q: Look like you're very well qualified, Matt.

11 MR. REDDY: Would y'all have any objection?

12 THE COURT: Well, you -- you would have to offer him
13 as an expert if you -- you would have to offer
14 him as an expert, if you want them ---

15 **OFFER AS EXPERT:**

16 MR. REDDY: Yeah, so, I'm offering him as an expert.
17 Are there any objections?

18 MS. MILTON: Voir Dire, Your Honor?

19 THE COURT: Uh-huh.

20 **VOIR DIRE BY MS. MILTON:**

21 Q: Good morning, Mr. Goodrich. So, is it true
22 that during your deposition, you testified that
23 more than 50 percent, possibly over to 75
24 percent, of your recent work has been in
25 estuarine or riverine environments, not open



1 beaches, is that correct?

2 A: That's true.

3 Q: Okay. And you could not quantify how much time
4 you'd spent on oceanfront projects in the last
5 five years, could you?

6 A: No.

7 Q: And you've never testified in court before,
8 have you?

9 A: I have not.

10 Q: And you've only given one other deposition
11 during your career?

12 A: That's true.

13 Q: And you have not published any peer reviewed
14 work or taught any courses on coastal
15 engineering, have you?

16 A: I've published one -- one paper. In the
17 proceedings of the 2003 Georgia Water Resources
18 Conference, titled Evaluating Beach and Near
19 Shore Sediment Transport Impacts from the
20 Proposed Deepening of the Savannah Harbor.

21 Q: Okay. So, we're talking about harbor work and
22 not oceanfront work in that, correct?

23 A: No, that is about the effects on Tybee Island
24 and the oceanfront of Tybee Island.

25 **COURT REPORTER:** I'm sorry I could not hear you.



1 A: That -- that paper was about the impacts on
2 Tybee Island and the oceanfront of Tybee
3 Island.

4 Q: Did you produce a CV listing your full
5 employment history in this matter?

6 A: No, that was discussed in my deposition --
7 reviewed in my deposition and I discussed it
8 here today.

9 Q: Okay. And am I correct that you said that you
10 do not consider yourself an expert in coastal
11 permitting?

12 A: That's correct.

13 Q: And you said that you will not be discussing
14 here the extent of what the beaches critical
15 area should be?

16 A: Correct.

17 Q: And you have no opinion on the beaches critical
18 area in this matter, correct?

19 A: Correct.

20 Q: And you don't intend to offer any opinions in
21 this case about anything the Department should
22 or should not have done, is that correct?

23 A: That's correct.

24 Q: And you ---

25 **MR. REDDY:** Is she speaking for the Department, or



1 who is she speaking for?

2 **THE COURT:** She's -- as a party ---

3 **MR. REDDY:** Or is she speaking for CCL?

4 **THE COURT:** --- she's allowed voir dire the expert
5 witnesses for his qualifications.

6 **MR. REDDY:** Okay. But, again, she used the word
7 Department. I'm trying to understand. This is
8 the confusion I have with CCL. I have no idea
9 why they're here.

10 **MS. MILTON:** Your Honor ---

11 **THE COURT:** I'll let her proceed.

12 **MS. MILTON:** Thank you, Your Honor.

13 Q: And although your witness list in this matter
14 referenced a wave dissipation system report,
15 you disclaimed any reliance on it in forming
16 opinions, is that correct?

17 A: That's correct.

18 Q: And you identified that you would not be
19 testing (sic) about any weather related changes
20 to Isle of Palms hydrogeology, is that correct,
21 in your deposition? Around page 181. Do you
22 have that in front of you?

23 A: I do not.

24 **MS. MILTON:** Do you have an extra copy by any
25 chance?



1 A: Did you say hydrogeology?

2 Q: Yes, it said that you would not be testifying
3 about any weather related changes to Isle of
4 Palms hydrogeology.

5 A: That's true.

6 Q: And you do not have any opinions on this case
7 about renourishment in this case or the effects
8 of it, is that correct?

9 A: I ---

10 Q: Your deposition around page 182.

11 **THE COURT:** Do you need ---

12 A: I may be -- I may be asked if renourishment
13 affects the position in the shoreline, yes.

14 Q: Okay. Well, you had said in your deposition --
15 could you repeat it?

16 (Laughter)

17 **MR. REDDY:** Your Honor, he's not going to be
18 testifying about renourishment on Isle of
19 Palms, but he will be, and can be testifying on
20 his opinions on ---

21 **THE COURT:** Well, how about this.

22 **MR. REDDY:** Renourishment.

23 **THE COURT:** This is odd situation, because she's
24 already voir dired him on his ex- -- his
25 expertise. You've offered him as an expert



1 without any specifics as of what kind of expert
2 you're offering as.

3 **MR. REDDY:** Right, it's because she interrupted.
4 I'm not done.

5 **THE COURT:** Oh, oh, I didn't know that.

6 **MR. REDDY:** Yeah, I'm -- I don't know why she stood
7 up and started talking. I'm still ---

8 **MS. MILTON:** Because he said he offered him as an
9 expert.

10 **MR. REDDY:** Because we're going to talk about the
11 scope of what he's going to testify, that's
12 when he'll talk about the scope of what he's
13 going to be talking about.

14 **THE COURT:** Okay. I'll just take notice of what
15 you've already asked him about.

16 **MS. MILTON:** All right.

17 **THE COURT:** And then, you know what, I prompted him
18 by saying, are you offering him as an expert.
19 So ---

20 **MR. REDDY:** Yeah.

21 **MS. MILTON:** Yeah. Just permission to resume, if
22 necessary, Your Honor.

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

24 Q: So, Matt, just proceeding along those lines,
25 what -- what is the scope you were asked to



1 look at using your expertise? What is the
2 scope you were asked to look at on this
3 project?

4 A: I was asked to define the limit of periodic
5 inundation at the Reddy property, specifically
6 around the time prior to the construction of
7 the wall in September 2023.

8 Q: And -- and in doing that, in using your
9 knowledge and expertise to determine periodic
10 inundation, can you share with us some of the
11 techniques and tools that you would use to do
12 that, and your experience with those techniques
13 and tools?

14 A: Well, the source material that I relied on for
15 my analysis included aerial photography, some
16 case documents provided by Williams Mullin,
17 your former attorneys. I conducted a site
18 visit in July of 2024. I relied on beach
19 profile data from -- collected by DES and I
20 relied on data from the National Atmospheric
21 and -- Oceanic and Atmospheric Administration
22 referred to as NOAA, including topographic
23 survey data and aerial imagery data, tidal
24 datum, elevation data, predicted astronomical
25 tide data. And after I produced my report, I



1 was also provided with data from DES that had
2 additional topographic and survey data and
3 aerial imagery.

4 Q: So, have you used this type of data in the
5 past?

6 A: I have used that type of data for many projects
7 in the past, particularly ---

8 Q: Can you name a few?

9 A: Many projects. The Folly Beach ocean pier
10 replacement, I analyzed tidal datums and
11 extreme storm surge conditions and calculated
12 the resulting wave loads that will result on
13 the structure, and then the structural
14 engineers used that to design the pier. I'm
15 currently doing the same thing for the Pawley's
16 Island ocean pier replacement project, and I've
17 done the same for the Surfside Beach pier
18 replacement project, the pier -- project in St.
19 Kitts, as well. So, that -- for coastal
20 structures, we use all of that data. I've used
21 it on many other -- many marine projects, as
22 well.

23 Q: So, would you say you are very comfortable --
24 you are very comfortable taking on this
25 assignment?



1 A: Yes, sir.

2 Q: Thank you.

3 **MR. REDDY:** Your Honor. Now, may I present ---

4 **THE COURT:** Well, what are you offering him as an
5 expert in?

6 **MR. REDDY:** I'm offering him as an expert on
7 periodic inundation and the calculation of what
8 -- and the definitions, what periodic
9 inundation is, how it's calculated, and also on
10 the -- on his knowledge on what periodic
11 inundation does to vegetation, the relationship
12 between periodic inundation and vegetation.
13 Very, very specifically focused on definition
14 of beaches.

15 **THE COURT:** Okay.

16 **MS. MILTON:** If I may, Your Honor.

17 **MR. GOODRICH - VOIR DIRE CONTINUED BY MS. MILTON:**

18 Q: So, Mr. Goodrich, you testified during your
19 deposition ---

20 **MS. MILTON:** And, Sallie, we might need that one
21 now.

22 Q: If you need to look at it, Ms. Phe- -- I'll
23 have Ms. Phelan bring it up to you. But didn't
24 you testify during your deposition that you did
25 not intend to testify to any of the changes in



1 the vegetation line in this matter?

2 **THE COURT:** Hold one second. Do you wish ---

3 **MS. PHELAN:** Did you want to unseal or you want to
4 give it to him?

5 **THE COURT:** If you're going to ask him about his
6 deposition, then, yes, I want it unsealed and
7 handed to him.

8 **MS. MILTON:** You want me to do it? That's what I
9 was asking. I didn't know if you wanted to do
10 it. I apologize for not doing it myself, Your
11 Honor.

12 (Sealed deposition transcript of Mr. Goodrich was
13 opened.)

14 Q: There you go.

15 **THE COURT:** Okay. You're asking him about what page
16 and line number?

17 Q: Okay. So, I believe that you -- head over to
18 page around 152, line 25. Okay. Can you read
19 that for me, where it begins with the question,
20 okay?

21 A: You don't intend to testify to the changes in
22 the vegetation line and its approximation to
23 the wall. I do not.

24 Q: So, when you are going to be -- so, is it clear
25 that you're not going to be testing (sic) --



1 are you going to be testifying about vegetation
2 or not?

3 A: I'm going to be testifying about the
4 relationship between periodic inundation and
5 vegetation in the definition of beaches, and
6 how that informed my interpretation of what
7 periodic inundation is.

8 **MR. REDDY:** That's very different.

9 A: That's ---

10 **MR. REDDY:** It's very different from ---

11 **MS. MILTON:** Your Honor ---

12 **THE COURT:** She's ---

13 **MS. MILTON:** Your Honor ---

14 **THE COURT:** She's on voir dire.

15 **MR. REDDY:** Okay.

16 **THE COURT:** You can follow up, Mr. Reddy.

17 **MR. REDDY:** Yes.

18 Q: And when you were talking about periodic
19 inundation, if I understand correctly from your
20 deposition, you were using average wave height
21 and period in your calculations, is that right?

22 A: That's correct.

23 Q: And you testified that wave run up is a regular
24 and non periodic, yet you used it to define
25 something that you were characterizing as



1 periodic inundation. Is that correct?

2 A: That's correct.

3 Q: Is that a contradiction?

4 A: I've provided a conservatively high estimate of
5 the limit of periodic inundation.

6 Q: But what you ---

7 **COURT REPORTER:** I'm sorry; I can't hear you. Could
8 you maybe turn a little bit this way instead of
9 looking directly at her. Thank you.

10 Q: But wouldn't you agree that using irregular ---

11 **THE COURT:** Hold on. Finish answering your question
12 where the court reporter can hear it.

13 A: I included the effects of wave run up to
14 provide a conservatively high estimate of the
15 limits of periodic inundation.

16 **COURT REPORTER:** Thank you.

17 Q: And have you ever testified on any matter where
18 you've given this type of opinion before?

19 A: I have not.

20 Q: And have you ever had anything peer reviewed or
21 published that relates to your opinions here in
22 that regard?

23 A: I have not.

24 Q: And am I correct in understanding that you are
25 not in ASCE? Is that correct? The American



1 Society of Engineers -- Civil Engineers?

2 A: That's correct.

3 Q: Okay. And is it true that you deliberately
4 excluded storm surge, tie stacking and wind
5 waves from your models in this case?

6 A: Yes, I excluded them from my calculations.

7 **OBJECTION:**

8 **MS. MILTON:** Your Honor, petitioners would offer
9 that we would like to exclude Mr. Goodrich's
10 testimony under Rule 7.02.

11 **THE COURT:** All right. Department, do y'all have any
12 voir dire?

13 **MS. LENHARDT:** I have a few questions, Your Honor,
14 as well.

15 **MR. GOODRICH - VOIR DIRE BY MS. PHELAN:**

16 Q: You testified in your deposition that you do
17 not often handle the permitting portion of your
18 coastal engineering projects, correct?

19 A: Correct.

20 Q: And you don't consider yourself an expert on
21 coastal permitting, correct?

22 A: Correct.

23 Q: And you've never applied periodic inundation or
24 regulatory manner, have you?

25 A: I have not.



1 Q: And you acknowledge that waves, not just
2 average waves, are an important consideration
3 when assessing a site for development, right?

4 A: Correct.

5 Q: And when I asked you in your deposition whether
6 you could tell me about any other work where
7 you only looked at average waves, which is what
8 you're doing in this case, you responded, no,
9 correct?

10 A: Correct.

11 Q: So, in the projects you have been involved
12 with, this is the only one that you include in
13 your analysis to include only average waves,
14 correct?

15 A: Correct.

16 **OBJECTION:**

17 **MS. PHELAN:** Your Honor, we also -- we'd also object
18 to this ---

19 **THE COURT:** Well, I qualify him as offered based on
20 the fact of your -- your voir dire goes to the
21 weight of his evidence -- of the evidence being
22 offered, but not as to the -- whether he is
23 qualified in the specific area that he's been
24 asked to speak on. Proceed.

25 **MR. REDDY:** Sounded like a cross-examination, but



1 whatever. I don't know the rules of the road
2 here, Your Honor.

3 **MR. GOODRICH - DIRECT EXAMINATION CONTINUED BY MR.**

4 **REDDY:**

5 Q: So, let's -- let's hit the -- let's actually
6 get into this thing a little bit in a
7 methodical fashion. You already addressed some
8 of the source materials and data that you used.
9 Now, when you took your data that you
10 calculated, your wave run up and stuff, and you
11 plotted it on a map relative to the wall, do
12 you know where -- how you got the location of
13 the wall?

14 A: I used a file provided by DES with -- there's
15 a GIS file with location points for the wall.

16 Q: Do you know if those location points came to
17 you from a surveyor, a licensed surveyor, or
18 was it marked as a licensed surveyor?

19 A: There was nothing in the data to indicate it
20 was from a licensed surveyor.

21 Q: Okay. So, after you analyzed all this data,
22 were you able to reach some conclusions with a
23 reasonable degree of certainty?

24 A: Yes.

25 Q: Would you summarize for us? You know, we will



1 first -- I'll first ask you to summarize what
2 your conclusions were, and then we'll get into
3 each conclusion. Would you tell me what the
4 first conclusion you reached was?

5 A: First, the most appropriate definition of
6 periodic tidal and wave inundation is
7 inundation from the astronomical tides.
8 Second, I found no evidence that the limit of
9 periodic inundation reached the wall location
10 at the time it was constructed in September of
11 2023. And then third, I found that the
12 vegetation line is not a reliable indicator of
13 the limit of periodic inundation.

14 Q: Okay. So, we're just going to stick with those
15 three, okay. So, we're just going to come back
16 to saying ---

17 **MR. REDDY:** Your Honor, we're going to use some
18 demonstrative slides, all from the report that
19 was previously submitted.

20 Q: We're going -- we're going to go to conclusion
21 number one, which I think you said, if I -- if
22 I'm -- if I misconstrued it, tell me I am. I
23 think you just said it -- that the most
24 appropriate -- appropriate definition of
25 periodic tidal and wave inundation is



1 astronomical tides, right?

2 A: Correct.

3 Q: Would you in explaining that first conclusion,
4 also make any distinction between astronomical
5 tides and weather related or other event
6 related tides, storms, high winds, those type
7 of things?

8 A: So, in my evaluation, I considered how the
9 phrase periodic inundation is used in the
10 beaches definition. The word periodic has two
11 different possible meanings. One is more vague
12 and can be -- mean from time to time. And then
13 there is another definition that is much more
14 precise, and that means repeating at defined
15 regular intervals. And that definition is more
16 commonly used in scientific and technical
17 publications. In the context of beaches,
18 periodic inundation is caused by coastal
19 waters. It is simply submergence by coastal
20 waters. The coastal water levels are dominated
21 by something that meets the scientific
22 definition of periodic and that's the
23 astronomical tides. The tides are long period
24 ocean waves, and they repeat at very specific
25 intervals, and they cause periodic inundation.



1 And they are so regular that NOAA produces tide
2 predictions. We can predict tidal water levels
3 years into the future at specific times. I
4 used the scientific definition of periodic
5 because in the field of coastal engineering,
6 specifically, when referring to coastal water
7 levels, it carries the connotation of recurring
8 at regular, repeated intervals because of the
9 astronomical tides. I also considered that the
10 scientific definition of periodic is different
11 than the words episodic, intermittent or
12 occasional. And the beaches definition does
13 not use those words. And the choice of the
14 word periodic carries a connotation of
15 repeating at regular intervals. Storm surges
16 and weather events, in contrast, those are
17 episodic or occasional or intermittent. I
18 reviewed -- as a technical reference, I
19 reviewed the U.S. Army Corps' Coastal
20 Engineering Manual. And the use of that word
21 specifically in the context of coastal water
22 levels. I ruled out the use of the word in
23 other contexts, such as glaciers or dredging
24 events where the vague use of the term may be
25 applied.



1 Chapter five of the Coastal Engineering
2 Manual is about water levels and long waves,
3 and that describes ocean water levels. And so
4 in this chapter, that gives the technical
5 description of coastal water levels, it uses
6 the word periodic exclusively in reference to
7 astronomical tides that repeat at regular
8 intervals.

9 Chapter Two of the Coastal Engineering
10 Manual is titled Meteor- -- Meteorology and
11 Wave Climate. This chapter doesn't use the
12 word periodic at all because meteorology and
13 wave climate are randomly occurring events.
14 And it doesn't meet the scientific definition
15 of periodic.

16 Chapter one is titled Wave Mechanics.
17 This chapter repeatedly uses the word periodic
18 to describe what's -- what are called regular
19 waves. Regular waves repeat at a defined
20 interval, and we can create regular waves in
21 the laboratory. And that chapter also explains
22 that in nature, in the ocean, we have irregular
23 waves that produce randomly occurring water
24 levels. So, in a natural sea state, there is
25 a spectrum of a range of varying wave heights,



1 varying wave periods and directions that
2 produce this irregular water level. It's
3 randomly varying. And that chapter of the CEM
4 uses the word periodic to distinguish between
5 regular waves versus irregular waves.

6 Chapter four of the Coastal Engineering
7 Manual is titled Surf Zone Hydrodynamics. It
8 covers topics such as wave breaking, wave setup
9 and run-up. The word periodic is also used in
10 that chapter to distinguish regular waves
11 versus irregular random waves.

12 So, all together, in the technical
13 sections of the Coastal Engineering Manual, it
14 overwhelmingly uses the word periodic to mean
15 water levels repeating at regular intervals.

16 Lastly, when I considered the definition
17 of periodic inundation, I considered the use of
18 that phrase in the beaches definition as how it
19 relates to vegetation. The phrase so that
20 establishes a cause and effect relationship,
21 and periodic inundation causes no nonlittoral
22 vegetation being established. Beach
23 vegetation, such as sea oats, can't tolerate
24 sustained inundation from sea water because of
25 salt toxicity and water logging in the root



1 system. So, it will die if it's subjected to
2 repeated inundation from astronomical tides.
3 However, sea oats ---

4 Q: And, Matt, can I interrupt you for one second?

5 A: Yeah.

6 Q: I want to just stick with your conclusions. I
7 want to come back to the first conclusion
8 before you get into the other ones. So, I
9 think what you testified to, I just wrote some
10 notes down, if I didn't get it right, tell me,
11 you said there is a distinct difference between
12 periodic inundation and inundation due to storm
13 or other weather related events, wind related
14 events, and so on and so forth.

15 A: Correct.

16 Q: I want to ask you a few more questions there,
17 though. Do all -- I don't know, I love
18 hurricanes 'cause we always talk about 'em. Do
19 all hurricanes create this -- the same storm
20 surge?

21 A: No, each storm is unique. Hurricane Hugo
22 caused certain conditions, and those exact same
23 conditions will not be repeated.

24 Q: It's like random. It's hard to predict ---

25 A: It's random.



1 Q: --- hard to really say what it's going to do
2 until it's almost on you, would that be right?

3 A: Correct.

4 Q: Okay. What about non hurricane related --
5 related -- I'm not -- I'm getting away from
6 hurricanes. Non hurricane related winds, you
7 know, high winds for whatever reason, are those
8 periodic and regular? Are they random? Can
9 you -- can you -- can you -- can you -- in your
10 opinion, can you say, well, these things are
11 going to happen in some regular fashion, or are
12 they just random?

13 A: No. Meteorological effects are random, and
14 they can't be predicted in the future.

15 Q: Okay. What happens if you -- again, we live on
16 the beach, so, what happens if you have
17 periodic inundation, right? It's periodically
18 happening twice a day from the astronomical
19 tides, like you said, when you combine one,
20 which is -- I want to make -- make it clear,
21 there is one periodic and then there is two,
22 which is weather related, which I think you
23 testified, if you combine the two -- so, let's
24 say you got a periodic tide going on, and for
25 the sake of the argument, let's say it's



1 typically around, say, five feet, and now all
2 of a sudden you have a northeasterly wind or
3 whatever blowing in there. When you combine
4 the two, what does it do to the tide, when you
5 combine a weather related event and a periodic
6 tide?

7 A: Well, it can produce higher water levels and
8 increased inundation.

9 Q: So, is it your testimony then -- and I'm not
10 talking about specifically Isle of Palms or
11 anywhere else. I'm talking about a theory,
12 okay. If -- if -- if I took pictures of waves
13 coming up against this desk, right, to really
14 know if it's periodic or if it's a combination
15 of periodic and episodic, I would actually have
16 to look at the data, right?

17 **OBJECTION:**

18 **MS. PHELAN:** Objection.

19 Q: Is that what you're saying?

20 **MS. PHELAN:** Leading.

21 Q: Okay. How would I -- if I saw waves coming up
22 to this desk ---

23 **THE COURT:** Well, just a second. He's asking a
24 hypothetical.

25 **MS. PHELAN:** But then he went on to say what



1 considerations that he would look -- so, you're
2 testifying ---

3 **MR. REDDY:** I changed -- I changed the question.

4 **THE COURT:** Yeah. I would say ---

5 **MR. REDDY:** I'm getting ---

6 **THE COURT:** Most questions that start with what are
7 okay. So, but go ahead.

8 Q: So, this is a desk. It's a hypothetical
9 situation, waves are coming up to this desk.
10 Can you -- would you automatically look at
11 those waves and say it is periodic inundation?

12 A: No, I would not.

13 Q: Okay. How would you -- how would you -- how
14 would you have to analyze it to know if it's
15 periodic?

16 A: I would look for measured tidal water level
17 data, measured data, such as a nearby tide
18 gauge, to determine if there were elevated
19 water level conditions from meteorological
20 effects. And I would look for available wave
21 buoy measurements that measure the offshore
22 wave conditions, see if they were elevated
23 because of the meteorological events, and see
24 if they're representative of typical conditions
25 or not.



1 Q: Okay. Good. So, there's periodic and there's
2 episodic. So, that's your -- that's -- that's
3 the first conclusion, I think you reached.
4 Let's talk about your second conclusion, where
5 I think, if I go -- if I wrote it down right,
6 you said there is no evidence from your
7 calculations that the periodic tides reached
8 the Reddy wall. So, can you explain that a
9 little bit? What you mean by that?

10 A: Sure. I'll walk you through my analysis.
11 First, I looked for available information from
12 NOAA as to the tidal water levels in the area.
13 These are referred to as tidal datums. And in
14 some of the tidal datum locations, NOAA will
15 publish the highest astronomical tide. Those
16 were not available at the locations right at
17 the Isle of Palms, the closest ones in -- at
18 Charleston. The Charleston gauge publishes the
19 highest astronomical tide. That's what's shown
20 in this slide.

21 Q: Wait, wait, wait. But, so, how far is
22 Charleston from Isle of Palms?

23 A: It's close by.

24 Q: Okay. Did the Charleston data, would you say
25 is it higher or lower than Isle of Palms --



1 what did you say, tide -- tidal datum H-A-T?

2 A: Yes, the tidal datums at this Charleston
3 Customs House gauge are higher than those that
4 occur at Breach Inlet. I also reviewed the
5 predicted tides at Breach Inlet for the year of
6 2023, and the maximum predicted tides there
7 from astronomical tides are about six-tenths of
8 a foot lower than what I include in my analysis
9 here.

10 Q: So, by using Charleston, I think what you're
11 saying is it's more -- you would say it's more
12 conservative, is that what you're saying?

13 A: It is a conservatively high estimate ---

14 Q: Okay, so you've ---

15 A: --- of the highest astronomical tide.

16 Q: So, you calculated I wrote down HAT, what is --
17 -

18 A: Highest astronomical tide.

19 Q: Okay, HAT, okay.

20 A: HAT.

21 Q: So, you've calculated it for that. Keep going.

22 A: Okay. These tidal datums are based on the
23 tidal epic, the 19-year tidal epic that
24 occurred between 1983 and 2001. And since that
25 time, sea level rise has occurred. And so I



1 adjusted these tidal datums upward to account
2 for sea level rise that occurred over that
3 period. I used NOAA's estimate of the long
4 term trend in sea level rise at the Charleston
5 gauge as a basis for that calculation, and
6 adjusted it to the year 2023. And the column in
7 the right here, in table one, shows the sea
8 level rise adjusted elevation, and that gives
9 the highest astronomical tide level of 4.46
10 feet above NAVD 88. NAVD 88 is the North
11 American Vertical Datum of 1988 and that is the
12 datum used by surveyors to measure elevations
13 above or below that fixed datum.

14 **THE COURT:** So, the sea level tide has ri- -- risen
15 .35 percent?

16 A: .35 feet.

17 **THE COURT:** Feet.

18 A: Yes, Your Honor.

19 Q: Okay. So, let me -- again, I just wanted to --
20 because I -- I understand this as much as I
21 understand legal theory. So -- so, we're going
22 to take the highest astronomical tide, which is
23 what you said, HAT, and then you added sea
24 level rise. Then what'd you do?

25 A: After that, I added in a factor to account for



1 waves breaking on the shoreline that run up on
2 the beach face.

3 Q: Wait. Why would you do that? Is that -- you
4 just did the highest astronomical tide, right?
5 And then you added sea level rise. Should that
6 not be just an indicator of periodic
7 inundation? Why would you have to calculate
8 wave run up?

9 A: It is the water levels rate the shoreline are
10 not perfectly still, and I conservatively added
11 a factor for wave run-up during typical
12 conditions.

13 Q: So, wave run-up makes your calculation more
14 conservative, because it takes into account not
15 only the highest astronomical tide and the sea
16 level rise, it then adds a wave run-up
17 component to it, is that correct?

18 A: Correct.

19 Q: Okay.

20 A: To complete the wave run-up calculations, I
21 looked at available data from the Army Corps of
22 Engineers that characterized the offshore wave
23 conditions, and I calculated the average
24 offshore wave height and period, and then I
25 calculated the wave run-up on the beach, based



1 on the equation in the EurOtop manual, and I
2 calculated a total wave run-up of one foot.
3 Second slide, please.

4 Q: Next slide.

5 A: One of the inputs to wave run-up calculations
6 is the beach slope. DES collects beach profile
7 data annually along the shorelines. This slide
8 shows the locations of profiles across the
9 beach measured by DES. There are two nearby
10 monuments at which they are measured. I used
11 the data from profile 3105(B), which is at the
12 top of this page. So, in this figure, note
13 that north is towards the left side of the
14 page, and the profile to the east is at the top
15 of this page, 3105(B). Now the predominant
16 wave direction for ocean waves approaching the
17 Reddy property come from the southeast, similar
18 to what's in this image. And so the waves
19 cross that profile, 3105(B), as they propagate
20 towards the Reddy site. And so, the profile
21 from that ---

22 Q: Wait, wait. Would come from the southeast, or
23 come from the northeast?

24 A: Southeast.

25 Q: Southeast?



1 A: Yes.

2 Q: Okay.

3 A: South -- the South is the right side of this
4 page.

5 Q: Okay, got it.

6 A: Okay. So, I concluded that the data from
7 profile 3105(B) is most representative of the
8 profile that's going to affect waves as they
9 run up on the beach towards the Reddy property.
10 Next slide, please.

11 Q: Wait, wait, before you go, I -- again, you're
12 gonna have to excuse me here, because you're
13 educating me as much as you're educating the
14 rest of the room. So, I'm going to keep
15 backing up here, okay. So, you took the
16 highest astronomical tide, which you said at
17 Charleston Harbor, which is -- you said is more
18 conservative than at Isle of Palms, you then
19 added the sea level rise, correct?

20 A: Correct.

21 Q: And then you have, you decided you're going to
22 calculate wave run-up. To calculate wave run-
23 up, you looked at the average offshore wave
24 height. Did I write that down, right?

25 A: Yes.



1 Q: Okay. And then you -- you then input the beach
2 slope from those two stations, if I understood
3 them right, and those -- those beach slopes
4 were provided by DES or it's just publicly
5 available data, or ---

6 A: I -- I used only the data from 3105B.

7 Q: 31 ---

8 A: Yes.

9 Q: And that's -- and that's -- that's a DES data?

10 A: Yes.

11 Q: Okay. So, why would you use it from 3105B? Is
12 that because that's still conservative, or
13 what? I mean, because the 3105B looks like
14 it's a little bit not right on the property.
15 I understand they don't have data measurements
16 there, but tell me, does that help or hurt the
17 fact that you used 3105B?

18 A: It is more representative than the data from
19 3100B, which is pointed more into the inlet,
20 and it's more representative because the waves
21 incoming from the ocean are traveling over that
22 bathymetry as they approach the Reddy property.

23 Q: Okay. Got it.

24 A: So, this is a cross section from December of
25 2022 at profile 3105B. So, in my analysis,



1 using EurOtop equations, I calculated the
2 breaking wave height that would reach the beach
3 face here. This is the upper beach face. And
4 I used this slope of the upper beach face as
5 input to my calculations, after accounting for
6 wave breaking that would occur over this --
7 this near shore region. And I calculated a
8 run-up of one foot. Now, the EurOtop equations
9 are predominantly used for coastal structures.
10 I assume that this upper beach face was like a
11 coastal structure slope. So, to check my
12 calculations, I also used two other methods.
13 I used the ACES ---

14 **OBJECTION:**

15 **MS. PHELAN:** Objection, Your Honor. This is all --
16 this is all new opinions they produced last
17 week. A new evaluation for him that we had
18 never seen before. And he testified, clearly
19 several times in his deposition that he was
20 limiting his opinions to his report that he --
21 he produced, which is in an exhibit.

22 **MR. REDDY:** Okay. Your Honor, we're not entering
23 any of this as evidence. We're just using it
24 as a demonstrative.

25 **Q:** What is the -- what is in your report?



1 **MS. PHELAN:** He's testifying to completely a new
2 opinion that ---

3 **MR. REDDY:** It's not a new opinion.

4 Q: What's in your report?

5 **THE COURT:** Well, she's making an objection. What's
6 your response to him testifying ---

7 **MR. REDDY:** I'm going to let him respond. Her
8 objection is that this is new information
9 that's not in your report.

10 **THE COURT:** Are you testifying as to an opinion, or
11 is this -- or is this evi- -- testimony you're
12 offering supporting your opinion?

13 A: This is supporting my opinion.

14 **THE COURT:** Okay.

15 **MS. PHELAN:** It's -- it's using completely different
16 wave run-up calculations and different software
17 than they disclosed ---

18 **THE COURT:** At what point in time did you ---

19 **MS. PHELAN:** --- than we were able to depose ---

20 **THE COURT:** --- know about that?

21 **MS. PHELAN:** Last -- last week, that Wednesday or
22 Thursday, they produced new exhibits on these
23 calculations.

24 A: If I may, Your Honor.

25 **THE COURT:** Well, I'll -- go ahead.



1 A: After my deposition, I saw that their expert
2 was using ACES software and FEMA's run-up 2.1
3 software, and was deriving different run-up
4 estimates. And, of course, I want to check if
5 my calculations are correct or incorrect, and
6 so, I used the same software with the correct
7 inputs of the beach profile to confirm that my
8 initial calculations were correct. And so, I
9 want to explain why my estimate in my report is
10 reasonable.

11 **THE COURT:** All right. Your expert learned this --
12 he learned this from your expert, so ---

13 **MS. PHELAN:** Yes, we dis- ---

14 **THE COURT:** --- was the deposition ---

15 **MS. PHELAN:** --- disclosed it through exhibits from
16 our expert that he had done these wave run-up
17 calculations. We -- we were only disclosed
18 that they had done EurOtop calculations.

19 **MR. REDDY:** Can I respond, Your Honor?

20 **THE COURT:** Yes.

21 **MR. REDDY:** We're not changing our report. Whatever
22 is in our report is in our report. There's --
23 we're not changing any of the information that
24 has been submitted in our report. All that --
25 that we're talking about right now is just



1 saying his -- their experts did the run-up a
2 different way, so, we just wanted to make sure
3 he didn't make a mistake in his report.

4 **THE COURT:** Did he testify about that run-up in his
5 testimony earlier?

6 **MS. PHELAN:** When you say he, do you mean Mr.
7 Goodrich or our ---

8 **THE COURT:** Your expert.

9 **MS. PHELAN:** They didn't depose our expert when we
10 did disclose the exhibits.

11 **THE COURT:** No, earlier in this case, did he
12 testify?

13 **MS. PHELAN:** In this case, did he testify about ---

14 **THE COURT:** Have you offered any evidence regarding
15 ---

16 **MS. PHELAN:** Not so far.

17 **THE COURT:** That's ---

18 A: There -- there are exhibits we've seen with the
19 run-up calculations.

20 **THE COURT:** Have they been offered into evidence
21 about the run-up?

22 **MS. PHELAN:** I imagine, yes.

23 **THE COURT:** I'm gonna overrule your objection at
24 this time. I'm gonna look at this. This is
25 another area where I might change my ruling



1 after I examine the evidence that's before --
2 that's already been submitted.

3 **MS. PHELAN:** Thank you, Your Honor.

4 **THE COURT:** Did you have ---

5 **MS. MILTON:** The only thing I was going to say, Your
6 Honor, is that we're, you know, hearing that
7 this is all based on the original report, which
8 we also have -- we're not even hearing about
9 the original report. We're just hearing about
10 the new opinions here, so. Just like to note
11 that in the record.

12 **THE COURT:** You're not hearing about the original --
13 -

14 **MS. MILTON:** The original report. He is saying that
15 he has modified his original report to back up
16 his ---

17 **THE COURT:** Well, now, if he's modified his original
18 report ---

19 **MR. REDDY:** No, no, we have not modified the
20 original report.

21 **THE COURT:** Yeah, I would have sustained the
22 objection.

23 **MR. REDDY:** Yes, we're not.

24 **THE COURT:** It's my understanding that this
25 testimony is responsive to the evidence that



1 y'all have offered in this case since his
2 deposition, and that is the only reason I'm
3 allowing it in at this point in time.

4 **MS. MILTON:** All right, Your Honor.

5 **THE COURT:** But if you end up being correct that
6 he's modifying his original conclusions, then
7 you -- your objection probably will be
8 sustained.

9 Q: So, let me clarify this. Are you modifying
10 your original report in any way? Have we
11 submitted some modifications to the original
12 report?

13 A: No.

14 Q: Okay. Thank you. So, the reason for this --
15 can you explain to the judge that two things,
16 the wave run-up from the original report that
17 you -- you have submitted, is still the only
18 wave run-up that that we are going to have in
19 the report, is that correct?

20 A: That's correct.

21 Q: And the only reason we are cross-checking that
22 is because we received evidence of a different
23 ---

24 **OBJECTION:**

25 **MS. PHELAN:** Objection, Your Honor, leading.



1 Q: --- methodology. Is that what you're saying?

2 MS. PHELAN: He's leading.

3 THE COURT: Oh.

4 A: He's stating what I already said.

5 THE COURT: Okay.

6 MR. REDDY: I'm restating what he said.

7 THE COURT: You don't get to weigh in on my ruling.

8 Rephrase your question.

9 MR. REDDY: Okay, I'll rephrase the question.

10 Q: So, why did you do this? Why did you -- why

11 did you --Why did you do the second

12 calculation?

13 A: I saw that their expert had used two other

14 methods to calculate wave run-up and so I used

15 these same methods to confirm the results in my

16 report.

17 Q: Okay. So, I'm going to back up, because we

18 lose track with all these objections. So, you

19 took the highest astronomical tide, correct, is

20 that what you testified?

21 A: Correct.

22 Q: And then you said you added sea level rise?

23 A: Correct.

24 Q: Correct. Then you calculated wave run-up?

25 A: Correct.



1 Q: And the part of using wave run-up, I think you
2 testified, I believe was, it's a conservative
3 way of looking at whatever is -- whatever the
4 tide is, or whatever, is that correct?

5 A: Can you restate the question?

6 Q: Why do you have to add wave run-up? Well, you
7 know, because I'm confused by this, not
8 understanding it myself. I mean as a -- as an
9 engineer, I would say from if your first
10 description, you said you took the highest
11 astronomical tide and you added sea level rise,
12 I would think that's periodic inundation. Why
13 would you include wave run-up?

14 A: Yes, the astronomical tides are periodic
15 inundation. The average wave run-up is simply
16 an extra measure of conservatism for the
17 randomly varying water surface elevation at the
18 shoreline.

19 Q: Okay. Thank you. So, I think I got it. You
20 used the DES information for the slope, you
21 said, and that's what you inputted, correct?

22 A: Correct.

23 Q: Okay. So, then what happens after that?

24 A: Well, I confirmed the wave run-up using the
25 ACES software. The ACES software calls for the



1 input beach slope to be the foreshore of the
2 profile. The foreshore extends from the normal
3 low water line up to normal high water line,
4 plus run-up. So, as shown in this graph, it's
5 this entire region. And when I input the
6 average foreshore slope and the offshore wave
7 height and period, I calculated a wave run-up
8 of .9 feet, which is lower than that which I
9 calculated using the EurOtop equation.

10 Q: And to clarify again, what's in your report?

11 A: The one foot from the EurOtop equation.

12 Q: Okay. All right.

13 A: I saw it in Exhibit 211 that Mr. Jones
14 calculated a higher run-up value using the ACES
15 software, but he did not calculate the slope.
16 He relied on my slope that I use for EurOtop
17 analysis, which is a different segment of the
18 profile, and it's steeper and produces more
19 run-up. The correct method to use the entire
20 foreshore average slope produces a wave run-up
21 less than one foot.

22 Q: Okay.

23 A: I also calculated run-up using FEMA's run-up
24 2.1 software, and this is the method they use
25 for calculating run-up when in their flood



1 insurance studies or coastal flood map
2 analyzes. That method, one doesn't input the
3 beach profile slope. One can simply input the
4 measured beach profile. And I did that and
5 calculated a wave run-up estimate of .7 feet,
6 which is also less than my estimate of one foot
7 included in my report. I saw an Exhibit 217
8 that Mr. Jones calculated a higher value, but,
9 again, he based that -- can I clear the screen?

10 **THE COURT:** You can tap, yeah. There you go. There
11 you go.

12 A: For his analysis, using FEMA's software, he
13 created a hypothetical slope that would be a
14 straight line based on that slope from my
15 report that I have used with the EurOtop
16 method, and that -- that's not how FEMA would
17 apply that model when evaluating wave run-up.
18 The typical approach is to input the profile
19 data, including all of these variations, and
20 the result I -- I found was .7 feet. So,
21 again, this confirms that my estimate of one
22 foot is reasonable. Now, that wave run-up
23 estimate, that is the vertical elevation of
24 wave run-up on a beach slope that, say, it's
25 one on 33 or something like that, that means



1 the wave run-up extends 33 feet horizontally
2 from the stillwater line to give you an idea of
3 what that run-up value means.

4 Q: So -- so, I want to -- I want to back up now.

5 A: Okay.

6 Q: We've gone through two conclusions. I just
7 want to review the two conclusions. So, the
8 first conclusion I think you came up with is
9 the difference between periodic inundation and
10 episodic inundation, correct?

11 A: Correct.

12 Q: The second conclusion you just walked us
13 through is the calculation of periodic
14 inundation, how you calculated periodic
15 inundation, how you cross-checked your work
16 with a couple of different models. Is that
17 correct?

18 A: Correct.

19 Q: Now, how did you place what you calculated,
20 whatever it is you calculated, run-ups, HAT,
21 sea level rise, all this technical stuff,
22 that's why I was never an engineer. How did
23 you place this on my property, like, where --
24 where all this would show up relative to
25 whatever DES -- you said DES gave you the



1 location of the wall, right? So, how did you
2 place it? How did you put this all together?

3 A: Okay. Once I determined my estimate of the
4 vertical elevation of the limit of periodic
5 inundation, I needed to find topographic data
6 to locate that in space where that contour
7 occurs. So, I looked for various sources of
8 topographic data. I looked at the beach
9 profile data that's collected annually by DES.
10 Unfortunately, those profiles are not located
11 right at the property, so they're not useful
12 for determining the location of that contour
13 right at the Reddy property. I downloaded
14 LIDAR topography survey data from NOAA's
15 website, and that included surveys and from
16 1996, 2006, 2010, 2016, 2017, and 2018. And of
17 those data sources, the 2017 topography shows
18 the 5.5 foot contour, the closest to the wall
19 location, but it did not reach a wall location,
20 that's shown in my report. And after my report
21 was completed, I received new topographic
22 survey data from DES that included September of
23 2023 data. Next slide, please. So, this slide
24 shows LIDAR survey data from September 1, 2023,
25 which is immediately after Tropical Storm



1 Idalia. I extracted the 5.5 foot contour from
2 the LIDAR topography, and that's shown by the
3 magenta line. The background is an aerial
4 photograph also provided by DES, that was taken
5 on the same day. And the wall location points
6 are from DES. Those are shown by the yellow
7 symbols. And the vegetation line is also a GIS
8 file received from DES, and that shows what
9 they delineated as the -- their vegetation
10 line. So, based on these data, it shows that
11 the limit of periodic inundation, as I've
12 described and defined as that 5.5 foot NAVD
13 contour, did not reach the wall at that time.

14 Q: You have anything else? Okay. So, we've com-
15 -- we've completed conclusion one. We've
16 covered conclusion two. Can you get to your
17 third conclusion, which I think, going back to
18 the first thing that you said, deals with what
19 we were starting to get into earlier, so that
20 no nonlittoral is established being a cause and
21 effect due to salt toxicity. I think you
22 started to say that, and then I backed you off
23 to conclusions one and two. So, now let's get
24 to the third conclusion. What is your third
25 conclusion?



1 A: It's that the vegetation line is not a reliable
2 indicator of the limit of periodic inundation.
3 In defining the limit of periodic inundation,
4 I considered the use of -- or the relationship
5 between periodic inundation and vegetation in
6 the beaches definition and the phrase so that
7 clearly establishes a cause and effect
8 relationship and periodic inundation causes no
9 nonlittoral vegetation to be established. And
10 the mechanism for that is the toxicity of salt
11 to nonlittoral vegetation and the water logging
12 of root systems. Now beach vegetation such as
13 sea oats can't tolerate sustained saturation of
14 sea water, or it will die. But -- well, and
15 regular inundation from astronomical tides will
16 kill sea oats. Sea oats can tolerate
17 occasional inundation, including that from
18 storm surge.

19 **OBJECTION:**

20 **MS. PHELAN:** Objection, Your Honor. I didn't hear
21 any expertise related to his -- his knowledge
22 of vegetation.

23 **THE COURT:** Any response?

24 **MR. REDDY:** Let him respond.

25 **THE COURT:** Well ---



1 Q: Can -- do you have any ---

2 **THE COURT:** What she's saying is he hasn't been
3 qualified as an expert to testify regarding
4 vegetation.

5 **MR. REDDY:** He's not really testifying on that, Your
6 Honor. He's just testifying on the impacts of
7 periodic inundation on vegetation. He's not
8 talking about he's an expert on palms or an
9 expert on anything else. He's just saying what
10 is the impact of periodic inundation on
11 vegetation.

12 **MS. PHELAN:** He was talking about specifically sea
13 oats.

14 Q: Can you -- can you ---

15 **MS. PHELAN:** He was also talking about salt ---

16 Q: Can you please not talk about sea oats.

17 **THE COURT:** Hold on, one second. Let her finish her
18 objection.

19 **MS. PHELAN:** He was talking about the vegetation and
20 how they -- they thrive or don't thrive, not in
21 those words, but their tolerance for seawater.
22 And then he went to specific examples. That's
23 beyond periodic inundation, and it's beyond
24 what his report contains, too.

25 **THE COURT:** I don't remember him being qualified



1 regarding vegetation. I will allow you to
2 pursue this line if you wish to further qualify
3 him, but -- but only to develop the
4 qualifications in order to get him qualified.
5 Otherwise, I sustain the objection.

6 Q: Would you like to -- would you like to talk a
7 little bit about your knowledge of vegetation?

8 A: Yes, I have designed and helped construct tidal
9 wetland restoration projects, including the
10 salt marsh restoration on Drum Island,
11 Charleston Harbor, the 40-acre tidal wetland
12 restoration on the Ashley River. Both those
13 projects were for the South Carolina Ports
14 Authority. And I'm currently designing a
15 wetland restoration project for -- another one
16 on the Ashley River. And so I do have
17 expertise in tidal wetland restoration. I
18 employ biologists to develop planting plans,
19 and so I understand the plans they've
20 developed. I rely on data from the U.S.
21 Department of Agriculture plant fact sheets to
22 make sure I understand what my biologists are
23 talking about. So, I -- I'm not a biologist,
24 and not representing myself as a biologist, but
25 with reference to sea oats, I would be speaking



1 from a fact sheet provided by the U.S.
2 Department of Agriculture. And my last point,
3 it's not about qualifications, but I believe in
4 Mr. Jones' testimony, he's already talked about
5 the fact that sea oats can tolerate occasional
6 inundation.

7 **THE COURT:** All right.

8 **MS. PHELAN:** Your Honor ---

9 **THE COURT:** Are you offering him --- any expertise
10 of vegetation?

11 **MR. REDDY:** I'm offering to -- him as an expert on
12 the knowledge he just talked about, not -- on
13 vegetation in salt marshes, sea marshes and so
14 on and so forth.

15 **MS. PHELAN:** Your Honor, my objection then goes, if
16 it's just -- it's outside of his report that he
17 clearly testified that he didn't have any
18 opinions outside his report, which is Exhibit
19 189 in this case. He testified to -- he did
20 not testify to anything about the vegetation or
21 salt tolerance or their biology that would make
22 it more or less an indicator.

23 **MR. REDDY:** You mean at deposition?

24 **MS. PHELAN:** Yes.

25 **MR. REDDY:** I mean, a deposition is whatever



1 questions they chose to ask him, Your Honor.

2 **MS. PHELAN:** I clearly asked him if all of his
3 opinions were contained in his report, and he
4 unconditionally said yes, they were, that he
5 did not have any opinions outside of his
6 report. And vegetation was asked. I went over
7 the report ---

8 **THE COURT:** All right. Ms. Phelan, from what I'm
9 hearing, my ruling would be, I sustain your
10 objection as to his testimony regarding the
11 truth of whether or not salt water can affect
12 vegetation, but it -- he could still testify
13 based on his analysis of what vegetation
14 existed and his determination of periodic
15 inundation, and whether that would be
16 inaccurate.

17 **MS. PHELAN:** Well, he didn't talk in his report
18 about -- he -- he talked about vegetation
19 specifically, and he talked about the sand
20 being blown over it, that it could be tripled
21 -- tramped by foot traffic. That was it. I
22 mean, so, these other areas that he's going
23 into now should have been fairly disclosed to
24 us during his deposition. They're -- it's new
25 testimony.



1 **THE COURT:** All right.

2 **MR. REDDY:** Your Honor, the depositions that are
3 directly a result of the questions asked. He
4 just explained why he's qualified to talk about
5 what periodic inundation does. We're focused
6 on ---

7 **THE COURT:** Well, hold on one second. He also said
8 that it's already in the evidence, and he's
9 just responding to that. What's your position
10 on that?

11 **MS. PHELAN:** He's re- -- his deposition is wide open
12 as long as it's responsive to Mr. Jones'
13 deposition.

14 **THE COURT:** Say that again.

15 **MS. PHELAN:** Is it -- did he -- he's relying on Mr.
16 Jones said that it was salt ---

17 **THE COURT:** Testimony that occurred in court.

18 **MS. PHELAN:** Yeah.

19 **THE COURT:** What would your response be to that?

20 **MS. PHELAN:** I mean, my response is that he should
21 fairly disclose this at the -- during the
22 discovery process, when we had an opportunity
23 to oppose him. He knew that that was an issue
24 in the case, the beaches definition, so that
25 non- -- no nonlittoral vegetation was



1 established. I specifically asked him about
2 vegetation. He limited to what was contained
3 in his report. And now he's taking the stand
4 and he's expanding that.

5 **MR. REDDY:** Your Honor, can I change my line of
6 questioning?

7 **THE COURT:** Yeah.

8 **MR. REDDY:** Where we don't get into a detailed
9 vegetation ---

10 **THE COURT:** Okay.

11 **MR. REDDY:** --- question, but stick more with the --
12 what we talked about, periodic inundation.

13 Q: I'm going to ask you a different line of
14 questioning, not into sea oats and all this
15 other kind of stuff. I think you're right,
16 their expert did testify to this in court. I'm
17 just simply going to say first conclusion --
18 your first conclusion was there's a difference
19 between periodic and episodic, correct?

20 A: Correct.

21 Q: Your second conclusion is, you showed how you
22 calculated periodic, right, using what you said
23 was some conservative assumptions. Now we're
24 simply going to talk not getting into
25 vegetation, the impact of periodic versus



1 episodic. Okay. With -- with episodic, would
2 you tell me what episodic does to soil without
3 even vegetation, just soil?

4 A: Episodic storm events ---

5 Q: Yeah.

6 A: --- can affect the beach from -- on occasion,
7 and it may cause erosion and tear out the soil
8 and the vegetation that's on that soil. It can
9 cause overtopping of dunes, and what's called
10 dune over wash, where sand buries things behind
11 the dune. A good example of that was after
12 Tropical Storm Idalia in Edisto Beach, the
13 dunes were over topped and all the lots behind
14 it, and the road, Palmetto Boulevard, buried in
15 sand after that episodic event.

16 Q: So, this -- so, with episodic, let's just stick
17 with that. With episodic, if you have a
18 situation where you've got that over topping
19 that you just described happen in Edisto and
20 other places, or you've got the soil
21 destruction you mentioned, where the soil is
22 destructive, you know, just everything is
23 destructive, potentially. And, therefore, if
24 someone walks down the path and sees no
25 vegetation, how do they conclude -- how do they



1 conclude, is that from periodic or is that from
2 an episodic soil destruction? How would -- how
3 would they do it? You look confused. So, you
4 want me to ask the question a different way?

5 A: Yeah, ask it a different way.

6 Q: All right. So, their expert testified
7 specifically, and this morning, I believe their
8 attorney made an argument that, because they
9 have -- do not have enough staff or whatever,
10 they just assume if they don't see a vegetation
11 line, that's due to periodic. The expert said
12 that, and this morning, you heard that he said
13 -- they look and they said, there's no
14 vegetation, so, it's got to be periodic
15 inundation, therefore, it's a beach. That's
16 the conclusion. Can you reasonably conclude
17 that if you actually believe in the difference
18 between periodic and episodic, because I think
19 what you said, and you stop me if I'm repeating
20 what you said incorrectly, that the lack of
21 vegetation there could be either the soil is
22 destroyed, which is not inundation, just ripped
23 it out, along with everything else, or it's
24 overtopped, like you just said, happened at
25 Edisto and other places? So, if it's



1 overtopped or the soil is destroyed, you don't
2 have vegetation, can you conclude that some
3 bureaucrat walking down the street can just
4 look at that and say, that's beach ---

5 **OBJECTION:**

6 **MS. PHELAN:** Objection, Your Honor. I mean, we did
7 this for a full three days the first time. I
8 would -- I would respectfully request that he
9 stops with the diminutive and derogatory ---

10 **MR. REDDY:** I'm not -- I'm not referring to you ---

11 **MS. PHELAN:** --- words.

12 **MR. REDDY:** I'm saying any bureaucrat, any --
13 someone in an office, which is what they said,
14 is walking down the road.

15 **THE COURT:** I think he's rephrasing it.

16 Q: Is walking down the road, and says, I don't see
17 vegetation. I think what you heard this
18 morning from their attorney, and what you had
19 the expert testified, if you don't see
20 vegetation, we're going to assume it's
21 periodic. I think you're saying not so soon,
22 not so quick.

23 A: The presence or absence of vegetation does not
24 determine if that is subject to periodic
25 inundation. That's correct.



1 Q: And that's what I want to hone in on. Why?

2 A: The limit of periodic inundation is really
3 about the elevation of the ground, and that
4 determines whether or not nonlittoral
5 vegetation can be established. And so, this
6 slide shown -- shows the difference, the
7 elevation contour sh- -- delineates the limit
8 of periodic inundation, whereas the vegetation
9 line here delineates the extent of episodic
10 erosion, which is different and it's randomly
11 occurring, and it's not periodic, and it
12 doesn't even mean that vegetation can't be
13 established there. If it's the correct
14 elevation, it can be established.

15 Q: And that's -- that's the key, and that's kind
16 of what I was getting at. The words in the
17 statute, I believe, are is established. So, I
18 think what you're saying -- explain that a
19 little bit more, because there's a difference
20 between -- I think what you're saying there's
21 a difference between established and present,
22 is that right?

23 A: There is a difference between established and
24 to be present. But when referring to plants,
25 to be established means to create conditions



1 under which plants can grow and they may or may
2 not be present at one point in time. For
3 example, after being overwashed, it may be at
4 a high elevation, and you may not see any
5 plants, but it is habitat where plants can be
6 established. I would not consider that as
7 within the limits of periodic inundation.

8 Q: So, before we come back to summarize your
9 conclusions, I want to ask you a question. On
10 a beach, you talked about waves and episodic
11 and periodic and all that. What's the function
12 of a dune?

13 A: Well, during storm events, dunes can block or
14 slow down storm surge flooding. They can block
15 wave energy or reduce wave energy from
16 propagating onto upland areas and
17 infrastructure and they can provide a reservoir
18 of sand that can be eroded by storm events
19 before there is erosion on upland areas.

20 Q: So, would you say their expert used the word
21 sacrificial dune, right? He said dunes are
22 sacrificial is what he said. In a -- in an
23 episodic event, right, in an episodic event --
24 going back to your differentiation between
25 periodic and episodic. In an episodic event,



1 do dunes play more of a role than in a periodic
2 event?

3 A: Yes, typically, dunes are not interacting with
4 water levels during periodic inundation, and
5 during episodic storm events, with storm surge
6 and high wave action, they're interacting with
7 the dunes.

8 Q: So, there is a -- there's an element in the
9 statute, somewhere in the Beach Management Act
10 somewhere. I don't know how familiar you are
11 with it, but I'm going to ask you the question
12 relative to what you just said. It says that
13 you're supposed to maintain a dry sand beach at
14 all tide levels. Does that really refer to
15 periodic inundation, or does it mean that
16 you're supposed to maintain a dry sand beach
17 even on episodic events?

18 A: Can you -- can you repeat that question?

19 Q: So, in the beach management plan, the
20 municipalities, and I guess with guidance from
21 the State, one of the guidances they've given
22 is maintain a dry sand beach at all tide
23 levels. That's -- that's -- that's what
24 they're required to do, have the beach in a
25 condition ---



1 A: Uh-huh.

2 Q: --- that they maintain a dry sand beach at all
3 -- at all tide levels. So, is that somehow
4 tied to what you're saying, because at periodic
5 inundation at all tide levels, typically, you
6 would have a dry sand beach because it would
7 not get all the way up to the dune if there was
8 a dune?

9 A: Correct.

10 Q: But so the dunes play more of a role in
11 episodic, is that what you're testifying?

12 **OBJECTION:**

13 **MS. PHELAN:** Your Honor, I object to continuing
14 leading.

15 **THE COURT:** That is leading.

16 **MR. REDDY:** Okay.

17 Q: Go back to the question you already answered,
18 the dunes would you say play more of a role in
19 periodic or episodic in protecting the
20 coastline?

21 A: They play more of a role in episodic storm
22 events when they can protect upland
23 infrastructure by reducing wave energy and
24 storm surge damage.

25 Q: So, you would agree with their expert's use of



1 the word sacrificial dune?

2 A: Yes.

3 Q: Okay. So, I'm just going to, first of all, it
4 has been a great pleasure, you're so
5 educational, but I'm just gonna read -- go back
6 to the three conclusions and let you summarize.
7 And I want you to say at the end of each, I
8 want to say -- I want you to say that is my
9 first conclusion. At the end of second one, I
10 want you to say, that is my second conclusion.
11 At the end of it I want you to say, and that is
12 my third conclusion, so ---

13 **OBJECTION:**

14 **MS. PHELAN:** Your Honor, objection, leading. I
15 mean, he's telling him what to say.

16 **MR. REDDY:** I just want him to summarize it.

17 Q: Can you summarize it?

18 **THE COURT:** Well, the way you ask is I want you to
19 say this, that, and the other.

20 (Inaudible due to simultaneous speakers.)

21 **MR. REDDY:** I will rephrase the question.

22 Q: Can you summarize all three conclusions you
23 reached with a clear distinction when you go
24 from one conclusion to the next?

25 A: Yes.



1 Q: My first conclusion is that the most
2 appropriate definition of periodic tidal and
3 wave inundation is inundation from astronomical
4 tides. Second, my second conclusion is that I
5 found no evidence that astronomical tides or
6 periodic inundation reached the wall at the
7 time it was constructed in September of 2023.
8 And, third, I conclude that the vegetation line
9 is not a reliable indicator of the limit of
10 periodic inundation because it's affected by
11 episodic erosion or burial that's not described
12 by the beaches definition. And periodic
13 inundation limits the area where nonlittoral
14 vegetation can grow because of salt toxicity
15 when the area is regularly flooded. And
16 nonlittoral vegetation can survive occasional
17 flooding from the storm events.

18 Q: Do you hold these opinions to a reasonable
19 degree of engineering -- engineering certainty?
20 I mean, you seem very qualified for everything
21 you said. Do you hold these opinions to a
22 reasonable degree of certainty?

23 A: Yes.

24 Q: You have been a great witness. Thank you very
25 much, Matt.



1 A: Thank you.

2 **THE COURT:** All right. Are you ready or do y'all
3 want to take a short break?

4 **MS. PHELAN:** I would love to take a short break,
5 Your Honor.

6 **THE COURT:** All right. Let's take a short break.

7 (Off the record from 11:39 a.m. until 11:50 a.m.)

8 **COURT REPORTER:** All rise.

9 **THE COURT:** Thank y'all. Be seated. All right.
10 Cross.

11 **MS. PHELAN:** Thank you, Your Honor.

12 **MR. GOODRICH - CROSS EXAMINATION BY MS. PHELAN:**

13 Q: Good morning, Mr. Goodrich.

14 A: Good morning.

15 Q: If you will recall when you were deposed, I did
16 ask you about vegetation as an indicator of
17 periodic inundation, so, I wanted to talk a
18 little bit about that.

19 A: Okay.

20 Q: You had testified that vegetation could provide
21 a valuable insight as to where the water is
22 reaching the beach, do you recall that?

23 A: From my deposition?

24 Q: Yes.

25 A: Yes.



1 Q: And you said that you were aware that
2 vegetation has been used for a long time by
3 coastal scientists to indicate erosion,
4 correct?

5 A: Correct.

6 Q: It has been used to indicate shoreline change,
7 as well.

8 A: Correct.

9 Q: If the water is causing erosion and erodes the
10 soil and removes the vegetation, then you
11 testified that the vegetation line is an
12 indicator of _____ *** 1053 - 1:17

13 A: Correct.

14 Q: Or if persistent saltwater exposure kills the
15 vegetation, then the vegetation line can
16 indicate the landward extent of where the water
17 reaches, correct?

18 A: That's correct.

19 Q: The limit of periodic inundation can be the
20 same as the edge -- as the edge of vegetation
21 on the beach.

22 A: In some cases.

23 Q: And you -- in your report and in your
24 testimony, you testified that wind blown sand
25 can affect the vegetation line, correct?



1 A: Correct.

2 Q: And foot traffic can affect the vegetation
3 line?

4 A: Correct.

5 Q: And so factors besides salt water inundation
6 can affect the line, correct?

7 A: Correct.

8 Q: And you conceded during your deposition that a
9 site inspection would be helpful to reveal
10 whether wind blown sand was burying vegetation,
11 correct?

12 A: That's correct.

13 Q: And a site inspection would be helpful to
14 reveal whether foot traffic was responsible for
15 the elimination of vegetation?

16 A: That's correct.

17 Q: And you didn't have any evidence on the many
18 site visits the Department made that the edge
19 of nonlittoral vegetation was not an indicator
20 at the time of periodic inundation, correct?

21 **THE COURT:** Say that again so I can hear that one.

22 Q: You don't have any evidence on the many site
23 visits the Department made that the edge of
24 nonlittoral vegetation was not indicating
25 periodic inundation?



1 A: I provide in my report a plot of the 2017 limit
2 of periodic inundation.

3 Q: And that's a theoretical ---

4 A: Sure.

5 Q: --- analysis, correct?

6 A: That's correct.

7 Q: But sitting here today, you don't have any
8 evidence that the Department, when they went to
9 the site and actually evaluated the periodic
10 inundation through the use of vegetation lines,
11 that the vegetation was not indicating periodic
12 inundation?

13 A: I have the last slide that I showed from
14 September 1, 2023 where the Department measured
15 that vegetation line at the Reddy property, and
16 we have the LIDAR data showing the limit of
17 periodic inundation, 5.5 foot contour. And
18 that shows clearly that they're different.

19 Q: And the 5.5 contour, again, is a theoretical
20 analysis. It's not actual site conditions?
21 It's a mathematical calculation?

22 A: That's true.

23 Q: Okay. If you'll go to Exhibit 189, which
24 she'll pull up for you, but there's also in the
25 exhibit notebooks in front of you, if you



1 prefer to look at a hard copy.

2 **(Joint Exhibit Number 189 was referenced at this**
3 **time.)**

4 Q: And do you recognize this document as the
5 report you submitted in the case?

6 A: Yes.

7 Q: It's dated January 9, 2025, correct?

8 A: Correct.

9 Q: If you'll go to figure six of the report. And
10 in this figure you show you have a blue dotted
11 line that shows the upper limit of inundation,
12 is that correct?

13 A: That's correct.

14 Q: And that's for 2017, right?

15 A: Yes.

16 Q: So, that -- that is outdated by eight years
17 now?

18 A: Correct.

19 Q: It also shows a vegetation line that was
20 digitized by someone that works for you,
21 correct?

22 A: Correct.

23 Q: And this was the first time he ever digitized
24 a vegetation line, right?

25 A: That's true, but I reviewed it.



1 Q: And you said you reviewed it, but you rare- --
2 you also rarely digitize lines?

3 A: That's true.

4 Q: You also testified that neither you, nor the
5 person who digitizes lot line was taught how to
6 digitize lines?

7 A: That's true.

8 Q: And what this figure shows is that your
9 theoretical calculation doesn't line up with
10 what was identified to be actual conditions of
11 the vegetation line, correct?

12 A: That's true.

13 Q: And at your deposition, you were unable to give
14 me an opinion to a reasonable degree of
15 certainty in your field of expertise as to why
16 there was an approximately 34 feet difference
17 between your theoretical calculation and the
18 vegetation line, correct?

19 A: That's true.

20 Q: I also showed you a series of photographs
21 during your deposition, and you pointed out
22 wrack, and you indicated during your deposition
23 that the wracks -- the wrack can indicate water
24 levels may, at some point, have been in the
25 location of the wrack, correct?



1 A: Yes, episodic events can locate wrack further
2 up on the beach, yes.

3 Q: A lot of your projects that you've listed on
4 your resume involve extreme wave water level
5 storms analysis, correct?

6 A: Correct.

7 Q: And extreme wave water level storms are all
8 part of the coastal environment, aren't they?

9 A: Yes.

10 Q: And high waves are part of the natural coastal
11 environment, aren't they?

12 A: Yes.

13 Q: And storms are a part of the natural coastal
14 environment, correct?

15 A: Correct.

16 Q: And so you want to try to take those into
17 account when you're trying to manage the coast,
18 correct?

19 A: That's correct.

20 Q: Yet in looking at periodic inundation, you only
21 looked at average waves, correct?

22 A: That's correct.

23 Q: I also asked you in your deposition about
24 shoreline change, and you testified that the
25 shoreline can change over a period of days,



1 didn't you?

2 A: Yes.

3 Q: And it can even change over a period of hours,
4 can't it?

5 A: Yes.

6 Q: The effects of waves drive erosion, correct?

7 A: Correct.

8 Q: And this would not be just average waves, but
9 higher than average waves, correct?

10 A: Yes.

11 Q: And high water levels drive erosion also.

12 A: Correct.

13 Q: And so do storms.

14 A: Correct?

15 Q: And a single storm can hit the coastline, and
16 it can be years before that shoreline can
17 recover from the erosion that occurred?

18 A: True.

19 Q: So, aren't waves and storms something you would
20 want to take into account in determining where
21 to permit development on the coastline?

22 A: Yes.

23 Q: And it is important to consider high wave and
24 high water levels in forming a comprehensive
25 beach management plan, isn't it?



1 A: Yes.

2 Q: You also consider storm activity when you make
3 a comprehensive beach management plan, is that
4 correct?

5 A: I imagine, yes.

6 Q: But yet you did not consider storms in your
7 report.

8 A: No, there -- I did consider the fact that
9 storms are episodic events, and they don't meet
10 the definition of periodic inundation.

11 Q: So, you ignored the storm -- any kind of storm
12 effects?

13 A: I did not include storms in the limit of
14 periodic inundation, correct, because they're
15 random events.

16 Q: And you did not consider water levels affected
17 by random weather events either, correct?

18 A: That's correct.

19 Q: Your definition of periodic was taken from a
20 physics textbook, right?

21 A: In my report, yes.

22 Q: Okay. Was it from a coastal manual or anything
23 else?

24 A: No, but as I discussed, that I did review a
25 coastal engineering manual.



1 Q: After you were deposed and after it was pointed
2 out by Mr. Jones that the coastal manuals had
3 a periodic reference that did not mean this
4 regular interval that you had given it?

5 A: Correct.

6 Q: And in that -- in that textbook, the definition
7 was a motion that repeats itself at regular
8 time intervals, such as exhibited by guitar
9 strings or by an object on a spring moving up
10 and down. Does that sound familiar?

11 A: Yes.

12 Q: And your definition considered predicted king
13 tide, is that correct?

14 A: Yes.

15 Q: But it doesn't consider actual king tides, does
16 it?

17 A: King tides are large astronomical tides, so
18 meteorological effects can produce high tides
19 at any time, independent of the high
20 astronomical tides. So, yes, I considered the
21 highest predictive tides in periodic
22 inundation. I did not include other random
23 meteorological effects.

24 Q: You did not consider actual king tides?

25 A: Which are random events, correct.



1 Q: So, your definition of periodic ignores storms?

2 A: Correct.

3 Q: And excludes all weather conditions?

4 A: Correct.

5 Q: And you're not considering water level
6 increases from barometric pressure?

7 **THE COURT:** You said the definition excludes all
8 weather conditions, is that ---

9 **MS. PHELAN:** That's correct, Your Honor.

10 **THE COURT:** Okay.

11 Q: You're not considering water level increases
12 from barometric pressure?

13 A: Correct.

14 Q: You are not considering water level increases
15 from sustained wind?

16 A: Correct.

17 Q: So, you're factoring out any kind of weather
18 conditions that will push the waves further up
19 the shore landward into the wall?

20 A: Yes, because they occur randomly and
21 occasionally, which, as we know, the vegetation
22 can tolerate occasional inundation.

23 Q: So, I'm having Ms. DeBruhl bring up the
24 preface, if you'd show on the first page of
25 this textbook. So, is this the -- this is the



1 physics text that you used?

2 A: Correct.

3 Q: Okay, if you'll go to the preface, please. On
4 the second column of this preface, can you read
5 this -- the sentence -- the second sentence
6 beginning, since? Since our books.

7 A: Since our books are web based, we can make
8 updates periodically when deemed pedagogically
9 necessary.

10 Q: So, the textbook author is using periodically
11 in a sense that is from time to time or not
12 regular intervals, correct?

13 A: That's true, but I deem that irrelevant in the
14 context of evaluating coastal water levels.

15 Q: And it's -- the physics textbook that you used,
16 it's not -- it's not specific to coastal
17 engineering, is it?

18 A: No.

19 Q: And it's not specific to coastal processes?

20 A: No.

21 Q: And you admitted in your deposition that there
22 are scientific publications that use the term
23 periodical in the more general sense of
24 occurring at a regular interval, or from time
25 to time, correct?



1 A: That's true.

2 Q: For example, there are often references to
3 periodic renourishments in coastal science
4 reports and publications.

5 A: That's true. But, again, I consider those
6 irrelevant in the context of evaluating coastal
7 water levels.

8 Q: And there are often references to periodic
9 storms in coastal science reports and
10 publications, correct?

11 A: I would say that's uncommon in coastal
12 engineering.

13 Q: Okay. Let's look at the -- now, when I
14 originally deposed you, you had not looked at
15 the coastal -- the Army Corps of Engineers
16 manuals for -- to see what the definition or
17 how to apply the definition of periodic. Is
18 that correct?

19 A: I have looked at the manuals many times in my
20 career. I did not rely upon it for pulling a
21 definition and put it in my report. That is
22 correct.

23 Q: And you hadn't even looked at it at the time of
24 your deposition, had you?

25 A: As I said, I looked at it many times ---



1 Q: For the purposes of trying to determine how to
2 define periodic inundation.

3 A: No, after seeing Mr. Jones' exhibits, citing
4 references to periodic that I think are not
5 relevant, I reviewed the coastal engineering
6 manual and the chapters that I think are
7 relevant to coastal water levels to see how the
8 definition is used.

9 Q: And you believe the Core of Engineers manuals
10 to be generally reliable?

11 A: Yes.

12 **MS. PHELAN:** Go to page six.

13 Q: Could you read the highlighted portion there?
14 **(Joint Exhibit Number 182 was referenced at this**
15 **time.)**

16 A: Short term fluctuations are related to
17 oceanographic conditions like the El Nino
18 Southern Oscillation. This phenomenon occurs
19 periodically when equatorial trade winds in the
20 Southern Pacific diminish, causing a seiching
21 effect that travels eastward as a wave of warm
22 water.

23 Q: So, in this manual, El Nino is referred to as
24 periodically -- resulting periodically with
25 equatorial trade winds, causes the effect,



1 correct?

2 A: That's correct.

3 Q: Okay. If you'd go to page eight. If you'll
4 read the definition of shoreline, please?

5 A: The line of demarcation between a shore and
6 water may fluctuate periodically due to tide or
7 winds.

8 Q: And that, again, the definition they're using
9 is from time to time, regular intervals,
10 correct?

11 A: That's correct.

12 **THE COURT:** How does that definition relate to
13 tides? I see both of you using the word
14 periodic.

15 A: The shoreline definition is using the word
16 periodically in a strict sense when it refers
17 due to the tide. I assume that means
18 astronomical tide. But at the same time, it
19 seems to also use it in a more imprecise sense,
20 meaning from time to time, if it's in response
21 to wind. But, in my opinion, the Army Corps of
22 Engineers manuals do have occasions when they
23 use the word periodic to mean from time to
24 time, but overwhelmingly in the technical
25 sections related to coastal water levels, is



1 overwhelmingly used to indicate regular
2 inundation at a defined interval.

3 **THE COURT:** And what is this out of?

4 A: This is a -- the coastal geology book, I
5 believe.

6 **MS. PHELAN:** Yes, the coastal geology Army Corps of
7 Engineers manual.

8 **THE COURT:** Okay.

9 A: It's -- and that may be superseded by the
10 Coastal Engineering Manual.

11 Q: All right. So, if this definition of shoreline
12 says may fluctuate periodically due to tide or
13 winds, and winds are one of the factors that
14 you chose not to include in your definition of
15 periodic.

16 A: That's true because it is random and episodic.

17 Q: Just one more on this.

18 **MS. PHELAN:** If you'd go to page 24.

19 Q: Okay. If you'll -- the second sentence of
20 under three, if you'll read that sentence,
21 maritime forests.

22 A: "Maritime forests support a distinct fauna and
23 flora adapted to a unique set of environmental
24 parameters, including high soil salinities
25 resulting from periodic storm-induced seawater



1 inundation, wind, and limited fresh water."

2 Q: Okay, so, again, periodic is referring to
3 storm-induced seawater inundation?

4 A: That's correct.

5 Q: And it's also referring to wind?

6 A: I don't know that it's referring to wind.

7 Q: But it is referring to storm-induced seawater
8 invasion?

9 A: Correct.

10 Q: Now, when defining the word -- how -- in
11 determining how to apply periodic inundation
12 and what definition to apply, did you look for
13 any guidance in the Coastal Tidelands and
14 Wetlands Act?

15 A: No.

16 Q: And you didn't look at the regulations -- the
17 implementing regulations of that Act to see how
18 periodic was being used either, did you?

19 A: No.

20 Q: For example, you did not consider South
21 Carolina Code Ann. Section 48-39-274, which
22 states beach nourishment means the artificial
23 establishment and periodic re- -- renourishment
24 of a beach. And you would agree with me that
25 in that context, periodic is used to describe



1 events that occur at irregular intervals?

2 A: I agree, but I don't think that's relevant to
3 evaluating coastal waterways.

4 Q: Okay. And you do not consider the periodic is
5 used at least nine times in the regulations to
6 mean from time to time, or in irregular
7 intervals?

8 A: I did not.

9 Q: I'm showing you 30- -- regulation 30-1(c)(4),
10 which states, in part, it must be accepted that
11 regardless of attempts to forestall the
12 process, the Atlantic Ocean as a result of sea
13 level rise and periodic storms, is ultimately
14 going to force those who have built too near
15 the beachfront to retreat. Do you see that?

16 A: I do.

17 Q: And you would agree with me that that is
18 referring -- that refers to periodic storms in
19 a way that is at irregular intervals or
20 episodic, if I believe the word that you used
21 in your testimony?

22 A: I agree.

23 Q: And despite this usage in the regulations of
24 periodic storms, you chose to exclude storms in
25 your analysis, is that correct?



1 A: That's true.

2 Q: You also authored a report for wave dissipation
3 systems.

4 A: Yes.

5 Q: And in that report -- well, first, can you just
6 briefly tell us what a wave dissipation system
7 is for the Judge?

8 A: It's a temporary device installed on the beach
9 that's made of basically horizontal pipes held
10 by vertical piles, and the intent by the
11 inventor is to block wave Energy to reduce
12 erosion along beaches.

13 Q: So, you were studying -- it's a system where
14 you were studying erosion along the beaches
15 area in waves ---

16 A: Yes.

17 Q: --- tidal waves, correct?

18 A: Correct.

19 Q: You were the primary author of this report?

20 A: Yes.

21 Q: And you were primarily responsible for the
22 contents and conclusions in the report?

23 A: Yes.

24 Q: And so the writing in the report is basically
25 yours?



1 A: Yes.

2 Q: On page 11 of the report, the first paragraph,
3 you say second sentence, they also state the
4 periodic placement of beach compatible sand on
5 the landward side of the wave dissipation
6 system would provide a source of sand that can
7 be placed in the scoured areas. Do you see
8 that?

9 A: I do.

10 Q: And you're using the term periodic to mean
11 irregular intervals, aren't you?

12 A: Yes.

13 Q: Okay. Under the figure -- the last sentence of
14 that first full paragraph, it starts, also, you
15 see that? It says, also, although the
16 southeast direction is still the dominant
17 direction in the winter, there's an increased
18 frequency of waves approaching -- oh, I'm
19 sorry, I have the wrong place. It's the next
20 page. I apologize. We're on page 16 of the
21 report. And the second bullet point list, you
22 write, inlet shoals are periodically released
23 from the ebb tidal delta and merge with the
24 beach. And when you write that, you are
25 referring to episodic or irregular intervals,



1 correct?

2 A: I believe Coastal Science and Engineering wrote
3 that, and I'm quoting ---

4 Q: Okay.

5 A: --- what they said, and further, I -- again,
6 inlet shoals released from an ebb tidal delta
7 are not -- I don't consider that relevant to
8 evaluating coastal water levels to evaluate the
9 beaches definition.

10 Q: But you agree with me that Coastal Science and
11 Engineering used periodic to -- in a coastal
12 situation to refer to non-regular ---

13 A: Yes.

14 Q: Would you -- would you be surprised if there
15 were three more times in this report that you
16 use periodic to mean in a regular interval?

17 A: No.

18 Q: So, you use wave run-up calculations to refer
19 to place waves are reaching on the beach,
20 correct?

21 A: Correct.

22 Q: At the time I deposed you, you chose to use the
23 EurOtop manual to calculate the limit of a wave
24 run-up.

25 A: Yes.



1 Q: And you -- I think you conceded earlier in your
2 testimony, that the title of the EurOtop manual
3 is -- is that that that manual is designed for
4 wave overtopping on hard erosion control
5 structures, correct?

6 A: Correct.

7 Q: Not on wave run-up on a beach?

8 A: That's correct.

9 Q: And at the time you ran these calculations, you
10 testified it was only the second time that you
11 had used them, correct?

12 A: That's correct. It's actually the third. I
13 forgot a project.

14 Q: Okay, fair enough. You're aware of -- you were
15 aware of other models and manuals to calculate
16 beach run-up, correct?

17 A: Yes.

18 Q: And, in fact, we heard you testify earlier for
19 the first time about two more calculations you
20 made, correct? And you've seen Mr. Jones'
21 calculations?

22 A: Yes.

23 Q: And so we have five different wave run-up
24 calculations in this case, don't we?

25 A: Yes.



1 Q: And all of those show different results, don't
2 they?

3 A: Yes.

4 Q: And that's one of the problems of using a
5 theoretical analysis, of trying to determine
6 where wave run-up is, isn't it?

7 A: It's not a problem with the correct inputs. It
8 provides a reasonable estimate of the limit of
9 wave run-up. And the three different methods
10 I used were relatively consistent and range
11 between .7 and one feet of wave run-up within
12 .3 feet. I'd say that's remarkably consistent
13 and not problematic.

14 Q: And you testified you were doing -- you were
15 looking at wave run-up because of -- to be
16 factored into periodic inundation by tidal and
17 wave action, to provide a conservative
18 estimate?

19 A: Correct.

20 Q: But the definition itself says that you should
21 -- you should determine -- or you should
22 consider waves, doesn't it?

23 A: It does.

24 Q: Periodic inundation by tidal and wave action.

25 A: Yes, and the astronomical tides are long period



1 waves.

2 Q: Okay. And how -- does it limit the waves you
3 consider to average waves?

4 A: It does not.

5 Q: So, that's not a very conservative estimate if
6 you're just using average waves, are you -- Is
7 it?

8 A: Well, if the definition of periodic inundation
9 is what's occurring regularly so that it does
10 not cause -- it causes the lack of nonlittoral
11 vegetation, then we're talking about what
12 happens regularly so that it is toxic to
13 nonlittoral vegetation. So, we're talking
14 about normal conditions repeatedly inundating
15 an area so that no nonlittoral vegetation can
16 be established. So, looking at infrequent or
17 episodic wave events doesn't meet that
18 definition of periodic inundation so that no
19 nonlittoral vegetation is established.

20 Q: So, is it your testimony sitting here today
21 that higher than average wave conditions are
22 infrequent?

23 A: No.

24 Q: So, the outputs of the equations that you used
25 will change depending on what the inputs are,



1 correct?

2 A: Can you restate the question, please?

3 A: The outputs of the equations that you're using
4 will change if you change the inputs?

5 A: Correct.

6 Q: And in the equations, you have to include an
7 input for beach slope, right? I think you
8 testified to.

9 A: Yes.

10 Q: And you chose for the EurOtop equation, a beach
11 -- an input beach slope of .03 inches, is that
12 correct?

13 A: Input beach slope?

14 Q: Yes.

15 A: No, not inches. That's a non-dimensional
16 parameter.

17 Q: Of .03, thank you for the correction. And that
18 gives a vertical rise of one and a horizontal
19 of 33?

20 A: Yes.

21 Q: But beach slope can change daily with a storm
22 event, can't it?

23 A: It can.

24 Q: And these calculations give you a static
25 snapshot in time of wave run-up?



1 A: Correct.

2 Q: They give you wave run-up at a particular time
3 that the beach slope was taken?

4 A: Correct.

5 Q: So, again, it's giving you a purely theoretical
6 snapshot of wave run-up?

7 A: That's true.

8 Q: You testified that your report contained the
9 entirety of the opinions formed in this case,
10 is that right?

11 A: Yes, at that point in time, yes.

12 Q: That there were no opinions that you formed
13 that were outside of the written final report
14 at the time I deposed you?

15 A: Yes.

16 Q: No further questions.

17 **MR. GOODRICH - CROSS EXAMINATION BY MS. MILTON:**

18 Q: Mr. Goodrich, do you still have that deposition
19 in front of you?

20 A: I do.

21 Q: All right. Can you flip to page 43? While
22 you're flipping there, you submitted a report
23 dated January 9th, 2025 outlining your opinions
24 in this case. Is that correct?

25 A: That's correct.



1 Q: And at the time that you submitted that report,
2 so, let's say January 9th, how much had you
3 billed in this matter?

4 A: I think it's around \$10,000. I don't recall.

5 Q: Are you on page 43 yet?

6 A: Yes.

7 Q: Okay. Do you see line 11 where it says, okay,
8 what are your opinions in this case?

9 A: Yes.

10 Q: Can you respond to me what you say in lines 12
11 and 13 there?

12 A: My opinions are outlined in this or listed in
13 detail in my report.

14 Q: Okay. And then let's go down to line 18, and
15 you were asked there, so the report contains
16 the entirety of your opinions formed in this
17 case. Is that correct?

18 A: Yes.

19 Q: And what do you say in response to that in the
20 next line?

21 A: Yes.

22 Q: Okay. And you confirmed in your deposition
23 that the original report that you had contained
24 the entirety of your opinions, correct?

25 A: Correct.



1 Q: And they've changed since then, because we're
2 hearing new opinions here today, is that
3 correct?

4 A: I would say the conclusions from my report have
5 not changed, and I have testified to things to
6 confirm those conclusions.

7 Q: Okay. Let's talk about what has changed then.
8 So, we have a report that was dated January 9th
9 that you submitted, and then your deposition
10 was taken January 29th, 2025, correct? And you
11 just estimated that you had billed about
12 \$10,000 as of the time that you submitted your
13 report on January 9th. How much had you billed
14 out, or had you billed any additional, by the
15 time your deposition was done and taken on
16 January 29th?

17 A: Can you restate the question?

18 Q: How much had your billed amount changed from
19 January 9th, when you submitted your report,
20 until after your deposition on January 29th?

21 A: I don't recall.

22 Q: And do you know how much your bill has changed
23 let's say since May 8th in this matter, and the
24 new work that you've done, formulating new
25 opinions here?



1 A: I have not invoiced any work yet.

2 Q: Could you estimate how much that would be?

3 A: It's probably \$5,000.

4 Q: Just in the last week. Wow. So, as an expert,
5 your role is to provide independent, objective
6 opinions, not to tailor them based on the
7 testimony of opposing parties, is that correct?

8 A: (No response.)

9 Q: Let me ask you this, was any of this in the
10 scope that you submitted at Jan- -- July 18th
11 of 2024?

12 A: So, my scope was to evaluate the limit of
13 periodic inundation, and I received new
14 information after my report. And yes, I'm
15 trying to provide an independent third party
16 opinion, but yes, I have since evaluated the
17 new information that I received.

18 Q: Let me ask you this. You're aware that under
19 Rule 26 of the South Carolina Rules of Civil
20 Procedure, expert disclosures must contain a
21 complete statement of all opinions and the
22 basis for them? Are you aware of that?

23 A: I am now.

24 Q: And are you aware that as an expert, your role
25 is to provide independent, objective opinions,



1 not to tailor them based on testimony of
2 opposing parties? That was not in your ---

3 **OBJECTION:**

4 **MR. REDDY:** Objection, Your Honor. This is some type
5 of legal takedown. I'm not sure what this is.
6 He's not a -- he's not a legal -- I'm not a
7 legal scholar. How can he be a legal scholar
8 and she's asking him all this?

9 **THE COURT:** Well, I would have sustained that
10 objection to the previous question about Rule
11 26, but what's the question again?

12 **MS. MILTON:** I was just asking him if he understood
13 his role as an expert in this matter.

14 **THE COURT:** Well, you've already asked him that
15 before.

16 **MS. MILTON:** Okay.

17 **THE COURT:** But as to his objection, I overrule
18 that. So, proceed.

19 Q: So, would you agree with me that revising your
20 expert opinions based on the live testimony
21 from this trial in the middle of the trial
22 risks turning you into an advocate rather than
23 an independent expert?

24 **OBJECTION:**

25 **MR. REDDY:** Objection, Your Honor, he has not



1 changed his opinion. He said his report that
2 he submitted is still the report that he
3 submitted.

4 **THE COURT:** I'll sustain that one. If it's not
5 argumentative, it's pretty close.

6 **MS. MILTON:** Okay.

7 Q: But you didn't disclose any new opinions after
8 January 9th, did you?

9 A: No.

10 Q: And as of your deposition on January 29th,
11 2025, you testified that you did not analyze
12 vegetation at the Reddy site, is that correct?

13 A: Can you restate that question?

14 Q: In your deposition that was taken on January
15 29th, 2025, you testified that you didn't
16 analyze any vegetation at the Reddy site at
17 that time, didn't you?

18 A: I did.

19 Q: And you also confirmed that you didn't have any
20 training or expertise in botany, wetland
21 ecology or vegetation ---

22 **OBJECTION:**

23 **MR. REDDY:** Objection. We've covered all this.
24 She's just harassing the witness right now.
25 We've already covered all this.



1 **THE COURT:** I overrule that objection.

2 **A:** I am not a botanist. I do have experience in
3 tidal wetland restoration, design and
4 construction.

5 **Q:** But at that time, you had not relied on any
6 vegetation data or maps to support any of your
7 opinions, is that correct?

8 **A:** Just the vegetation line we had digitized from
9 the aerial photography.

10 **Q:** That was digitized. And so I ask you one more
11 time, do you have any idea how much you're
12 going to be billing by the time that you step
13 off the stand here, Mr. Goodrich?

14 **OBJECTION:**

15 **MR. REDDY:** This has been asked and answered again.

16 **MS. MILTON:** I have not asked him that yet, Your
17 Honor. I have asked by the time that he steps
18 off the stand here. It's a brand new question.

19 **THE COURT:** Well, you started with, let me ask you
20 this one more time.

21 **MS. MILTON:** No, I had asked him about his billing
22 as of the deposition.

23 **THE COURT:** So, now you're saying you changed it.

24 **MS. MILTON:** I have asked him about as he submitted
25 his report, as he took his deposition, I guess



1 when he formed new opinions on or after May
2 8th, and after he takes and leaves the stand.

3 **THE COURT:** She did change it up. I'm going to
4 overrule that.

5 A: Yeah, probably around \$5,000.

6 Q: And you visited 1118 Ocean Boulevard?

7 A: Yes.

8 Q: And you were only there one time, is that
9 correct?

10 A: I've visited there a second time a couple weeks
11 ago.

12 Q: Oh, okay, so, since the trial of this matter?

13 A: Yes.

14 **OBJECTION:**

15 **MR. REDDY:** Since I'm his attorney, that's
16 privileged.

17 Q: Okay.

18 **THE COURT:** Just keep going.

19 Q: And you're only there for a few minutes the
20 first time, correct?

21 A: Correct.

22 Q: Okay. We don't have to talk about the second
23 secret time. But you didn't know what stage
24 the tide was on when ---

25 **OBJECTION:**



1 **MR. REDDY:** Your Honor, this is harassment of the
2 witness ---

3 **THE COURT:** This thing has gone -- this thing has
4 gone into ---

5 **MR. REDDY:** --- frustrations out somewhere else.

6 **THE COURT:** Hold on. Well, I don't want you -- I
7 sustain objections regarding bur- --
8 bureaucracy, and then I'll sustain the
9 objection on the second secret time. There's
10 no indication it's secret.

11 **MS. MILTON:** Your Honor, he said that that was --
12 he's the attorney, and that that was a
13 privileged information. And so, I was not
14 asking. I was clarifying that I was not going
15 ---

16 **THE COURT:** Privileged information is not really
17 secret. It's just ---

18 **MR. REDDY:** It's not.

19 **THE COURT:** --- privileged.

20 **MS. MILTON:** Privileged. All right.

21 Q: So, but during the first visit, you were only
22 there for a few minutes, is that correct?

23 A: That's correct.

24 Q: And you did not know what stage the tide was on
25 during that only site visit, is that correct?



1 A: At the moment, I couldn't recall it was high
2 tide conditions.

3 Q: You weren't provided with the Department's
4 multiple inspections of the site, were you?

5 A: No.

6 Q: So, sitting here today, you would not know how
7 many of those inspections showed evidence that
8 water reached the wall, is that correct?

9 A: That's correct.

10 Q: And you wouldn't know how many of those
11 inspections showed the water reached up the
12 sides landward of the wall, is that correct?

13 A: That's correct.

14 **MS. MILTON:** Nothing further, Your Honor.

15 **MR. GOODRICH - RE-DIRECT EXAMINATION BY MR. REDDY:**

16 Q: I can't count all the harassment, but let me
17 ask the first question. You are an engineer,
18 so, there are different definitions of periodic
19 that she kept asking you about. So, I'm going
20 to ask you something mathematically. What's a
21 periodic function in mathematics?

22 A: It is one that repeats at a regular interval.

23 Q: Would a sine function be periodic?

24 A: Yes.

25 Q: So, it happens in periodic intervals, so,



1 that's one way. So, and if I said I
2 periodically visit Italy, what does that mean?

3 A: That you visit Italy from time to time.

4 Q: Correct. So, we went through this long
5 definition of periodic. Periodic can be used
6 to indicate regular, is that correct, is that
7 what you're saying? Like in ---

8 A: Yes.

9 Q: --- a sine function? A sine function, a
10 periodic function?

11 A: Yes.

12 Q: It can be something that I -- I don't know, I
13 get spasms periodically?

14 A: Correct.

15 Q: So, don't you think that the word periodic is
16 not just an interpretation of the dictionary?
17 It has to be in context, would you say?

18 A: Yes, context matters.

19 Q: Yes. So, let's get back to this vegetation and
20 all this stuff that went on. I think that
21 you've been asked a couple of times whether
22 you're a botany expert. That's not the point,
23 is it?

24 A: No.

25 Q: The point you were trying to make, I believe,



1 in your third conclusion, can you repeat that
2 third conclusion for us so we remind everyone
3 the point you were making? You were not trying
4 to be a botany specialist.

5 A: That the vegetation line is not a reliable
6 indicator of the limit of periodic inundation.

7 Q: Correct. You were not referring specifically
8 to my property, were you? Were you referring
9 to my property when you said that, or is it
10 just a general observation?

11 A: A general observation.

12 **OBJECTION:**

13 **MS. PHELAN:** Your Honor, he's continuing to lead. I
14 mean ---

15 **MR. REDDY:** Oh, I changed it.

16 **THE COURT:** Yeah, he did. He said were. If you
17 want to object to compound question, you could
18 have got that one.

19 (Inaudible due to simultaneous speakers.)

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

21 **THE COURT:** Yes, sir. Go ahead.

22 Q: So, what was your testimony about vegetation
23 lines? You said what in your third conclusion
24 could be the reason for different vegetation
25 line?



1 A: I said that regular, periodic inundation by
2 astronomical tides will kill nonlittoral
3 vegetation, and that beach vegetation can
4 survive occasional inundation. And inundation
5 is simply submergence underwater. So ---

6 Q: Let's go back to the vegetation line.

7 A: And so the vegetation line can -- the way DES
8 delineates it, it can be based on scarp lines
9 or the limits of episodic erosion. And
10 episodic erosion is different than just
11 submergence underwater. So, the beaches
12 definition talks about submergence underwater,
13 and yet, the vegetation line is being
14 delineated based on episodic erosion or, you
15 know, other factors that can happen during
16 storm events that cause loss of soil and
17 erosion ripping out vegetation or dune overwash
18 that buries vegetation.

19 Q: Episodic inundation, can it destroy anything
20 more than vegetation? Any other things it can
21 destroy in episodic?

22 A: Episodic inundation from storm surge events?

23 Q: Yeah.

24 A: Can -- yes, it can destroy infrastructure,
25 erode uplands, as I mentioned, cause dune



1 overwash, bury roads in sand. Yes, there can
2 be many effects by that episodic event.

3 **MR. REDDY:** I have no further conclusions -- no
4 further questions.

5 **THE COURT:** Okay. All right. You may step down. I
6 think it's a good time to break for lunch, so,
7 let's say back at 2:00. Does that sound fine
8 to everybody?

9 **MS. PHELAN:** Sounds good.

10 **MR. REDDY:** Whatever you say.

11 **(Off the record from 12:39 p.m. until 2:02 p.m.)**

12 **COURT REPORTER:** All rise.

13 **THE COURT:** Be seated. All right, who's up?

14 **RESPONDENT'S OFFER OF EXHIBITS:**

15 **MR. REDDY:** Your Honor, in the interest of time, I'd
16 like to -- I'd like to move into evidence from
17 respondents exhibit list, no additional
18 foundation's needed because they're self-
19 authenticating documents and statements of the
20 opposing party.

21 **THE COURT:** Okay.

22 (Pause while counsel reviewed exhibits offered.)

23 **MS. PHELAN:** We don't object to this exhibit. The
24 rest we have objections to.

25 **THE COURT:** Well, what is this exhibit?



1 **MS. PHELAN:** Okay. Do you want me to present it?

2 **THE COURT:** Yeah, you can just tell the number.

3 **MS. PHELAN:** Exhibit 9. Respondent's Exhibit 9.

4 **THE COURT:** All right.

5 **MS. PHELAN:** We -- we don't have any objections to
6 that.

7 **THE COURT:** All right. Then ---

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

9 **THE COURT:** Okay. All right. That exhibit is
10 admitted.

11 **(Respondent's Exhibit Number 9 admitted into**
12 **evidence.)**

13 **THE COURT:** All right. So, what are the other
14 exhibits? He said that they were admissions by
15 the party opponent is the common phrase,
16 hearsay rule.

17 **MS. PHELAN:** One of these is a consent order in the
18 Piping Plover case. We do not believe it has
19 any relevance to this case.

20 **THE COURT:** Well ---

21 **MS. PHELAN:** It's a consent order ---

22 **THE COURT:** --- do we need to take them one at a
23 time? Piping Plover.

24 **MR. REDDY:** Your Honor, all of those are relevant in
25 the sense that we're not asserting truth of the



1 matter. It's what I brought up in my opening
2 statement. It's the uniform enforcement
3 policy. I have a right to be treated the same,
4 the same rules and the same laws as everyone
5 else.

6 **THE COURT:** Equal protection is what you're ---

7 **MR. REDDY:** Yes.

8 **THE COURT:** He says that it goes to his equal
9 protection argument.

10 **MS. MILTON:** Your Honor, if I may, you know, under
11 Rule 401, evidence must have tendency to make
12 a fact that is of consequence to the current
13 action more or less probable, and I wouldn't
14 say that those materials meet that standard.
15 And so under Rule 402, irrelevant evidence is
16 inadmissible.

17 **THE COURT:** Well, why -- actually, that's -- when
18 they adopted that, they worked in the
19 materiality. Because what that consequence is,
20 it used to be relevance and materiality used to
21 be distinct. But why would that not be
22 material to this case if he's arguing equal
23 perfection? The prior treatment.

24 **MS. MILTON:** The testimony has -- the Bureau of Water
25 handled it on a different -- a different



1 penalty policy than what's before us today.
2 Also, the posture of this was completely
3 different, the person -- the applicants came to
4 the Department, sought guidance, did whatever
5 the Department said. Department got it wrong.
6 And so this is -- it's Rule 403, I think. I
7 think it's substantially prejudicial, and I
8 don't think it goes to any of the -- any of the
9 issues that are related in this case.

10 **THE COURT:** Probative value is substantially
11 outweighed by the danger of unfair ---

12 **MS. MILTON:** Yes, and confusion. And confusion.

13 **THE COURT:** Confusion of issues.

14 **MS. PHELAN:** It's -- the equal protection, first of
15 all, he hasn't -- he hasn't -- his request for
16 contested case hasn't alleged equal protection
17 violation.

18 **THE COURT:** Oh, I thought it did.

19 **MS. PHELAN:** It did not, Your Honor.

20 **MR. REDDY:** The uniform enforcement policy, Your
21 Honor, requires it.

22 **THE COURT:** First one's Piping Plover, what's the
23 other one?

24 **MS. PHELAN:** I think ---

25 **MR. REDDY:** It's also the fairness of the penalty.



1 **MS. MILTON:** I thought he stipulated to the penalty.

2 **THE COURT:** No, y'all didn't accept the stipulation,
3 so ---

4 **MS. MILTON:** I know.

5 **THE COURT:** So, it's still in play.

6 **MS. PHELAN:** Well, the fairness of the penalty,
7 again, I think it's -- they're completely
8 different postures of the case.

9 **THE COURT:** Well, what are the other ---

10 **MS. PHELAN:** Okay. The next exhibit is marked
11 Petitioner's Exhibit 4- -- I'm sorry;
12 Respondent's Exhibit 48. It is a letter from
13 Ms. Lenhardt to Judge Dukes about -- about the
14 case, a 40(j) on the case. And it's in the
15 same -- it's in the same Piping Plover case
16 again.

17 **THE COURT:** That's when, I assume, she was
18 representing who?

19 **MS. PHELAN:** She was representing the Environmental
20 ...

21 **THE COURT:** Okay.

22 **MS. PHELAN:** I'm sorry, the South Carolina Coastal
23 Conservation League.

24 **THE COURT:** Now, I sustain the objection on that.
25 So, that's not an admission by the party, by



1 the Department.

2 **MS. PHELAN:** It doesn't have anything -- we're not a
3 party to this communication ...

4 **THE COURT:** Okay.

5 **MR. REDDY:** CCL is a party to it.

6 **THE COURT:** Yeah, but CCL -- the issue is, has the
7 Department treated you -- your argument is
8 whether the Department has treated you equally.
9 CCL's position representing their client would
10 not further those goals, would it not, or would
11 it?

12 **MR. REDDY:** All of these exhibits, Your Honor, I'm
13 going to, in my testimony, tie them together.

14 **THE COURT:** Well, then, why don't you offer them
15 after your testimony?

16 **MR. REDDY:** I mean, I can, but I can -- it's been in
17 the interest of time.

18 **THE COURT:** Okay.

19 **MR. REDDY:** Other ones, the 71 and 72 which we
20 haven't talked about ---

21 **THE COURT:** Well, we haven't got to those yet.

22 **MR. REDDY:** Yeah, those are the same thing. They're
23 going to have the same objection, which is,
24 this is their sworn judicial pleadings. That's
25 public information. And they keep saying it's



1 not relevant. Why is it not relevant? It's
2 the most relevant case there is. There's five
3 homeowners with a seawall two feet inside the
4 setback line, the wall is still standing today.
5 It's covered; it's vegetated.

6 **THE COURT:** That's the first one. I haven't ruled
7 on that one. I'm actually leaning toward
8 letting that one in. I was addressing the
9 second one. I'm going to sustain the objection
10 for at least right now.

11 **MR. REDDY:** I'd like to proffer it then.

12 **THE COURT:** Yeah. Well, you can proffer, but why
13 don't you wait until your testimony's over and
14 then let's see where we are on that. What's --
15 what's the other ones?

16 **MS. PHELAN:** Well, the other one, there's a ---

17 **THE COURT:** You say other one. How many other ---

18 **MS. MILTON:** It's a stack.

19 **THE COURT:** Huh?

20 **MS. MILTON:** There's a stack here that ---

21 **THE COURT:** Three other ones, I think. We've talked
22 about three of them I think now.

23 **THE COURT:** How many of them are -- would be -- come
24 under Rule 801, a statement -- the statement is
25 by the party opponent?



1 **MS. PHELAN:** We have ---

2 **THE COURT:** Or a party's own statement. Either in
3 their individual or representative capacity.

4 **MS. PHELAN:** There are answers to discovery. There
5 are two sets of answers to discovery, both in
6 the Piping Plover case. I'm sorry, yes. One's
7 a discovery request and one's a request for
8 admission.

9 **THE COURT:** And it was an admission by the
10 Department in the Piping Plover case?

11 **MS. PHELAN:** It is, but, again, I would argue under
12 403, that it's -- it's -- has substantial --
13 its probative value is substantially outweighed
14 by the danger of unfair prejudice, confusion
15 and the issues are misleading, because we're
16 not litigating the Piping Plover case. We
17 don't have those witnesses here. We don't have
18 all the testimony and what the factors were.
19 And so to allow these to come in to apply to
20 this case when it was in a completely different
21 case ---

22 **MR. REDDY:** It's nothing to do with applying, Your
23 Honor. It's a judicial pleading. It's a
24 judicial pleading that they made. It's public
25 -- it's public record ---



1 **THE COURT:** Is it ---

2 **MR. REDDY:** --- directly ---

3 **THE COURT:** When you say it's a judicial pleading --
4 -

5 **MR. REDDY:** Yes.

6 **THE COURT:** --- is it the decision -- part of the
7 decision, or is it leading up to the decision?

8 **MR. REDDY:** No, it's -- it's part of a sworn
9 interrogatory and -- and it explains their
10 position, the Department's position, on
11 interpreting the same law that they're
12 interpreting with me.

13 **THE COURT:** Well, I'll allow that in.

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

15 **THE COURT:** But I don't know which one that ---

16 **MR. REDDY:** That's -- that's 71 and 72.

17 **THE COURT:** I'll tell you what I'm gonna do. Let's
18 just -- I'm gonna withhold rulings on all of
19 this. I'll look at 'em, if you can just bring
20 them up here. I'll look them over. At least
21 I'll know what I'm dealing with.

22 **MS. PHELAN:** Did you want to -- there's one more
23 that falls outside of what we just talked
24 about.

25 **THE COURT:** And what is it?



1 **MS. PHELAN:** It's Exhibit -- it's marked as
2 Respondent's Exhibit 92. It is a permit that
3 was issued from the Department to the City of
4 Isle of Palms for beach renourishment in 2017.
5 And, again, it's just not relevant.

6 **MR. REDDY:** Your Honor, that was authenticated by
7 Matt Slagel. I asked him a question on it. We
8 just didn't enter it at the time into -- into
9 evidence, but we discussed it in his testimony.

10 **THE COURT:** Any response to that?

11 **MS. MILTON:** I would just say that in that case, I
12 mean, I don't know where we're going with it,
13 but it feels unnecessarily cumulative. We've
14 already talked about it.

15 **THE COURT:** Well, just bring them all up here.
16 I'll look at 'em at a break. If you wish to
17 refer to them in your testimony, they'll be
18 right here.

19 **MR. REDDY:** Yes. Thank you.

20 **THE COURT:** So, Mr. Reddy, are you calling Rom
21 Reddy?

22 **MR. REDDY:** Yes, sir.

23 **COURT REPORTER:** Raise your right hand, please.
24 (Witness complies.)

25 **MR. REDDY:** It's unusual, isn't it?



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

5 **MR. REDDY:** I do.

6 **COURT REPORTER:** Thank you.

7 **MR. ROM REDDY,** being first duly sworn, testifies as
8 follows:

9 **MR. ROM REDDY - DIRECT STATEMENT:**

10 **MR. REDDY:** Just want to make sure you can hear me.
11 You can hear me, right?

12 **COURT REPORTER:** Yeah, if you pull the microphone
13 down -- there you go. Thank you.

14 **MR. REDDY:** Thank you.

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

16 **MR. REDDY:** All right, Your Honor. I'm just going
17 to go through a historic narrative of this
18 whole thing from the beginning my involvement
19 with Isle of Palms and the beaches started very
20 early. I used to live in Wild Dunes, which is
21 the northern side of Isle of Palms, a private
22 community. First bought a small townhouse
23 there in 2004. I subsequently bought -- I sold
24 that and then we bought another house off the
25 beach. The townhouse was on the beach. We



1 bought another house off the beach in 2007 in
2 Wild Dunes. And I was very familiar with all
3 the rules and regulations, because I was asked
4 to fund, through a homeowners association, the
5 Beach Nourishment Special Fund, at which point
6 we looked at all the -- all the erosion and all
7 the stuff that was going on at Wild Dunes. I
8 used to play golf then. I remember the 18th
9 hole almost falling into the ocean. And so,
10 it's -- it's something I was familiar with, and
11 I -- and so when we bought our next lot, we
12 bought a lot right next to the property in
13 question, at 120 Ocean. We bought that in
14 2010; it was an empty lot. And we were going
15 to build on that lot. And throughout this
16 process, we did a lot of diligence, my wife and
17 I, before we built. We talked to the Army
18 Corps; we talked to the City of Isle of Palms;
19 we looked at all the DHEC guidance, including
20 the guidance they have on their site.

21 **THE COURT:** This is the first house?

22 **MR. REDDY:** The first house, before we built it.

23 **THE COURT:** Okay. Is it the house at issue, or the
24 one next door?

25 **MR. REDDY:** The house next door is the property



1 under issue. But I just wanted to tell you the
2 history here. And during this entire time, it
3 was always made very, very clear to us, during
4 the entire build process, that our limit was
5 the setback line and that we needed to stay
6 landward of the setback line in everything we
7 did. Which we complied with. We got all the
8 City permits and everything else we needed to
9 do.

10 In 2014, I bought the house in question,
11 which was next door to my house, 118 Ocean,
12 which is the property in question. And before
13 we bought it, because it was a significant
14 investment, it was a second -- second
15 investment for us on the beach, we -- we
16 continued to follow what was going on and with
17 the erosion and accretion and so on and so
18 forth. We always had a pretty good situation
19 at that side of the beach. But we were also
20 encouraged by a -- some legislation that was
21 passed, or in the process of passing, called
22 Senate Bill 503, which was called the Beach
23 Preservation Act. And essentially what it did
24 is it took a portion of the accommodations tax
25 that rental units paid and it dedicated it to



1 a beach renourishment fund. We studied this at
2 that time and as to what this beach
3 renourishment fund was simply because 118 Ocean
4 Boulevard, when we first bought it was going to
5 be a rental property, so, we would actually be
6 paying into that fund. And we -- as we found
7 out over the last few days, laws here and the
8 statutes here are not the easiest things to --
9 to understand and comprehend, but this fund was
10 some of the -- one of the more simpler things.
11 It simply said, these funds are to be for the
12 exclusive uses of nourishment on the -- of the
13 beaches, dune restoration and maintenance,
14 including planting vegetation, and maintenance
15 of the public beach accesses within the
16 municipality. And so it's ---

17 **THE COURT:** Do you have ---

18 **OBJECTION:**

19 **MS. PHELAN:** I have an objection, yeah.

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

21 **MS. PHELAN:** It's relevance. I mean, why are we
22 talking about the tax?

23 **MR. REDDY:** Well, because ---

24 **MS. PHELAN:** Beach Preservation Act.

25 **MR. REDDY:** Because it is relevant for my -- for the



1 reasons I made my investment.

2 **THE COURT:** Well, I give latitude on laying out the
3 background, so, I'm going to let him go into
4 it. Get to the point.

5 **MR. REDDY:** So, I was -- so, that encouraged us to
6 make the investment we did in 118 Ocean, which
7 is the property under consideration. We rented
8 it. We rented the property for a couple of
9 years, and then we decided to move to Italy for
10 a couple of years. We decided it wasn't a
11 great idea to own two properties here, so, we
12 ended up selling the property we were living
13 in, and started a second renourishment.

14 So, now I would like to put up the first
15 slide, which I know there's a lag usually on
16 this. No. Okay. So, this is the original
17 plat on the house we are in now, and the house
18 being debated. And I'm not sure how to do the
19 pointers and all that, but ---

20 **(Joint Exhibit Number 48 was referenced at this**
21 **time.)**

22 **THE COURT:** You can touch the screen.

23 **MR. REDDY:** I just touch it. Okay, hold on. So,
24 here is the road; here is the ocean
25 (indicating). So, that's -- that's the extent



1 of the lot. As you can see, right here is a
2 property boundary, which is the mean high tide
3 line. And so when we studied all this,
4 obviously, the question came up in our
5 diligence, what -- what do you mean that's the
6 mean -- we pay -- so, we pay taxes from this
7 blue line to that blue line. And my question
8 was, what happens that would change my tax
9 base, you know, with the -- if this accreted,
10 would that increase my tax base? At that time,
11 there was some accretion going on. If this
12 went back, would that decrease my tax base?
13 And the answer we got is, which I didn't know
14 till the other day, that's actually reflected
15 in the -- in the -- in the -- in the Act is
16 that line stays in place for these purposes ---

17 **OBJECTION:**

18 **MS. PHELAN:** Objection, Your Honor. Hearsay.

19 **MR. REDDY:** --- until, at the time of subdivision.

20 **THE COURT:** Wait a second. She's objecting.

21 **MS. PHELAN:** Objection, Your Honor, hearsay.

22 **THE COURT:** Hearsay.

23 **MS. PHELAN:** The answer we got back was.

24 **MR. REDDY:** The answer ---

25 **THE COURT:** Where did you get that answer from?



1 **MR. REDDY:** We got the answer from the City of Isle
2 of Palms. And as you -- Your Honor knows, it is
3 now built into the statute, the statute we
4 heard the other day.

5 **THE COURT:** I sustain the objection about what
6 someone told you.

7 **MR. REDDY:** Okay. I'm just telling you, just that
8 diligence we did.

9 **THE COURT:** Although I will say he's not offering
10 this for the proof of the matter asserted, so
11 -- I don't believe. He's just giving me
12 background.

13 **MS. PHELAN:** Yes, Your Honor.

14 **MR. REDDY:** So, from the time we bought the property
15 in 2014 until today, I continue to pay taxes
16 from here to there (indicating). My tax bill
17 continues to be from -- I don't know what that
18 line is, Your Honor. I didn't do that. Did
19 you do that?

20 **THE COURT:** I'll clear that for you.

21 **MR. REDDY:** All right.

22 **THE COURT:** And start over. Oh, there you go.

23 **MR. REDDY:** Okay, good. So -- so, when I bought the
24 property, I was paying taxes from the road to
25 the mean high tide line. Today, I'm still



1 paying taxes from the road to the mean high
2 tide line. Also, at the time I bought the
3 property in -- in terms of understanding what
4 our rights are, simply because I'm a
5 businessman, I do business in multiple states.
6 I like to understand these as commercial
7 transaction. We actually read the deed. Not
8 a lot of people actually do that. And I would
9 like to put up Joint Exhibit Number 66 and get
10 to page 16, I believe.

11 **(Joint Exhibit Number 66 was referenced at this**
12 **time.)**

13 **MR. REDDY:** So, this is my deed. This is the
14 attachment to the deed. This is what I got at
15 the time I bought the property. I would like
16 to read it just into the record, because of the
17 proximity of this property to the Atlantic
18 Ocean, its use and enjoyment are regulated by
19 the Coastal Zone Management Act, South Carolina
20 Code of Law, 48-39-10, as amended. Depending
21 on the location of the baseline and setback
22 line, the construction, repair, reconstruction,
23 modification of habitable structures,
24 improvements, and erosion control devices may
25 be prohibited or severely restricted. Our



1 interpret- -- our interpretation of that was
2 that the location of the baseline and setback
3 line governed. The second one is the location
4 of the property in proximity to the setback
5 line, the baseline and the seaward corners of
6 all habitable structures and the erosion rate
7 subject change may be determined by a current
8 survey of the property. And -- and, once
9 again, we made sure that we -- anytime we did
10 work, we always made sure that the property was
11 surveyed to recognize where these lines were.
12 Now, obviously, as part of our diligence, we
13 said, we get it that the baseline and setback
14 line determine the extent of what we can do per
15 this attachment. Our question was, what if
16 that changes? You know what if that changes
17 over time? And, again, our -- from my business
18 understanding of it is that the legislature
19 updates those lines every seven to ten years,
20 and the lines could change. But it didn't mean
21 that I had to tear down what I had if the lines
22 change landward. That was my understanding of
23 that attachment. And that's -- and that's the
24 -- and that's the guidance we had.

25 We also checked, you know, some other



1 stuff, like DHEC guidance, which, by the way,
2 we're going to put up something here that
3 hasn't changed. It's the exact same guidance
4 they had at the time we were checking it. This
5 guidance was from 2021 that they submitted to
6 the Senate. If you -- if you -- if you look at
7 -- if you look at -- no, go up, yep, stop.
8 Stop.

9 **(Respondent's Exhibit Number 61 was referenced at**
10 **this time.)**

11 If you look at, right there, this is --
12 this is the same thing that's been around, has
13 been on the sites forever, you know, it talks
14 about the two jurisdictional lines, and the
15 purpose of lines is to delineate the extent of
16 these DHEC's permitting authority for
17 activities within the defined beaches and
18 beach/dune system critical areas. So, my point
19 in spending some time in this is to say we're
20 -- we do our diligence. You know, these are
21 big investments for us and we do our diligence,
22 and we make sure that our pro- -- not just our
23 property, but also our rights, are protected.
24 If you listen to some of my conversations
25 earlier that I've had, I'm a big believer in



1 rights, and I would never buy something that I
2 felt would be taken away. So, that's -- that's
3 the background.

4 I also want to put up the most recent --
5 one of the recent IOP Beach Management Plan
6 guidelines, which was authenticated by their
7 expert, Mr. Chris Jones, that I questioned him
8 on earlier, and if you go to 009713, which is
9 page -- around page 32, keep going. 9713,
10 yeah, stop.

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

13 And once again, you see, this is the
14 guideline. This is the Isle of Palms document,
15 which is the community we live in. The 40-year
16 setback line, which establishes the landward
17 limit of DHEC OCRM jurisdiction under the
18 Beachfront Management Act, is drawn landward at
19 the baseline a distance equal to 40 times the
20 average annual erosion rate. So, all of our
21 diligence at that point assured us we knew what
22 the heck we were doing when we were buying
23 these properties on the beach.

24 Now, I would like to move on from that to
25 our -- our life there, from that time frame



1 until May of 2023. So, you can see, this is a
2 picture from April of 2022, which is Joint
3 Exhibit Number 69. And this was our property
4 in April of 2022.

5 **(Joint Exhibit Number 69 was referenced at this**
6 **time.)**

7 **MR. REDDY:** I want to point out some things that
8 will keep coming up as we go through this
9 thing. Right there is the infamous palm. It's
10 like O.J. Simpson's shoes. So, there is the
11 infamous palm. You can see how the entire line
12 of vegetation here is right up against the
13 fence. That was our fence line and the dock,
14 and you can see that the entire vegetation line
15 was right up against the fence (indicating).

16 **THE COURT:** And this is before your wall was built?

17 **MR. REDDY:** This is -- this is August of '22, before
18 the storms, before anything, pretty much how we
19 remember our property, before all the things
20 started to happen. Also, if you -- if you look
21 a little bit beyond the fence line right there,
22 you see, does -- I'm sorry, sorry, that's good.
23 You see the semblance of dunes still there,
24 protecting our property. So, you see some
25 stuff there on the other side of the fence.



1 That was what was left of the dunes. The
2 dunes, of course, were significantly lower at
3 this time frame than they were when we -- when
4 we purchased the property in 2014. So, that
5 was the condition prior to 2023 May
6 (indicating).

7 Now, I would like to go to the next slide,
8 which is 2023 May, where we had the nor'easter.
9 And I want to -- I'd like to point out a couple
10 of things from this. There, again, is the O.J.
11 Simpson palm. There, again, is the line of
12 vegetation that was along the fence line.
13 There you can see the back of the fence, one
14 panel of the back of the fence leaning down
15 (indicating). So, the question is, what --
16 what -- what exactly happened at nor'easter?
17 Well, it wiped out the remaining dune, whatever
18 remaining dune you saw in the previous picture,
19 it took it out for the very first time,
20 sacrificial dune. I think Chris used the word.
21 I like it a lot. It also took out the dock.
22 You saw the dock going over the dune. It took
23 the -- it damaged the dock, and it -- and it
24 took out the fence. So, that's -- that's the
25 first -- the first thing that happened. I want



1 to stay on this picture for a second. So, when
2 this happened, now, for the first time since
3 we've been there, which is, like I said, 2010
4 in that part of the beach, 2004 on Isle of
5 Palms, was the first time ever that we had
6 known not to be facing a situation with
7 literally no dune. So, we immediately started
8 having some conversations with the City and
9 city engineer, and it was clear that this thing
10 had caught them by surprise, because there was
11 no real plan, there was no permit in place,
12 there was no anything to do anything. So, we
13 sort of took matters into our own hands, almost
14 ten days after the storm. We came in, and I'll
15 show you in the next picture. We -- hold on,
16 hold on, hold on. Don't go to the next
17 picture, please. Hold on. We took -- we took
18 this line of vegetation out and replanted it so
19 we could actually bring some remnant turf from
20 my warehouse and drape it over the escarpment,
21 pull the turf over, put metal spikes into the
22 turf to hold it in the ground and protect this
23 escarpment as a -- our version of a quasi dune,
24 if you will (indicating). A few weeks after
25 that, I also did a version of -- a small



1 version of that for my neighbor, but I'll show
2 you in the next picture how that ---

3 **THE COURT:** Where I can be clear. So, the plants
4 right here are where the blue line is. How far
5 back did you move them?

6 **MR. REDDY:** Say that again. Oh. These -- this
7 entire thing, we took it out. Some of it we
8 couldn't use. The things we could use, we put
9 in the front where we had the ---

10 **THE COURT:** Oh, okay.

11 **MR. REDDY:** --- the most room just to put it in.
12 There's no room here.

13 **THE COURT:** So, it remained?

14 **MR. REDDY:** Yeah, yeah, yeah.

15 **THE COURT:** Okay.

16 **MR. REDDY:** If you can go to the next picture, which
17 I think is the following month, you can see
18 what we did. You can still see the, I call it
19 the O.J. Simpson palm there. But then this is
20 the draped turf. All of this is draped and
21 it's stapled in there to the top. We have to
22 staple it into our yard so we can anchor it.
23 We can anchor the turf. And, in effect, this
24 was there to try to protect this dune, because
25 you can see here we're wide open. There is no



1 sacrificial dune. There is no dune on the --
2 and the dune, as we know it, takes the -- with
3 any wave or anything, takes that first hit of
4 wave energy, which we didn't have any. So,
5 this was -- this was it. So, that's what we
6 did in literally a few days after the storm,
7 because there were no plans (indicating). But
8 ---

9 **THE COURT:** Previous photo was May, and now this is
10 June?

11 **MR. REDDY:** Correct. So, the -- the other thing we
12 did is we started discussions with the City and
13 the City engineer about -- about what they're
14 going to do about the dunes, and their initial
15 discussion was, well, we don't really know.
16 So, at that point, Renee, myself and some of
17 our neighbors, we actually applied for a dune
18 permit to possibly bring in and create a dune
19 by ourselves, a sand dune by ourselves. And
20 then we met with, I might get the name wrong,
21 it's Coastal Science Engineering, engineers for
22 the City, and because we had to work with them
23 on the access and the placement of the sand, if
24 they gave us the permit and we did it. And the
25 City engineer told us ---



1 OBJECTION:

2 **MS. PHELAN:** Objection, Your Honor. Hearsay.

3 **THE COURT:** Mr. Reddy, any response?

4 **MR. REDDY:** I don't know what to say. I'm just
5 telling you what advice we were given.

6 **THE COURT:** How about just don't tell me what --
7 specifically what he said.

8 **MR. REDDY:** He said that ---

9 **THE COURT:** No, don't -- don't tell me that. You
10 can say what you did afterwards ---

11 **MR. REDDY:** Okay.

12 **THE COURT:** --- as a result of his statement.

13 **MR. REDDY:** Well, he -- he also made the same
14 statement to the Isle of Palms City in a public
15 meeting, which can be looked -- but
16 essentially, one dune in front of one home gets
17 compromised because water gets around it. It
18 just gets -- the water gets behind it ---

19 OBJECTION:

20 **MS. PHELAN:** Your Honor ---

21 **MR. REDDY:** --- and washes it out.

22 **MS. PHELAN:** He's not an expert on erosion and what
23 the water does around the wall.

24 **MR. REDDY:** I am not an expert. That's why I said
25 that's what the engineer said, and that's what



1 was discussed ---

2 **MS. PHELAN:** It's hearsay.

3 **MR. REDDY:** And that's what was discussed in the
4 public meeting. But at any rate, so the -- so
5 the City ---

6 **OBJECTION:**

7 **MS. PHELAN:** Objection.

8 **THE COURT:** Say that again.

9 **MS. PHELAN:** Objection, Your Honor. Hearsay and ---

10 **THE COURT:** I'll sustain the objection.

11 **MS. PHELAN:** --- opinion testimony.

12 **THE COURT:** All right. Go ahead.

13 **MR. REDDY:** So, the City then decided that, since we
14 are not allowed, unlike Wild Dunes, we are not
15 allowed to have a homeowners association on
16 this part of the beach, it's a completely
17 public, individual homes, no HOA, the City then
18 decided sometime in early June that they would
19 apply for a general permit, which they
20 subsequently did, to bring sand in for the
21 whole beach, in keeping with what had been
22 discussed in this public city meeting that the
23 dune had to be a minimum of 1500 linear feet to
24 not be compromised. So, they applied for the
25 general permit, and at that point, Matt Sla- --



1 we discussed our individual permit that Matt
2 Slagel and he told us that we could withdraw
3 our permit and operate under the City's permit,
4 because the City's permit would cover the whole
5 beach. While all that was going on, it was so
6 confusing, and there appeared to be no plan,
7 that we requested a meeting. And we had a
8 meeting on June 9th with Mr. Slagel, Ms.
9 McKenzie, I believe, from DHEC, Desiree
10 Fargoso, who was the City Administrator, and
11 Douglas Kerr, who's the Assistant City
12 Administrator, along with a couple of our
13 neighbors. We requested a meeting that was
14 held right outside our home on the beach to
15 discuss what the options were. During that
16 meeting, once again, what came up, and I'm
17 going to follow this up with an email in case
18 ya'll say it's hearsay or whatever, we were --
19 the City said that they had applied for a
20 permit, but they were still unsure of whether
21 they could get the funding for the permit. The
22 discussion was had with the DHEC personnel
23 saying, what are our options. You know,
24 clearly putting one dune of sand wasn't going
25 to work. So, what were the options? And DHEC



1 informed us at that meeting, which we'll see
2 the follow up email that after -- and we also
3 discussed drawings. So, at that meeting, they
4 said, landward of the setback line it was a
5 City issue. Seaward of the setback line, then
6 that was an issue they would get involved with.
7 As far as drawings, they told us that we
8 couldn't do drawings unless it was with a some
9 sort of a permit. That afternoon, Ms. McKenzie
10 sent back the following email, which is Joint
11 Exhibit 222, documenting this meeting.

12 **(Joint Exhibit Number 222 was referenced at this**
13 **time.)**

14 **MR. REDDY:** As you can see, it says, thank you for
15 taking the time to meet with Matt, myself and
16 the City this morning. The letter is to me.
17 And it says, following our discussion, I wanted
18 the opportunity to provide some additional
19 information. She goes on to say, our current
20 baseline and setback line for the South
21 Carolina coast can be found at a jurisdictional
22 line website copied below. The baseline and
23 setback line is evaluated every seven to ten
24 years, and these lines do not change in between
25 the review cycles. The statewide update will



1 begin in '24. She gives us the link, which
2 takes you to the baseline and the setback line,
3 as she says. And then she goes on to address
4 the second part of our conversation. She said,
5 I want to provide you more detailed information
6 regarding some of the other regulations that
7 were mentioned, as well. Hard erosion control
8 structures such as seawalls, bulkheads or
9 revetments have been prohibited seaward of the
10 DHEC OCRM setback line since 1988 with the
11 pass- -- passage of the Beachfront Management
12 Act. Alternatively, beach da da da da all will
13 be pursued. Will continue to process the
14 permit that Isle of Palms has submitted, which
15 we talked about. The two applications that
16 were submitted by you will be withdrawn as your
17 pro- -- your properties will be included in
18 their submission. And then she goes into a
19 discussion on groins that was also discussed on
20 the beach. So, this is a follow up, June 9th,
21 to the meeting that was had on the beach.

22 So, I am now going to move on to the next
23 issue, which is the DHEC permit, and if you can
24 put up Joint Exhibit Number 21, please, which
25 was issued to the City. Are we having trouble



1 at 21?

2 (Joint Exhibit Number 21 was referenced at this
3 time.)

4 MR. REDDY: This is -- this is -- this is the DHEC
5 permit. This is -- what -- what page is this?

6 MS. MAPLES: This is Joint 21.

7 MR. REDDY: Is Joint Exhibit 21 BCM00401.

8 MS. MAPLES: Here it is.

9 MR. REDDY: Yeah, there it is. So, this is the
10 permit that was issued to the City by DHEC. As
11 you can see, it's dated June 30th. And with
12 this permit, it covered that entire southern --
13 southern portion of the beach, which is where
14 my property is in. I just put it up so you'd
15 note the date. From June 30th on, with permit
16 in hand from the Department, nothing was done.
17 Nothing was done until Idalia on August 30th.
18 Not a thing was done. Prior to that, I also
19 want to show one more thing, but before I say
20 that, I'll say this, I'll answer the question,
21 why was it done ---

22 THE COURT: June 30, 2023 ---

23 MR. REDDY: '23.

24 THE COURT: --- until Idalia in August?

25 MR. REDDY: August 30, 2023, 60 days later.



1 **THE COURT:** Okay.

2 **MR. REDDY:** And the reason that this thing got into
3 a limbo land is the City came to us and
4 requested us to give them permanent easements
5 to do any work with the sand. And ---

6 **OBJECTION:**

7 **MS. PHELAN:** Your Honor, hearsay. Objection,
8 hearsay.

9 **THE COURT:** Well ---

10 **MR. REDDY:** That's a -- that's a -- I don't have a
11 document, but that's ---

12 **MS. PHELAN:** And a reference ---

13 **MR. REDDY:** Whatever. It doesn't matter what the
14 reasons are, but ---

15 **THE COURT:** I'll sustain the objection. But, again,
16 how is it -- to keep this moving along, how is
17 this harmful? Just curious.

18 **MS. PHELAN:** Well, I think what the City did and
19 didn't do, they're not here, they're not
20 present, they're not a party to the case. And
21 I'm not sure that's really fair.

22 **THE COURT:** Okay.

23 **MS. PHELAN:** On the other hand, I think to keep it
24 moving along, I just don't see that it's
25 related to any issues ---



1 **THE COURT:** Well, you've got your objection
2 sustained.

3 **MS. PHELAN:** Okay. Thank you.

4 **MR. REDDY:** All right. I don't have my counsel to
5 argue the objection, Your Honor.

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

7 **MR. REDDY:** So, well, you can argue it if you wish.

8 **MR. REDDY:** No, it's all right. My point is, here's
9 the permit that was issued. Nothing was done
10 with this permit until the hurricane hit.
11 Prior to moving on, though, I would like to put
12 up one more exhibit which was just approved, I
13 guess, which is Respondent's Exhibit Number 9
14 that we just signed off on.

15 **(Respondent's Exhibit Number 9 was referenced at this**
16 **time.)**

17 And if you can hold -- hold -- hold on.
18 Can you go to the next page, please? There's
19 a next page. Yeah, yeah. So, stop, stop. If
20 you can see the middle of the page, it's a May
21 22nd, 2023, in the same timeframe we're talking
22 about, a email from Mr. Slagel to me, and if
23 you look at the second sentence on that, it
24 says, right there, it says sand scraping lowers
25 the beach elevations and can actually allow



1 tidal and wave actions to reach higher on the
2 shore face closer to your property. That's the
3 reason it goes on to say why it's only allowed
4 in limited amount. So, this is -- we will --
5 we will reference this statement later, because
6 this is very, very accurate and true.

7 And so now, I want to move on to Idalia,
8 wonderful Idalia. On August 30th, 2023, as I
9 will say, I will -- this -- Idalia happened.
10 For the first time in history where there was
11 no sacrificial dune; we were wide open and ...

12 I'm sorry, I -- I got this wrong. We
13 missed -- we missed a exhibit, Joint Exhibit
14 Number 30.

15 **(Joint Exhibit Number 30 was referenced at this**
16 **time.)**

17 I'm sorry, it's number 7 on your list.
18 Can we back up a little bit? Just -- just --
19 yes, yeah. So, this is Joint Exhibit Number
20 30, Your Honor, sent June 16, 2023. And,
21 again, we want to say that Mr. Ross Appel was
22 the attorney writing this letter represented a
23 series of homeowners, myself included, because
24 we were very concerned about what was going on.
25 And, as you can see, after the May nor'easter,



1 he actually writes to the City Attorney, saying
2 that we are very, very concerned that two
3 things are going on here. That, one, there's
4 no sand that's been put in, and the project
5 entails trucking in sands to reestablish the
6 dune that's been washing -- washed away. For
7 this project to be successful, a 1500 linear
8 foot berm must be deposited seaward of the
9 clients' and neighbors' property. My clients
10 call on the City to take all available steps to
11 expedite this process. So, this is all -- the
12 flags have been raised. The flags have been
13 raised in May. The flags have been raised in
14 June. Permit was issued June 30th, nothing
15 done going into Idalia, which was my next
16 comment.

17 **(Joint Exhibit Number 70 was referenced at this**
18 **time.)**

19 So, let's go back to Idalia. So, we go to
20 Idalia, which happened on August -- August
21 30th. If you look at the NOAA, a very, very
22 well known entity, apparently, after the expert
23 testimony. The Idalia surge was 9.23 feet per
24 NOAA. Hurricane Irma that hit us previously,
25 according to the same NOAA, was 9.92 feet.



1 Hurricane Matthew that also hit us a few years
2 but before, according to NOAA, was 9.29 feet.
3 So, Idalia, the surge was less than Irma and
4 less than Matthew. What was the difference?
5 We didn't have a sacrificial dune while we did
6 in those two cases. And with both Irma and
7 Matthew, we suffered absolutely nothing at all
8 to our escarpment. Didn't even get to our
9 escarpment. So, this is the Joint Exhibit
10 Number 70. You can see what Idalia did. You
11 know, there's obviously some damage,
12 escarpment, but you still see vegetation on the
13 edges. Like I said, the vegetation, the
14 middle, was removed by us. This picture
15 doesn't show it, but we'll shown in subsequent
16 pictures, the palm is still in place. One
17 thing I want to say about Idalia, so Idalia was
18 the first time, like I said, that we had this
19 type of water intrusion onto our property. One
20 day -- one day after Idalia, essentially what
21 you heard previously was what happened. They
22 came out and they said there's 1255 square feet
23 they marked off of -- of a beach -- beach
24 critical area.

25 **THE COURT:** From what I can understand, you said



1 that there's vegetation over here on the left.
2 How does that correlate where the wall that
3 they end up ---

4 **MR. REDDY:** We're going to -- we're going to show
5 you some pictures here shortly.

6 **THE COURT:** Okay. I'll wait.

7 **MR. REDDY:** The next -- the next slide, so, you may
8 as well go to the next slide, which is Joint
9 Exhibit Number 65, I believe. No -- yeah.
10 Yeah. Yeah, that one.

11 **(Joint Exhibit Number 65 was referenced at this**
12 **time.)**

13 **MR. REDDY:** So, this is post Idalia. You can see
14 some of the stuff, Your Honor. You can see the
15 putting green from the previous picture. You
16 can see the vegetation there from the previous
17 picture. You can see the infamous palm there
18 from the previous picture, you can see
19 vegetation there in that corner. Remember that
20 the vegetation here and here was removed by us,
21 not by the storm, and you can still see,
22 actually, where the turf had been stapled over.
23 That's the staple turf on top. So, there's
24 vegetation, but these lines go landward of that
25 vegetation, with their handheld GPS that, as



1 you heard, their own testimony was not verified
2 by any type of license surveyor. So, there's
3 one day's data that was determined to be
4 periodic. And going behind these -- behind
5 these lines. So, there's no question that you
6 can see over here, there's nothing. There's no
7 -- there's -- there's no dunes, there's no
8 nothing. It's just like wide open. And this
9 is where I would like to actually put up
10 Respondent's Exhibit Number 92 that we just put
11 in, that we discussed with Matt Slagel. Now
12 those -- I'm sorry we need to click, yeah. So
13 -- so, if you -- this is the Respondent's
14 Exhibit Number -- which is a -- which is a
15 general permit for a joint ---

16 **(Respondent's Exhibit Number 92 was referenced at**
17 **this time.)**

18 **THE COURT:** Wait a second.

19 **COURT REPORTER:** I'm sorry?

20 **MS. PHELAN:** Has that exhibit been marked?

21 **COURT REPORTER:** No. It has been marked, but not
22 admitted. Hold on. And let me just ---

23 **MR. REDDY:** That's the one we just -- we just did.

24 **COURT REPORTER:** Right. He reserved making a
25 decision on this.



1 **THE COURT:** All right. Any object- -- what was
2 your objection to 92 coming in? Was that the
3 -- it looks like it's regarding Piping Plover.

4 **FEMALE SPEAKER:** It's not 92.

5 **MS. PHELAN:** What number is it, Your Honor?

6 **MR. REDDY:** It's Respondent's Number 92.

7 **FEMALE SPEAKER:** That's not 92.

8 **FEMALE SPEAKER:** It's mislabeled on my computer.

9 **FEMALE SPEAKER:** Okay.

10 **FEMALE SPEAKER:** Yeah, that's not it. The one you
11 have on your screen.

12 **MS. PHELAN:** Yeah, so he had the wrong -- the wrong
13 one was up on the screen was what was confusing
14 me.

15 **THE COURT:** Okay. All right.

16 **MS. PHELAN:** So, 90- -- are ---

17 **MR. REDDY:** No, not that, no. It's the permit,
18 Renee.

19 **MRS. REDDY:** Yeah.

20 **MR. REDDY:** It's in my documents there.

21 **THE COURT:** What are you seeking to talk about?

22 **MR. REDDY:** So, what this is is this was a joint
23 renourishment public/private partnership
24 between the public beaches and Wild Dunes ---

25 **THE COURT:** Okay.



1 **MR. REDDY:** --- of which 600,000 cubic yards of that
2 sand was to go into our section of the beach,
3 and public funds were taken for it, but never
4 used.

5 **OBJECTION:**

6 **MS. PHELAN:** I have the same objection to relevance.
7 A 2017 permit issued to the City of Isle of
8 Palms ---

9 **MR. REDDY:** May I explain the relevance?

10 **THE COURT:** Yes.

11 **MR. REDDY:** So, that 600,000 cubic yards, to give
12 you a relative sense, if I put a 20-foot dune
13 in front of my house, it's about 400 cubic
14 yards. So 600,000 cubic yards is 1500 versions
15 of a dune. If that sand had gone in with the
16 public monies as predicted, we would not be
17 here. These beaches, the dunes, everything
18 would have been in great shape. This was
19 public money taken, but not used.

20 **THE COURT:** All right.

21 **OBJECTION:**

22 **MS. PHELAN:** There's no testimony from any expert
23 that has suggested that, that is -- that is not
24 fact. It's not testimony ---

25 **MR. REDDY:** What's not a fact?



1 **MS. PHELAN:** You are -- I'm sorry. You are -- he's
2 testifying as a fact witness, and he's actually
3 giving expert opinion testimony on whether --
4 what these effects were, and there's no
5 evidence in the record to support any of ---

6 **THE COURT:** Well, I'd have to sustain the
7 implications of the dunes, unless there's
8 something in the evidence, Mr. Reddy. But as
9 far as background for what you did, Mr. Reddy,
10 this -- I lean towards sustaining, but I'm
11 gonna let you respond. And the reason I lean
12 towards sustaining is it just -- since it
13 didn't happen, how does it affect the legality
14 of what you did?

15 **MR. REDDY:** Yes. So, the -- if there had been a --
16 all of these discussions, Your Honor, revolve
17 around the fact that there is no dune. If
18 there had been a dune in that part of the
19 beach, their version of what they're saying,
20 and my version of what I'm saying all become
21 the same, because then that -- that dune, if
22 you -- if you remember, if the dune is there,
23 no one steps past that dune. The dune stops
24 the water. So, beaches, beach/dune system, all
25 become the same. Which is -- which is the



1 reason why these things are written ---

2 **THE COURT:** What you're arguing is if this -- what's
3 reflected in this permit had occurred, there
4 would have been a dune system?

5 **MR. REDDY:** Correct. Correct.

6 **OBJECTION:**

7 **MS. PHELAN:** And I'm going to add speculation to my
8 objection.

9 **THE COURT:** Okay.

10 **MS. MILTON:** And I just want to be clear exactly
11 what permit we're talking about, still ---

12 **THE COURT:** Well, it says it right on its face.

13 **FEMALE SPEAKER:** That's not ---

14 **THE COURT:** Oh, that's not the one?

15 **MS. PHELAN:** No, it's not.

16 **THE COURT:** Okay. I sustain ---

17 **MR. REDDY:** Renee, it's in my folder. What is it
18 called? It's in the folder.

19 **MRS. REDDY:** Which folder?

20 **MR. REDDY:** Right there.

21 **THE COURT:** I'll sustain the objection right now.

22 **MS. PHELAN:** Thank you, Your Honor.

23 **MR. REDDY:** Yeah. It's in there. It's not
24 important. Let's keep moving. How do I get
25 caught up on something just important, it's a



1 point.

2 So, now, I'm going to go to the period
3 post Idalia, which is post August 30th -- after
4 August 30th, and before the original retaining
5 wall. I'm going to -- I'm just going to talk
6 about that period of timeframe, which would
7 mean the timeframe from August 30th to about
8 October 20th, roughly in that timeframe. So,
9 on September 1st, ourselves and some of the
10 neighbors hired BluTide as a GC, as a general
11 contractor. And we told BluTide that they
12 needed to go get some City permits or do
13 whatever they needed to do to repair our yard.
14 So, BluTide did that. They immediately
15 obtained City permits. They obtained access
16 with the City to figure out how they access the
17 beach, staging of materials and a schedule.
18 And BluTide was -- they were going to -- they
19 were they had contracts for -- at that time, at
20 September 1, they had contracts of my home and
21 the home next door to me, 120. They later on
22 got a few more contracts. And they were told
23 they needed to be completed by September the
24 11th, because the City now was going to finally
25 act under the permit they had from DHEC and



1 actually do the dune after the horse had left
2 the barn. And they said the schedule for them
3 to doing -- for them doing the dune is they
4 were going to do the dune in front of 118 and
5 120 on September the 11th. That was their
6 schedule. And BluTide was told you need to
7 complete this -- whatever you're doing at 118
8 ---

9 **OBJECTION:**

10 **MS. PHELAN:** Objection ---

11 **MR. REDDY:** --- 120 by September 11.

12 **MS. PHELAN:** --- Your Honor, hearsay.

13 **THE COURT:** As to BluTide said ---

14 **MS. PHELAN:** I was told. BluTide was told.

15 **MR. REDDY:** Okay.

16 **THE COURT:** By whom?

17 **MR. REDDY:** By the City of Isle of Palms, which he
18 then communicated to us.

19 **THE COURT:** Okay. I sustain that.

20 **MR. REDDY:** Okay. On -- Matt had an email that was
21 previously put up here on the 7th saying they
22 had heard about some materials which were, of
23 course, all -- you got to remember, Your Honor,
24 BluTide coordinated with the City and got the
25 City information and started the work, and



1 started all the staging and materials and all
2 that, there were trucks and stuff going up and
3 down the beach. These folks were there. The
4 City -- if the City ever thought that repairing
5 a yard would require their permission, the City
6 would have informed them before giving them --
7 BluTide the green signal. No one thought of
8 any of that.

9 **OBJECTION:**

10 **MS. PHELAN:** Objection to form. He's speculating to
11 what the City would do.

12 **MR. REDDY:** Well, did the City inform you that they
13 had authorized BluTide?

14 **THE COURT:** She's objecting to what -- is any of
15 this in an exhibit, a joint exhibit, what
16 you're saying?

17 **MR. REDDY:** Your Honor, when you say any of it,
18 meaning the communication between the City and
19 BluTide?

20 **THE COURT:** Yes.

21 **MR. REDDY:** That's -- they're -- they're the GC.
22 It's between them and the City. They did the
23 -- they did the work. I was the client for
24 BluTide. BluTide, of course, wouldn't be
25 allowed to do the work.



1 **THE COURT:** Are any of these statements in the joint
2 exhibit is what I'm ---

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

4 **THE COURT:** Any of the statements that you're
5 referencing in a joint exhibit?

6 **MR. REDDY:** Not that I know of, no.

7 **THE COURT:** Because I keep sustaining the objection.
8 I wanted to make sure about that first. All
9 right. I sustain it.

10 **MR. REDDY:** Okay. So ---

11 **THE COURT:** You can say what you did as a result of
12 what you were told.

13 **MR. REDDY:** As I what?

14 **THE COURT:** An often statement that occurs after an
15 objection like this is you can state what you
16 did as a result of what you were told by
17 someone.

18 **MR. REDDY:** Okay.

19 **THE COURT:** You just can't say what they told you.

20 **MR. REDDY:** So, what we -- as a result of us giving
21 a contract to BluTide, we completed the job.
22 The job was completed on September the 8th. On
23 September the 8th, I informed the City that the
24 job we had done was completed. Both Desiree
25 and Doug. And Doug responded back saying,



1 thank you.

2 **OBJECTION:**

3 **MS. PHELAN:** Objection to form.

4 **THE COURT:** You object to thank you?

5 **MS. PHELAN:** We object to hearsay. Well, none of
6 his ---

7 **THE COURT:** I know. I just ---

8 **MS. PHELAN:** We don't have any evidence. I mean,
9 there's no communications in the record.
10 There's no permits in the record.

11 **THE COURT:** I'll overrule thank you.

12 **MR. REDDY:** So, the idea that DHEC that's been on
13 the beach after a major storm, watching all
14 this go on, and then to say that they are not
15 aware of any of it, I don't know what to say.
16 Either way, the work was completed on our
17 property on the -- substantially completed by
18 the 8th. We had some grading to do, but all of
19 the repair was substantially completed on the
20 8th. By that time, BluTide had been contacted
21 by DHEC, and they stopped work on the
22 neighbor's property, which they were going to
23 do on the weekend. So, all work was stopped
24 pending a meeting that was called for on the
25 beach on the 11th, which is the following



1 Monday. From what I heard in the testimony by
2 Mr. Slagel and others that they were not aware
3 that any work had been done. I don't know how
4 to respond to that. It's pretty incredulous.
5 Now ---

6 **THE COURT:** Why is it incredulous?

7 **MR. REDDY:** Because the trucks were going back and
8 forth. The material was staged in a City lot,
9 in a City lot in Breach Inlet. The City was
10 building a dune that was theoretically under
11 the supervision of DES, you know, it was an
12 emergency dune, or whatever. The activity on
13 the beach was unbelievable. They were like --
14 it was like Grand Central while -- while --
15 while these things were being done. It was,
16 like, middle of the day. And -- and then, you
17 know -- you know, I'm not a procedure guy, but,
18 you know, there is stuff, Your Honor, and the
19 reason maybe we fired the attorneys, there's
20 emails from here that are apparently not in the
21 joint exhibits, but we informed the City, and
22 the City responds saying, thank you. And I
23 don't know what else to say when someone says,
24 I don't know. Like I said, the City could have
25 communicated to them. They could have observed



1 all -- everything going on. We had no idea, I
2 mean, under no circumstances, having built a
3 house next door, would we think that something
4 we're doing landward at the setback line is
5 something we have to go ask them for
6 permission. I don't think we asked them for
7 permission once in building a 7,000 square foot
8 home. So, it wouldn't even cross our mind to
9 do it. Anyway, that meeting is -- was
10 recorded, apparently, on the beach, and it's in
11 discovery. But, again, I had three days to
12 prepare for this thing. I don't know where it
13 is in discovery that entire meeting on the
14 beach was recorded. And -- and I guess I -- I
15 can't talk about it, but there was very little
16 said there about my house.

17 So, now I'm going to show you Joint
18 Exhibit Number 70. Can we get these in a row
19 and stay like a little bit ahead of me in a
20 file or something, so we're not looking it up
21 each time? Stay like a couple of exhibits in
22 front of me, if you will.

23 **(Joint Exhibit Number 70 was referenced at this**
24 **time.)**

25 **MR. REDDY:** We're going to go to -- maybe Renee,



1 maybe you -- you do one; she does one, say, a
2 little teamwork here. I don't want to keep
3 jumping back and forth here while I sit here
4 trying to figure out which is which. Okay.
5 So, I want to go to Joint Exhibit Number 70.
6 This, as you can see, Your Honor, was taken on
7 September the 11th, the day that they were
8 there, that morning. This picture was taken at
9 4:46 p.m. that afternoon. And they claim they
10 had no idea what was going on. Well, you can
11 see, not only is our work -- we're done. The
12 City has put the dune in behind us, landward of
13 us, landward of our repair.

14 **MR. REDDY:** So, I want to go now to Joint Exhibit --

15 -

16 **OBJECTION:**

17 **MS. PHELAN:** Your Honor, objection to the
18 misstatement. A few times he said the
19 Department was not aware of what was being
20 done. Mr. Slagel testified about all the
21 activity the City was doing on the beach. So,
22 the distinction is that we weren't -- the
23 Department wasn't aware of what he did on his
24 property, not that we didn't see the trucks and
25 everything else with the City and their work.



1 So, I think he misstates.

2 **THE COURT:** Okay.

3 **MR. REDDY:** I'm not -- I'm not misstating anything.
4 The work was started on Monday. Y'all could
5 have stopped us at any time. We didn't hear
6 from you till the 7th, which was Thursday when
7 you wrote a letter and you contacted BluTide on
8 Friday, when the work was done. What were you,
9 asleep?

10 **THE COURT:** Mr. Reddy, please continue.

11 **MR. REDDY:** So -- so, this is three days after that,
12 Your Honor, and you can see the ---

13 **THE COURT:** Three days after what?

14 **MR. REDDY:** After September 11th, and that's
15 September the 14th. You can see the fence is
16 in now. So, that -- you see the yard is
17 already repaired, the fence is in and there is
18 a dune seaward of the fence. So, I -- I -- I
19 really don't know what we're supposed to do
20 here. You know, we -- we had a storm. Storm
21 did damage. The City authorized a repair
22 landward of the setback line. Repair was
23 completed within ten days of the storm. The
24 City puts a dune in seaward of us of any -- any
25 work we did. Now, that was a scrape dune, by



1 the way, because apparently they were worried
2 about funds. But -- but that's all I have to
3 say about all of the conspiracy theories that
4 were floated about us doing things secretly.

5 A few days after this, you know, you can
6 see these -- do you see these here? Those are
7 the impressions in the grass from the old tile
8 that used to be there. So, a few days after
9 this, we replaced our turf, and we replaced the
10 tiles, and we re- -- put in new tiles, and did
11 all that. And you can see, once again, as
12 opposed to doing what most people would do,
13 which is use a license surveyor, they did some
14 -- something with counting tiles that had been
15 replaced three times. A few days after that,
16 we put in the turf. At that time, I don't now,
17 but at that time, I owned the turf company. I
18 owned both turf companies. We had a spring
19 turf that did stadiums all over the country, in
20 all 50 states. We did 270 stadiums that year.
21 And we had a retail division called Pro Green
22 that did homes and parks and all that. Being
23 -- over the objections of my co-counsel there,
24 I used my backyard as a lab. We experimented
25 with different turfs before we tried it on to



1 the customer. So, this was a great opportunity
2 for me when this happened, I said, let's try
3 that new turf we were trying. So, actually, we
4 ripped some of this stuff out and we tried a
5 new putting green turf, and we tried new turf
6 going in post Idalia.

7 **THE COURT:** So, how many times did you replace the
8 pavers or walkways?

9 **MR. REDDY:** Three times.

10 **THE COURT:** Three times?

11 **MR. REDDY:** Yeah. So ---

12 **THE COURT:** Were they put in different spots each
13 time?

14 **MR. REDDY:** Yeah, and then -- and they were
15 different. Now -- they're -- I mean, they're
16 not those always the same tiles, either. We --
17 there's no way to -- there's no way to put it
18 in the same -- I mean, remember, when we
19 replaced the turf -- when we replace it, we rip
20 all this turf out, this -- so, you're just
21 guessing whether -- you can't put it back in
22 the same place. It just -- it would be like a
23 needle in a haystack. So -- so, the picture.
24 So, on October the -- on October the 20th is
25 when we received a memo from Jacques



1 documenting that there was 1255 square foot.
2 However, he claimed in that that we violated on
3 9/11 meeting. He didn't say how. But
4 essentially, he claimed we violated 9/11
5 meeting. Well, again, by the 9/11 meeting, the
6 repair had been done. First of all, honestly,
7 I did not even recognize that a fence violates
8 the meeting. We did put in the fence after
9 that and we cleaned up our yard, but we never
10 touched it after that time, until after the
11 nor'easter.

12 **(Joint Exhibit Number 272 was referenced at this**
13 **time.)**

14 **MR. REDDY:** But -- so, what happened right -- right
15 around that time, after we put in the new turf
16 and repaired the yard in September, we found
17 that the turf was getting wrinkles. You know,
18 the turf would, like, at certain times in the
19 day, it would -- it would -- it could bubble
20 up; at other times in the day it would flatten
21 out. It'd bubble up, flatten out. And so I
22 called my turf guy back, and I said, hey, is
23 this something to do with the turf, or is it
24 something to do with the soil. And -- and he
25 said, well ---



1 **OBJECTION:**

2 **MS. PHELAN:** Objection, Your Honor, hearsay.

3 **MR. REDDY:** Okay. So, what we did as a result ---

4 **THE COURT:** He's moving on.

5 **MR. REDDY:** --- of the conversation was we said,
6 which is very routine, Your Honor, I've done it
7 throughout the nation, we do one of two things
8 to get some stability to turf. We either put
9 in a concrete curb, so this is the edge, we
10 pour a concrete curb so the turf can go up
11 against it. Or, if we suspect that the soils
12 are not particularly stable, as with sandy
13 soils are sometimes not that stable, we put in
14 -- literally, dig a hole, pour some concrete,
15 put a retaining wall to keep this thing from
16 moving around. So, no -- no one -- we honestly
17 didn't even give it much thought. We got this
18 guy, Jose, Jose with the flip phone, to come
19 in. He dug a six-foot trench, and he poured
20 this -- this wall, and he, you know, that -- I
21 heard in the testimony, they said we brought in
22 sand and we covered -- we didn't bring in any
23 sand. He dug a hole. He poured this thing,
24 and he put the sand back where it was. And the
25 -- this is the one they put up, if you remember



1 the last time around, they put up this exhibit,
2 don't keep moving it on me. My lines keep
3 moving. Just leave it alone. Leave alone.
4 Once I start drawing lines, leave alone. So --
5 there you go.

6 **(Joint Exhibit Number 205 was referenced at this**
7 **time.)**

8 **MR. REDDY:** So, that's what he did. Six foot deep,
9 two feet wide, 130 feet long. And was \$26,000
10 which is \$200 a linear foot. They know, Your
11 Honor. They're saying it's not relevant. It's
12 100 percent relevant. Hilton Head was \$1,750
13 a linear foot. And I'll get a little bit into
14 what we did post October 20th. They could have
15 done a little bit of homework. They could have
16 brought in an expert to ask an expert if this
17 is really a erosion control structure for 26
18 grand, \$200 a linear foot. No, they -- they
19 didn't want to do any of that. But anyway, we
20 poured it -- we poured it. We didn't think of
21 it. So, after that, and this is, again, goes
22 to our state of mind. Post October 20th, the
23 City continued to scrape, which we were, like,
24 looking at each other, saying, this is crazy.
25 Go back to Matt's memo that I put up



1 earlier, which says scraping just pulls the
2 water in, and you're taking up compacted sand,
3 and you're pulling the water in, as Matt
4 clearly pointed out.

5 **(Exhibit Number 9 was referenced at this time.)**

6 **MR. REDDY:** And this thing was getting worse and
7 worse and worse. So, about ten of our
8 neighbors got together, and we all decided that
9 if no one was going to do anything about it,
10 which certainly looked like no one, that we
11 were going to do what Hilton Head did, except
12 ours was going to be bigger. We were going to
13 build a seawall across seven homes, seven
14 continuous homes. There was one guy that was
15 a problem, but seven continuous homes. We were
16 going to use the same system, a sheet pile
17 system, that Hilton Head used. And several of
18 us started researching it. One of the
19 neighbors actually retained some counsel to get
20 some advice. The counsel actually happened to
21 be the same counsel that was on the Hilton Head
22 case, Mary Shea. We had several meetings on
23 this. We got the engineers to do some
24 estimates on this. We worked around the one
25 guy, one house that may not join. And we were



1 told -- and basically what had to happen is add
2 some cost going down the side of the house.
3 So, we did a lot of work on this. In doing the
4 -- in doing all that work, the center cut, the
5 most -- I don't -- this is -- this is a piece
6 that I said, I'm not good on procedure here,
7 the number one thing we used as our guiding
8 light was Hilton Head, because that's exactly
9 what they did. Irma, Matthew came, washed them
10 out, no vegetation, nothing, total washout.
11 And they got together; they put a tape measure
12 two feet inside the setback line. So, this was
13 a model for our investigation that we were
14 doing. I discussed this with my attorneys, as
15 well, who confirmed that there is no history
16 that they could really tell in recent past of
17 anything landward of the setback line.

18 Now, two of the neighbors had some issues
19 with the City, but we won't even get in -- get
20 into that now. So, that all was happening, and
21 to -- to actually validate that thinking is
22 what I would like to do in terms of introducing
23 those documents, I think are sitting up here,
24 that talk to us about -- these are public
25 documents that talk to us ---



1 **THE COURT:** I'm going to hand you all of them.

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

3 **THE COURT:** There you are.

4 **COURT REPORTER:** So, that your record would be
5 clear, when you refer to them, if you will
6 state the name, so that I will know that that's
7 what you're referencing.

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

9 **THE COURT:** She means the exhibit number.

10 **COURT REPORTER:** Sorry. Thank you.

11 **MR. REDDY:** So, the exhibit is -- the first exhibit
12 is Exhibit Number 71. And I'm gonna read the
13 question and the answer, Your Honor.

14 **(Respondent's Exhibit Number 71 was introduced into**
15 **the record at this time.)**

16 **MR. REDDY:** It says, please identify any projects
17 undertaken within the last ten -- this is
18 question number six. Please identify any
19 projects undertaken within the last ten years
20 ---

21 **MS. PHELAN:** Objection, Your Honor.

22 **THE COURT:** Looks like they're objecting.

23 **MS. PHELAN:** He's -- he's publishing and you haven't
24 ruled on the admissibility of this.

25 **THE COURT:** All right. Are you offering this into



1 evidence?

2 **MR. REDDY:** Yes, I am offering it into evidence.
3 It's -- it directly relates to our thinking as
4 to how everything that caused us to do what we
5 did.

6 **THE COURT:** So, when you say your thinking, you mean
7 -- you're saying your state of mind as to why
8 you ---

9 **MR. REDDY:** Yes, Your Honor, this is an opposing
10 party document.

11 **MS. PHELAN:** He never saw this document before --
12 before he did what he did, each of the
13 unauthorized actions.

14 **MR. REDDY:** Your Honor, may I comment on that?

15 **THE COURT:** Yeah.

16 **MR. REDDY:** This -- this document was -- is exactly
17 what is in this document is what they responded
18 what we were told existed. We tried to get it
19 in discovery. They -- in our discovery
20 request, they did not include it. Despite us
21 asking for it, they did not include it. So, we
22 had to make a FOIA request for this document.

23 **THE COURT:** So, you didn't have the document, this
24 particular document, but you're ---

25 **MR. REDDY:** No, we were told about this document in



1 our investigation because they said there was
2 -- there is sworn testimony from them about
3 these issues on permitting and jurisdiction
4 landward of the setback line. So, when -- when
5 this issue came up, we asked for these
6 documents. They should have provided in
7 discovery. They did not. We had to make a
8 FOIA request, and this document was then
9 provided to us and entered as a Respondent's
10 Exhibit from a FOIA request.

11 **THE COURT:** All right. So, this is certainly a -- a
12 party's own statement. So, what is your
13 objection?

14 **MS. PHELAN:** First of all, let me just say I
15 disagree with what he -- how he characterized
16 ---

17 **THE COURT:** Okay.

18 **MS. PHELAN:** --- the discovery process. But I know
19 we're not here about that today.

20 **THE COURT:** Okay.

21 **MS. PHELAN:** The response ---

22 **THE COURT:** And that's not going to affect me
23 anyway.

24 **MS. PHELAN:** The response is what I made earlier,
25 that -- that it's probative value is



1 substantially outweighed by the prejudice and
2 confusion of the issues. We are not here
3 trying the Piping Plover case. This is a
4 litigation document was provided in Piping
5 Plover. We don't have witnesses to be able to
6 explain what was going on there. And it
7 completely was different -- different set of
8 facts than we have here, in that they were
9 trying to comply with Department. Mr. Reddy
10 met with the Department on site before he built
11 anything, and was told that he shouldn't build
12 there because it's in the beaches critical
13 area.

14 **THE COURT:** All right.

15 **MR. REDDY:** Your Honor, this is their statement.
16 This is an opposing party statement.

17 **THE COURT:** I'm going to let this in.

18 **MS. PHELAN:** Thank you.

19 **THE COURT:** Go ahead.

20 **COURT REPORTER:** I'm sorry, you said you were gonna
21 ---

22 **THE COURT:** Let it in.

23 **COURT REPORTER:** Thank you.

24 **MR. REDDY:** So, it says, please identify any projects
25 undertaken within the last ten years for which



1 defendant has required a permit for alteration
2 of beaches critical area. DHEC is unaware of
3 any permits issued for alteration of beaches
4 critical area, and then it goes on to say,
5 whatever. Then at question 7, please describe
6 in detail the process utilized to evaluate
7 whether an oceanfront project is occurring
8 within beaches critical area. DHEC does not
9 have a formal process for evaluating whether an
10 oceanfront project is occurring within beaches
11 critical area, as compared to the beach/dune
12 system. Your Honor, if this is not indicative
13 of a complete change in how they are
14 approaching my case and using the same laws,
15 the same rules and interpreting it differently.
16 So, I want to point out one other thing, Your
17 Honor, which is the same -- the same -- the
18 same set of documents. I want to go to page --
19 Exhibit 72, question 5.

20 **(Respondent's Exhibit Number 72 was referenced at**
21 **this time.)**

22 **THE COURT:** This is not an evidence either, right?

23 **MR. REDDY:** Yeah, this is same set of
24 interrogatories.

25 **THE COURT:** He's wishing to publish an exhibit. Do



1 you object?

2 **OBJECTION:**

3 **MS. PHELAN:** It's the same objection, Your Honor.

4 **THE COURT:** Is this the same?

5 **MR. REDDY:** It's the same -- it's the same thing.

6 **THE COURT:** Is it still Hilton Head?

7 **MR. REDDY:** Yes, yes.

8 **MS. PHELAN:** It's request for admission in Hilton
9 Head, so, I would make the same objection, that
10 it's unfairly prejudicial.

11 **THE COURT:** All right. I overrule that.

12 **MR. REDDY:** So, I'm going to go to question 5. It
13 says, admit that the bulkhead at issue was
14 constructed behind the jurisdictional setback
15 line drawn by DHEC. DHEC admits that the
16 bulkhead at issue, once construction was
17 complete, was located landward of the
18 jurisdictional setback line. And so, Your
19 Honor, I don't know what to say when we have
20 these different versions of this, other than
21 saying what I said earlier. For some reason,
22 they don't like me. I don't know. DOGE SC
23 maybe, I don't know what it is, but they don't
24 like me. Other than that, I don't understand
25 how you could rule like that and then say that



1 -- no, we are going to treat you differently
2 when they say there's no -- they don't even
3 have a process to permit landward of the
4 jurisdictional line. Their own testimony after
5 saying mine was egregious, Ms. Flake, going all
6 the way back to '99, couldn't name one
7 instance, and that's consistent with this. So,
8 that's -- that's all I have to say about that,
9 because I'm a nice guy and don't want to keep
10 beating up on stuff.

11 **MR. REDDY:** So, I've got a couple of other things,
12 Your Honor, and that is going along the same
13 issue to again say it's relevant or irrelevant.
14 She keeps bringing up -- despite Matt Slagel
15 testifying to this, she keeps bringing up, they
16 consulted with the Department on this. Yes,
17 they did. They consulted with the Department.
18 They gave the Department the plans for it, and
19 the Department, as Matt Slagel testified, said,
20 no approval is required because it is
21 essentially landward of the jurisdictional
22 lines. He said that; it's in an email that's
23 already been entered into evidence. So, I
24 don't understand what -- why she keeps saying
25 they consulted with the Department about



1 something.

2 **OBJECTION:**

3 **MS. PHELAN:** Objection, Your Honor.

4 **MS. MILTON:** Objection, Your Honor.

5 **MR. REDDY:** Keep objecting away.

6 **THE COURT:** We got a double team this time, Mr.
7 Reddy. Go ahead.

8 **MS. MILTON:** Well, one, for hearsay. I'm not sure
9 exactly what we're talking about.

10 **THE COURT:** Well, I don't know who she is. Is that
11 what you're talking about?

12 **MS. MILTON:** I -- I don't know who she is.

13 **MR. REDDY:** Well, I don't know why they're here.

14 **MS. MILTON:** Maybe Sallie, I don't know what exhibit
15 we're discussing. I just -- I want to be on
16 the same page here.

17 **THE COURT:** All right. Mr. Reddy, I sustain that
18 'cause I don't know who the she is or what
19 you're ---

20 **MS. MILTON:** And it's probably hearsay.

21 **MR. REDDY:** No, it's Matt Slagel. It's not -- he's
22 a she. I didn't know he's a she?

23 **MS. MILTON:** You're the one that said she.

24 **MR. REDDY:** I'm sorry. My mistake.

25 **THE COURT:** Okay. Let's go with he on that one,



1 then.

2 **MR. REDDY:** So, once that -- the -- the -- I'm going
3 to go with what was -- what was -- what they
4 testified -- Matt Slagel testified, which he
5 said it was a mistake, saying that they had no
6 jurisdiction over it. And then we went through
7 this whole process. You see what they said
8 here, that they don't have any way of even
9 permitting it. And then ---

10 **OBJECTION:**

11 **MS. PHELAN:** Objection, Your Honor, misstates.

12 **MR. REDDY:** --- I would like to -- I would like to
13 enter into evidence Exhibit Number 38.

14 **THE COURT:** Wait a second. Let me rule.

15 **MS. PHELAN:** I mean, he misstated ---

16 **THE COURT:** I'll just say the exhibit speaks for
17 itself.

18 **MS. PHELAN:** Thank you.

19 **THE COURT:** All right. You wish to enter another
20 exhibit?

21 **MR. REDDY:** Yes, this is the consent order that was
22 signed by the same Ms. Myra Reese who signed my
23 enforcement order.

24 **(Respondent's Exhibit Number 38 was referenced at**
25 **this time.)**



1 **THE COURT:** Is this still the Hilton Head case?

2 **MR. REDDY:** Yes. Yes, sir.

3 **THE COURT:** And why is that pertinent, Mr. Reddy?

4 **MR. REDDY:** It's pertinent because the consent order
5 -- the entire consent order, which is fairly
6 long, does not at all -- even -- it's signed
7 one year after the wall, by the way, does not
8 at all address anything on jurisdiction,
9 nothing. There's not even a jurisdictional
10 argument brought up in the entire con- --
11 consent order. The only thing brought up that
12 this consent order addresses is that they did
13 not obtain a general permit for stormwater
14 discharge, requiring authorization for land
15 disturbing activities that exceed a half an
16 acre. That was the entire agreement. So, your
17 honor, I get it. We all make mistakes. You
18 make a mistake, one year later, you sign a
19 consent order that doesn't even address
20 anything to do with jurisdiction. Doesn't even
21 bring it up. It only talks about this land
22 disturbance permit, which really wouldn't apply
23 to me, because it's only one lot. And then it
24 goes on to say, for the five homeowners, a
25 grand total fine of 15,000. Divide by five,



1 that's \$3,000 a homeowner, for essentially a
2 seawall that's still standing. So, I -- I'm
3 all for mistakes, but I'm also for owning up
4 and correcting mistakes, and I'm not for
5 signing consent orders one year after the
6 mistake, one and a half years after they
7 approved the plans that basically says, ehh, no
8 jurisdiction but the stormwater permit.

9 **MS. PHELAN:** Are we still arguing admissibility?

10 **THE COURT:** He's been testifying about the exhibit.
11 I hadn't heard any objection, so I've just been
12 sitting here.

13 **MR. REDDY:** I found the ---

14 **MS. PHELAN:** I thought he was stating why he thought
15 it was -- it was ---

16 (Inaudible due to simultaneous speakers.)

17 **THE COURT:** Well, it's not in, but he could -- he's
18 been testifying about -- he made a statement
19 that would harm your admission of the exhibit,
20 because you said it doesn't have anything --
21 statements about jurisdiction. But he's
22 equated the consent order to the fair treatment
23 -- equal treatment for him. So ...

24 **MS. PHELAN:** This consent order's with the Bureau of
25 Water. It's not with ---



1 **THE COURT:** Well, the consent order -- he's
2 testified about at this point in time, or at
3 least published parts. I assume he wishes to
4 publish. So, I will sustain the objection as
5 to the admission of the consent order itself.
6 Proceed, Mr. Reddy.

7 **MR. REDDY:** Can I comment on that as a -- as a
8 lawyer?

9 **THE COURT:** You've already testified about the
10 aspects of the exhibit.

11 **MR. REDDY:** Your Honor, if I'm ---

12 **MS. PHELAN:** Your Honor, I'm kind of confused, too.
13 I'm not sure since he's taken this narrative --
14 he's on the stand and testifying narratively,
15 I thought he was arguing admissibility still,
16 and that's why I didn't object. So, I'm not
17 sure how we know when he's testifying, how he
18 know when we're arguing.

19 **THE COURT:** Well, going forward, let's be more
20 careful. That's all I can say.

21 **MS. PHELAN:** Okay.

22 **THE COURT:** If y'all can -- and I'll try to do a
23 better job of stopping everything and making
24 sure we're within the parameters of objections
25 versus testimony.



1 **MS. PHELAN:** Thank you, Your Honor.

2 **MR. REDDY:** Your Honor, on the consent order, if --
3 I'd like to proffer it.

4 **THE COURT:** Yes.

5 **MR. REDDY:** Okay.

6 **THE COURT:** It's proffered.

7 **(Respondent's Exhibit Number 38 was proffered at this**
8 **time.)**

9 **MR. REDDY:** And I found the missing 92, the one we
10 couldn't find earlier, the permit thing. I
11 don't know if it's -- I mean ---

12 **THE COURT:** Mr. Reddy, I can't -- I can only rule on
13 that, which is offered.

14 **MR. REDDY:** Anyway, that was a lot of fun. Okay.
15 So -- so, anyway, where was I? Post October
16 20th, all these discussions with the owners,
17 and then we had to -- somewhere late that year,
18 while these things were going on, I think we
19 were well on our way to actually building a
20 Hilton Head type seawall in the new year, and
21 then we had to go overseas with my foundation
22 that does work with trafficking. And -- and so
23 we left to go overseas when the nor'easter hit.
24 And the nor'easter hit on December the 16th of
25 2023. The -- again, going to the now well



1 known NOAA, it was the highest, according to
2 them, the highest non-tropical tide level on
3 record, at 9.86 feet, still less than Irma, but
4 this time handicapped again by no dunes and
5 three months of scraping. Essentially the --
6 all of the southern portion of Isle of Palms
7 became a sacrificial dune.

8 **MR. REDDY:** So, I'd like to put up Joint Exhibit
9 Number 100 to show the level of destruction
10 that happened by actually being a sacrificial
11 dune. I believe it's BCM 26. You gotta going
12 on that. Jenna, do you know the right one?
13 You know what, that doesn't matter, that's
14 fine. The one y'all have here is fine.

15 **(Joint Exhibit Number 100 was referenced at this**
16 **time.)**

17 **MR. REDDY:** So, I just want to show something. This
18 is post, you know, the nor'easter looks, like
19 it's 1/10/24. You can see the wall -- the
20 original retaining wall is now exposed, but
21 straight. You can see, this is the neighbor's
22 escarpment. That's the other neighbor's
23 escarpment. Pretty much in line. The wall is
24 still straight at that point in time. I'm
25 having some trouble here with my assistants,



1 but ... Your Honor, I fired my attorneys; can
2 I fire my assistants, as well?

3 All right. Let's -- let's -- let's clear
4 the slide, and then let's say what happened
5 post nor'easter. Post nor'easter, once again,
6 we contacted BluTide who contacted the City.
7 Now, if you recall, there were now
8 conversations going on between the Department
9 and our counsel after Mr. Jacques sent us that
10 letter on October 20th. So, we informed
11 BluTide that there were conversations going on
12 about the repair that was done in Idalia, and
13 as part of that, we were told that only beach
14 compatible materials can be used for this new
15 repair. So, we suggested to them that they
16 just ask for the permit for beach compatible
17 sand to be brought in. So, you can see this is
18 the letter that was sent from -- can you -- can
19 you scroll down a little bit? No, the other
20 way. Other way. Yeah. Stop, stop. This was
21 the letter from December 19, 2023, sent from
22 Mr. Douglas Kerr, who is the City
23 Administrator, to me, and he -- you can also
24 see he copied my attorney, Merritt Abney at
25 Nelson Mullins. And he also copied Desiree,



1 who was the City Administrator. It says, Rom
2 and Merritt, we just got off the call with OCRM
3 and they have advised us that the wall is
4 within the jurisdiction. The City cannot
5 scrape sand seaward of the wall, and that no
6 sand can be trucked into the area. So, we
7 recognize the sand seaward of the wall. I
8 think that was discussed with Matt, the
9 scraping sand, but we were very perturbed about
10 the fact that we could not bring in beach
11 compatible sand at our own expense. And it
12 says this came from the manager of their
13 compliance section, Morgan Flake.

14 **(Joint Exhibit Number 28 was referenced at this**
15 **time.)**

16 **MR. REDDY:** So, if you now scroll to Merritt's,
17 which is Exhibit Number 223, 00144. 144. Or
18 did I get it mixed up? No, I'm sorry, yeah,
19 143, I'm sorry, you're right. And this is a
20 -- this is an email from Mr. Merritt to Mr.
21 Brad and Ms. Sallie. And you can see he copied
22 Jack Smith, who is now at Nelson Mullins and
23 was on this case, but who used to formerly work
24 for DHEC. And he says, Hey, "Sallie & Brad -
25 I hope" you're "well. See below from" Douglas



1 "Kerr at IOP regarding Rom" Reddy. "Can you
2 please confirm that Doug's statement regarding
3 DHEC's position is accurate and, if so, let me
4 know the basis on which DHEC claims
5 jurisdiction over the wall, which is well
6 landward of the jurisdictional lines, and the
7 basis for the denial of Mr. Reddy's request to
8 truck" in "beach-compatible sand in front of
9 his" own "home at his own expense?" So, you
10 can see this let- -- this letter was December
11 20th, 2023. The previous picture we showed you
12 with the storm and the wall and all that was
13 actually January 10th, when the wall was still
14 standing. You notice the previous picture,
15 they had scraped sand in front of our
16 neighbors, but not ours. So, that wall now was
17 ocean facing. And we noticed that one side of
18 the wall was sinking. So, Renee and I were
19 very concerned that we were not allowed to
20 bring back sand and reclaim our yard just back
21 to the original fence line. That's all we
22 wanted to do. And we were denied the ability
23 to do that with beach-compatible sand. And
24 until now, including Mr. Slagel's testimony,
25 they still haven't told us what statute allows



1 them to do that. The -- we got two reasons,
2 which I will address -- which I will address
3 shortly, but if we had been able to actually
4 put sand in front of this tiny, little erosion
5 control thing we had, we wouldn't be here, Your
6 Honor. We wouldn't have wasted all this
7 taxpayer money, all this stuff running around
8 asking questions. Where is it? What is it?
9 Because that wall would have been -- would have
10 had something in front of it to keep it from
11 being water facing. And a \$200 linear foot is
12 not meant to be water facing, no matter what
13 you say. I'm a construction guy. I can
14 definitely talk about that.

15 **(Joint Exhibit Number 223 was referenced at this**
16 **time.)**

17 **MR. REDDY:** And so after this, it was panic city,
18 because we didn't know what to do, honestly.
19 We were -- we were flabbergasted that they were
20 not going to scrape sand. We couldn't bring
21 sand and -- and so then the question is, what's
22 going to happen. What was happening is this,
23 Your Honor, so, this is January 3rd. It's a
24 picture you've seen already. So, they were
25 scraping sand. This is my neighbor's house.



1 Used to be my house. That's the house I built.
2 And this is the sand they're scraping in front
3 of my neighbor's property. And you can see
4 this big gap that's being left. Part of this
5 gap is on the neighbor's property, actually,
6 this big gap that's being left essentially
7 channeling water into this wall. I mean,
8 literally, like a -- funneling water into this
9 wall. And again, this is, like, why would
10 anyone do this to us? What is the point of
11 this? You know, and -- and -- and they said,
12 oh, it's -- you can put anything seaward of --
13 what -- -- wait -- what, seaward of the
14 escarpment. Then, as you recall -- if you can
15 enlarge in this picture, if you enlarge this
16 picture a little bit. Okay. Then, if you
17 recall, the only other reason that they gave to
18 us is A, you're going to be seaward, which
19 we're not. B, there's debris. Well, whatever
20 that is, that debris, apparently we couldn't
21 cover up. When, repeatedly, this was being
22 done up and down the beach, they were covering
23 up broken docks, leave alone debris. They were
24 not waiting for people to clear the debris.
25 And again, remember the position of this



1 property. We are on the southern tip of the
2 island. This is all north of us. So, all of
3 this water is moving in this direction, across.
4 It's moving like that. Of course, all of this
5 debris is going to come this way. Every time
6 they see debris, says that's him. Here's
7 another reason we can't do it. And this is
8 what was going on. And so this part of the --
9 actually, you can, even though this is January
10 3rd, you can see it, this part of the wall is
11 already starting to become a little unstable.
12 So, and I talked to Renee and said, if this
13 wall starts to move, there's no telling what
14 it's going to do. I said, if there's a pet
15 there, if there's a person there, it could kill
16 them. It could literally kill them, just like
17 that. We've got to do something about it,
18 because these folks repeatedly will not let us
19 put anything in front of it. There's
20 absolutely nothing to do. Our hands are tied,
21 even though, like I said, what jurisdiction?
22 Why? How? None of that's been established,
23 but now chaos has been unleashed on me and my
24 family. So, after this, what happened is we
25 decided, using my construction brain, that we



1 are going to bring in riprap and try to put it
2 along the edge of the wall before the wall
3 tilts forward, just to make it ---

4 I don't know what y'all are doing there,
5 but I need -- I need to go to Joint Exhibit
6 Number 202. I want to make a request to you
7 guys, again, you all have a list of exhibits.
8 Can you stay -- is it that difficult for you to
9 stay one or two in front of me?

10 **MR. REDDY:** Can ask them for a yes or no answer yes,
11 Your Honor?

12 **MRS. REDDY:** Yes.

13 **MR. REDDY:** So, I need you to go to Joint Exhibit
14 202. ProGreen 000122. 000122. Are we even
15 working off the same list here, guys? 000122.
16 122. 1 -- okay, stop. Okay. That's -- that's
17 -- that's fine if it has a date, otherwise, you
18 got to find 122. Okay, that's good. That's
19 good.

20 **(Joint Exhibit Number 202 was referenced at this**
21 **time.)**

22 **MR. REDDY:** So, this is the riprap that was
23 delivered to my front yard on January the 6th
24 when we found that the wall was getting
25 unstable. And I said, the only thing I know to



1 do is to line some riprap along the edges of
2 the wall, so, if it starts to collapse, there
3 is a -- there is something, some resistance
4 before it crushes someone, because it could.
5 And this is the only time we brought in riprap.
6 You heard testimony, oh, we got a report that
7 they brought in more riprap, and they had
8 riprap north of me, south of me, that they said
9 I brought in. This here is the only time I
10 brought riprap in, and I brought it in because
11 I was afraid of what was going on with that
12 wall and the fact that I was kept from doing
13 anything, anything in front of that wall. So,
14 there goes conspiracy theory number two.

15 This was a time of great stress to me and
16 my family. The State and the City would do
17 nothing, and they kept actively preventing us
18 from, not only protecting our property, they
19 kept us from mitigating what I viewed as safety
20 issues, significant safety issues. Of course,
21 a few days after we did all this stuff and
22 tried to keep it from moving and all that, I
23 believe it was on or around the 14th of
24 January, about three and a half weeks of water
25 exposure, the wall, you can see now, starts to



1 tilt forward, starts to lean forward, and it
2 kept -- and as it leaned forward, you can see
3 here, cracks developing there (indicating).
4 And you don't see it here, but you can see it
5 at the top, a crack developing there
6 (indicating). Again, this is not a
7 structurally engineered wall. I think Chris
8 Jones said it right, it's just -- just a --
9 it's a wall. It's a piece of concrete. And so
10 when this happened, I said, Renee, I don't care
11 what happens. We have got to make sure that we
12 do not get involved here in some type of
13 fatality. So, I said, get -- we got to get
14 someone in and we got to do something. So,
15 once again, during this entire time, if you go
16 back and look at the sequence, they put it up
17 about five different times, if you look at the
18 sequence of stuff that went on, there was
19 constant communication back with them, saying,
20 why can't we put sand back to dock? Why can't
21 we put sand? No, no and no. So, we hired CNT
22 on or around, I think about four days after
23 this wall started tilting forward to straighten
24 out the wall, and we gave him a initial
25 agreement that -- that's been -- that's in



1 discovery to straighten out this wall. And we
2 also told him, when you straighten it out, we
3 want to make sure you fix the cracks so the
4 wall doesn't -- you know, part of the wall
5 doesn't fall down. So, he informed us that the
6 way to straighten it out might actually be --
7 he said he would try to straighten it out, but
8 the way to straighten it out might actually be
9 to do two things. He said, I have to excavate
10 behind the wall, landward of this wall, to
11 remove the pressure on the wall, pushing it
12 forward. I'm going to get that soil out. I'm
13 going to try to tilt the wall back. If I'm not
14 able to tilt the wall back, I might actually
15 have to bring a concrete saw and cut it in the
16 tracks and then tilt the individual pieces
17 back. Sounded really complicated to me. I
18 said, I don't care what you do, just don't hurt
19 anyone. And -- and so he came in and he
20 excavated landward of the wall, and he then --
21 his first attempt was to just try to bend the
22 wall back. And I'll never forget this, because
23 we were at lunch, and he called me, and he said
24 the wall is straight. And we -- literally, she
25 started crying. You know, she was so -- it was



1 such -- a such a relief, such an emotional
2 thing for us, because we were just so afraid
3 that this thing was going to hurt someone. And
4 so we -- we ran home that afternoon, and he
5 said, what's your plan for this wall? He said,
6 I straightened it up. But he said, this is --
7 this is -- there's no structure to it. I said
8 -- he said, are y'all going to do something
9 over here, like, are these guys all going to
10 put something over here? I said, we've been
11 trying this for three and a half weeks. They
12 will not let us do anything. He said, well, I
13 can put it -- I can even maybe try to anchor it
14 with some screws. But he said, it's -- it's --
15 it's -- it's -- it's not going to hold, you
16 know, if you keep it water-facing. So, I said,
17 what do I need to do. He said, we need to
18 reinforce this wall with a real wall. And so
19 at that point, I amended his contract. I
20 amended his original contract. His original
21 contract was somewhere in the neighborhood of
22 \$100,000. I amended his contract to 300-plus
23 thousand to say it is very important to me that
24 this thing does not fall down. So, we amended
25 the contract. Once again, I asked both my



1 counsel, saying that, hey, we're amending this
2 agreement. It's landward of the setback line.
3 Am I good to go? Once again, they said, I
4 believe you are. And so they came in -- he
5 came in, and he started -- he started
6 straightening this wall out with a reinforced
7 wall, landward of the original wall, just to
8 hold it in place and to hold the wings in place
9 down the side. We immediately started
10 receiving cease and desists. The first cease
11 and desist was received on 1/25. We've been
12 just crucified by statements made by both the
13 CCL and the Department, that we ignored them.
14 They used those words here, that we -- that we
15 had no respect for them. We ignored the law.
16 We did these things. I'm a businessman. I've
17 operated in 50 states. I don't have any
18 history of not complying with the various laws
19 that we have to face in various states.
20 However, I am not -- I am not equipped to
21 interpret all these laws. That's why I use
22 attorneys to interpret the laws for me. And --
23 and so each time they respond, each time they
24 send something, I handed it to -- and I want --
25 I want to emphasize that Merritt Abney is also



1 my corporate attorney. He's been my long term
2 corporate attorney for ten years. He's handled
3 all of our stuff, all of our construction
4 activities throughout the country. And so I
5 handed it to them and say, what is this?
6 Respond. So, every cease and desist that we
7 received, you will see a response.

8 **(Joint Exhibit Number 240 was referenced at this**
9 **time.)**

10 **MR. REDDY:** This is the response to the first cease
11 and desist where he goes through the whole
12 thing, talks about it being landward, saying we
13 were refused the sand. As you can see, refuse
14 to put in sand in front of the property at our
15 own expense. We're not aware -- we are aware
16 of no authority to deny beach compatible sand.
17 The Town has refused to place sand. As shown
18 on that -- retention wall is located landward
19 of the lines of the artificial dunes placed by
20 the Town, and on and on and on and on. So, he
21 responds to this letter. Of course, soon after
22 that we get a second cease and desist. And can
23 you please put up the response to that? J223,
24 Joint 223.

25 **(Joint Exhibit Number 223 was referenced at this**



1 time.)

2 **MR. REDDY:** So, we get a second cease and desist on
3 -- on 2/2, February the 2nd. February the 5th,
4 once again, here is the response back from
5 Merritt Abney to these folks, we're not
6 ignoring anyone. We're not being egregious and
7 all these terms that have been used to describe
8 us. It's -- it's just we -- we just can't
9 interpret every law in every state and every
10 land. We depend on people to do that. And --
11 and -- and so that's the second cease and
12 desist. Then we got a third cease and desist,
13 and this was after both walls were in place and
14 complete. After a temporary injunction that
15 was filed on the 9th of February, for which we
16 stopped work. As a matter of fact, there were
17 some pictures shown by them that shows the wood
18 -- wood stuff on the side and all that, those
19 were the wood forms for the concrete that we
20 didn't remove, because when that injunction was
21 filed, we just stopped. So, some of that --
22 some of that stuff is still laying around there
23 that actually we would like to clean up, but
24 that was there. However, this was to say it's
25 a cease and desist for installing artificial



1 turf inside my yard, inside what is now two
2 concrete walls, all the way up to my backyard.
3 It is now saying that I cannot install turf.
4 This was also responded to and not ignored.
5 Can you please put up this -- yeah, this is the
6 response from -- from -- from Charlie Krawczyk
7 to them on the third injunction.

8 **(Joint Exhibit Number 174 was referenced at this**
9 **time.)**

10 **MR. REDDY:** So, all of this stuff that we keep
11 ignoring stuff is -- is -- is just false.

12 Finally, during the testimony, I want to --
13 I want to focus in on a couple of things. We
14 have been accused of -- yeah, let's -- let's
15 stop there. We've been accused of all kinds of
16 things. They say we were hiding stuff. And
17 when people walk down the beach at certain
18 tides, we demobilize. We didn't do any of
19 that. They showed this picture and said this
20 was inundation.

21 **(Joint Exhibit Number 142 was referenced at this**
22 **time.)**

23 **MR. REDDY:** Your Honor, what happens is when the
24 tide comes up, like it does here, you can see
25 the back -- as it comes closer, the water table



1 comes up. So, when you're excavating, you do
2 not want to be excavating -- when you're going
3 down nine or ten feet, you don't want to be
4 excavating anywhere near high tide because the
5 water table is up. It's not conducive to
6 excavation. So, we always wait to -- when
7 we're doing excavation, for the water to be
8 back. It's not like we're trying to hide from
9 anyone. They also accused us of texts they put
10 up as part of the character assassination about
11 removing -- telling the contractor to remove
12 any equipment from the beach side and all that,
13 and to keep the beach side clean. The reason
14 for that is comments that were made repeatedly
15 that we -- our wall was illegal, built on
16 public beach. And then there is a text from
17 Mr. Jacques to Mr. Jimmy Carroll asking
18 neighbors to send pictures in. Essentially the
19 Russian bulac system of spying on us.

20 **OBJECTION:**

21 **MS. MILTON:** Objection, Your Honor.

22 **MS. PHELAN:** Yeah, objection.

23 **MR. REDDY:** It is. And so ---

24 **THE COURT:** Let's use a different phraseology.

25 **MR. REDDY:** Whatever. So, I will withdraw whatever



1 comment that is. So, the issue what we were
2 trying to do is we said, we don't want the
3 people walking down the beach to be taking
4 pictures and posting them on social media
5 because they don't understand jurisdiction.
6 They're being told that this is public beach.
7 As you know, after your ruling, Your Honor,
8 your ruling on the -- on the -- what do you
9 call it, summary judgment, Ms. Lenhardt, who's
10 an attorney, and should know better ---

11 **OBJECTION:**

12 **MS. MILTON:** Objection, Your Honor.

13 **MR. REDDY:** --- she makes a statement to the press.

14 **MS. MILTON:** We're not -- we're not ---

15 **MR. REDDY:** She ---

16 **THE COURT:** What's the objection?

17 **MS. MILTON:** Well, he's slandering my counsel here.

18 And he's -- I don't even know what he's ---

19 (Inaudible due to simultaneous speakers.)

20 **MR. REDDY:** How am I slandering her counsel when she
21 makes a press statement that my wall is on
22 public beach?

23 **THE COURT:** Okay. That's not slandering.

24 **MR. REDDY:** And it's published in his newspaper. Is
25 Sammy Fretwell here? Yeah, it's on -- he



1 published it.

2 **MS. MILTON:** Okay.

3 **THE COURT:** I was gonna let you argue about the
4 relevancy, but ---

5 **MS. MILTON:** No, no, there's also relevance here,
6 too, but his characterization of what Ms.
7 Lenhardt did is what my problem ---

8 **THE COURT:** Okay.

9 **MS. MILTON:** --- is with that.

10 **MR. REDDY:** Well, my characterization is she
11 slandered me, and she should know better, and
12 my family.

13 **OBJECTION:**

14 **MS. PHELAN:** Objection.

15 **THE COURT:** That's not an issue for us here, Mr.
16 Reddy.

17 **MR. REDDY:** Your Honor, my wife has already filed
18 one police report and has now had to talk to
19 the police for a second time. Why should I be
20 subject to this type of harassment from someone
21 who I do not even know belongs in here?

22 **THE COURT:** Well, that could be a potential issue in
23 another court. It's just not one for me today.

24 **MR. REDDY:** Okay, Your Honor. So, keeping on moving
25 on. We were accused of ignored -- ignoring all



1 these cease and desists and blatant violations.
2 I just showed you what we did. And in -- in --
3 in summary, I would like to say simply that we
4 did absolutely nothing wrong. Our attorneys
5 informed us there's no history of jurisdiction
6 landward of the setback lines since 1999 until
7 -- until me. Ms. Flake -- Ms. Flake and Mr.
8 Slagel and Ms. Cedzo also said the same in her
9 deposition. I have never had water intrude on
10 our property prior to Idalia. Yet, all of this
11 is claimed from one named storm with a handheld
12 GPS with clearly visible vegetation lines that
13 they went landward of. No certified surveyor
14 to verify any of this. And then this is -- and
15 again, what precipitated this -- what
16 precipitated this is not allowing me to even
17 put beach-compatible sand to repair my own
18 yard.

19 Lastly, Your Honor, I want to say that I'm
20 -- we have been repeatedly accused of denying
21 access, access, access, and access, including
22 the wall getting in the way and so on and so
23 forth. So, I want to be clear on that. I
24 donated three feet of my property, and my
25 neighbors donated three feet, there's six feet



1 of property, from Ocean Boulevard all the way
2 to the beach, three feet donated by me, three
3 feet by what used to be my house, for a six
4 feet -- six-foot path all the way from Ocean to
5 the beach. The public can use it. It's open
6 to the public. The -- we have no say in who
7 get -- who goes wherever and does whatever. As
8 far as access parallel to the shoreline, if
9 that's the access we're talking about walking
10 parallel to the shoreline, as Your Honor saw,
11 there is the statute I put up -- put up,
12 believe it's 48-39-120, that clearly says that
13 the mean high tide line is as it was at the
14 time the property was subdivided and -- and
15 that the land below the mean high tide line is
16 held in trust by the State. So, I am not
17 required to keep backing up private land, to
18 keep giving access free of charge. This is
19 America, Your Honor. And -- and so, with that,
20 I will conclude my testimony.

21 Yes, I would like the missing exhibit that
22 we talked about that we couldn't find earlier,
23 I would like to proffer it. This is the permit
24 for the sand that never went in.

25 **COURT REPORTER:** What number?



1 MR. REDDY: 92.

2 COURT REPORTER: Thank you.

3 THE COURT: Well, you're offering it. What's the
4 objection?

5 OBJECTION:

6 MS. MILTON: Relevance to sand that never went in,
7 and speculation that it would have done, I
8 think, with the testimony at the time.

9 THE COURT: I guess I'll -- you testified regarding
10 that, didn't you?

11 MR. REDDY: Matt -- Matt testified -- Matt testified
12 to it, too.

13 THE COURT: Yeah. If the testimony is already in,
14 I'm going to sustain the objection of the
15 permit itself. The evidence that you saw is
16 in, so -- but your proffer is accepted.

17 (Respondent's Exhibit Number 92 was proffered at this
18 time.)

19 MR. REDDY: Yeah, thank you.

20 THE COURT: We're going to take a -- we're going to
21 take a break.

22 (Off the record from 4:08 p.m. until 4:24 p.m.)

23 COURT REPORTER: All rise.

24 THE COURT: Be seated. Thank you.

25 MR. REDDY: Your Honor, could we clean up some



1 business from the last ---

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

3 **MR. REDDY:** So, you denied this letter to Judge
4 Dukes as a exhibit.

5 **THE COURT:** I'm not going to remember that ---

6 **MR. REDDY:** Yeah.

7 **THE COURT:** --- one way or the other.

8 **MR. REDDY:** So, I would like to proffer if it is
9 okay.

10 **THE COURT:** That's fine.

11 **MR. REDDY:** Thank you. This is Exhibit Number R48.
12 **(Respondent's Exhibit Number 48 was proffered at this**
13 **time.)**

14 **THE COURT:** Proceed.

15 **MR. REDDY - CROSS EXAMINATION BY MS. PHELAN:**

16 Q: Mr. Reddy, you had testified about the BluTide
17 communications with the City and how they
18 coordinated with the City, correct?

19 A: You said it was hearsay, so.

20 Q: So, but you haven't shown the Court any of the
21 BluTide communications with the City, have you?

22 A: I was not -- he was -- he was my GC. Why would
23 I have communications -- his communications
24 with the City? He wasn't -- do you know what
25 a GC is?



1 Q: Yes.

2 A: Okay. So, he was my GC, so I'm not privy to
3 what he does. He's got to comply with whatever
4 his requirements are as a GC.

5 Q: But you're aware that he -- that BluTide, your
6 GC, responded to subpoenas in this case, aren't
7 you?

8 A: Responded to what?

9 Q: Subpoenas in this case for all the de- -- all
10 the information he had.

11 A: I'm sure he did, yeah.

12 Q: And you still haven't presented any evidence to
13 this Court to show that those -- that that
14 coordination with the City occurred, have you?

15 A: No, I have not.

16 Q: And you haven't -- you haven't shown this Court
17 or produced any evidence to show the permits
18 that BluTide collected?

19 A: It's not my job to get a permit.

20 Q: When you were discussing the September
21 alterations that you did in 2023, you said it,
22 quote, wouldn't cross your mind that you needed
23 a permit, but you actually had contacted the
24 Department about receiving an emergency order
25 for that same area. Isn't that correct?



1 A: Can I -- you kept spreading this false
2 information before. So, let me just clarify.

3 **MS. PHELAN:** Your Honor, I'd like him to respond.

4 A: No, this is -- this -- you keep -- you keep
5 contributing these motives to me. What that
6 was after the September 11th meeting ---

7 **THE COURT:** Just for the record, I think he is
8 responding.

9 **MS. PHELAN:** Okay.

10 A: Matt -- Matt Slagel at the September 11th
11 meeting -- I don't know why that recording is
12 not in the exhibits, it should be, because
13 it'll tell you everything you need to know.
14 But you were there at that meeting, along with
15 me. And at that meeting, a new theory was ---

16 **MS. PHELAN:** Your Honor, this isn't responsive.

17 A: No, a new -- I'm -- I'm getting to a new theory
18 ---

19 **THE COURT:** Well, let's just -- wait a second. Are
20 you answering ---

21 **MR. REDDY:** Her question. She's asking me why I
22 applied -- that I applied for a permit. I'm
23 giving her the background on why we applied for
24 the permit.

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



1 A: So, at that time, he told us -- he actually
2 told Theresa that the dune that was being put
3 in by the City would need to be vegetated in
4 order to -- for the set -- for the critical
5 line to move back to the setback line. A
6 question was asked, which is on the recording,
7 which said, did the City get a permit to
8 vegetate the dune; is it part of the whatever
9 emergency permit? And the answer was no. So,
10 both Theresa and us, we applied for a
11 vegetation permit to vegetate a City-installed
12 dune. Why we should do that, I don't know, but
13 that's the new theory that was professed.

14 Q: Okay. You also testified at the beginning of
15 your testimony here today that you did several
16 things for -- as a part of your due diligence
17 in purchasing the property, correct?

18 A: Yes, ma'am.

19 Q: Okay. Do you remember -- do you recall being
20 under oath and me taking your deposition?

21 A: I do remember that, yeah.

22 Q: I'm gonna -- I'm gonna, with the Court's
23 permission, open this deposition testimony. I
24 just want you to follow along with it.

25 A: Sure.



1 Q: This is sealed.

2 (Original Reddy Deposition Transcript was opened.)

3 **MS. PHELAN:** This is sealed.

4 Q: So, if you'd turn to page 34 in your deposition
5 testimony, please. I'm sorry; turn to page 32.

6 A: 30-what?

7 Q: 32.

8 A: Yeah.

9 Q: So, at line seven on page 32, I asked you to
10 tell me about the due diligence ---

11 A: Wait, line 37 you said?

12 Q: 7.

13 **THE COURT:** Line 7.

14 A: 7, oh, sorry.

15 Q: Line 32 -- I mean, page 32, line 7.

16 A: Okay.

17 Q: I said, can you tell me what you did with
18 regards to independent verification of the
19 surrounding area or inspection and findings
20 with requests to the property. Tell me about
21 your -- did you do due diligence before you
22 purchased the property? And there was an
23 objection to that question. So, the question
24 was, is what you -- whether -- what you did the
25 due diligence before purchasing the property.



1 Answer, we did an inspection of the property as
2 you would inspect. Question, okay, anything
3 else besides an inspection of the property?
4 Answer, not that I recall. Question, did you
5 put it -- get a survey done at the time you
6 purchased this property, like a current survey?
7 Answer, I believe they had a survey. I cannot
8 remember if we had a new survey done. There
9 was a survey, obviously, that had to be filed
10 with the plat. Question, okay, did you reach
11 out to the Department at all to find out what
12 you could and could not do on the beach -- on
13 the Beachfront Management Act? Answer, no.
14 And then on page 34, did you -- did you follow
15 along with me?

16 A: Yep, I'm all there.

17 Q: All right. And on page 34 it's at line 9, we
18 were talking about the Exhibit B disclosure ---

19 A: Yep.

20 Q: --- and it said, the question was, so, the
21 first sentence of the Exhibit B disclosure
22 says, quote, because of the proximity of this
23 property to the Atlantic Ocean, its use and
24 enjoyment are regulated by the Coastal Zone
25 Management Act, Code of Laws South Carolina for



1 1976, Section 48-39-10, et. seq., as amended.
2 Is that correct? Answer, correct. Question,
3 but you relied on your attorneys to look
4 through this. You didn't actually pull up the
5 Act? Answer, of course, yeah, no. Question,
6 fair enough. Depending on the location, the
7 baseline and setback line, the construction,
8 repair, reconstruction modification of
9 habitable structures, improvements and erosion
10 control structures may be prohibited or
11 severely constructed -- restricted. Answer,
12 correct. Question, okay. So, did anyone when
13 you were purchasing in 2014 ever explain to you
14 that there were protections in the Beachfront
15 Management Act concerning the area near the
16 setback line and baseline or near the
17 beach/dune system? Answer, no, ma'am. Or --
18 question, or that there were protections for
19 areas in close proximity to the beach/dune
20 system? Answer, I do not believe we got into
21 that level of detail. Do you see that?

22 A: I do.

23 Q: So, you didn't tell me about all the -- all the
24 things that you testified this morning during
25 your deposition that the due diligence ---



1 A: You just left out the next sentence.

2 Q: --- contacting the Department?

3 A: No, we didn't contact the Department. Why
4 would I contact the Department? I said -- we
5 -- I never -- I'm sorry, you misunderstood my
6 testimony. We never contacted the Department.
7 We never spoke to anyone in the Department
8 because no one ever told us we needed to, as
9 long as we stayed landward of the baseline and
10 setback line. As you can see, the very next
11 sentence says, the general consensus was we
12 have to be aware of the baseline and setback
13 line, which actually they were also told when
14 we were constructing 120 Ocean, which is the
15 house next door that I referred to when I test-
16 -- testified that we have to be aware of the
17 location of baseline and setback line, which
18 drives a lot of what we could do with
19 construction or destruction as the case may be.
20 So, that's entirely consistent with what I just
21 said.

22 Q: Mr. Reddy, you had also testified about your --
23 you and your wife's fear of the wall hurting
24 someone, and that it was very stressful,
25 correct?



1 A: Yeah.

2 Q: Did you ever consider removing the wall like
3 you had been requested to do?

4 A: You know, this is another one that I would just
5 like y'all to think of the physics of it.

6 Q: I ---

7 **MS. PHELAN:** Your Honor.

8 A: No, but you asked me, I want to answer the
9 question.

10 **THE COURT:** Well, I tell you what, answer the
11 question, and then you can explain your answer,
12 how about that.

13 **MR. REDDY:** You want me to answer the question with
14 a yes or no answer?

15 **THE COURT:** And then you can explain.

16 A: No, we did not think of removing the wall
17 because physics would dictate that if you got
18 a wall here and you got the beach there, you
19 remove the wall, the yard falls into the beach.
20 The law of physics. You cannot remove a wall
21 on a beach that's been depleted. It's not --
22 it's physically not possible. We're not
23 causing -- it's just like -- it's like saying,
24 if you got a -- I don't know, a bottle of milk
25 or something and take out one side, the rest of



1 it's going to fall out. You can -- you can
2 take a wall down, if the beach level comes up.
3 If you can restore the beach level, yeah.
4 Otherwise, remember where the beach level was
5 prior to the retaining wall being built. The
6 retaining wall was in the ground. It was
7 invisible. And all of a sudden, when you have
8 a washout, you tell me take it out, the whole
9 yard will fall in. I mean, it's physically
10 impossible. I mean, it's physically not
11 possible to accomplish this.

12 Q: And you never considered moving the wall closer
13 to your house?

14 A: Ma'am, I'm a construction guy. You can't move
15 it.

16 Q: Thank you, Mr. Reddy, that's all the questions.

17 **MR. REDDY - CROSS EXAMINATION BY MS. MILTON:**

18 Q: Mr. Reddy, did you just testify that you're a
19 construction guy?

20 A: Yeah.

21 Q: In your construction projects, do you have to
22 get permits?

23 A: Of course, 50 states, yeah.

24 Q: Did you apply for a permit for your
25 construction in this matter?



1 A: I've testified to this before. We were -- we
2 built a house next door. There was no permit
3 requirements, and no one has ever claimed
4 jurisdiction landward of the setback line,
5 which is the reason the legislature has a
6 setback line, so, you don't have to keep
7 running around looking for plants in the ground
8 and all this kind of stuff. That's always been
9 the case. If you have a variable line, you
10 will stop commercial transactions ---

11 Q: Mr. Reddy, did you apply for a permit for your
12 construction in this matter?

13 A: I've never applied for a permit on any ---

14 **MS. MILTON:** Nothing further, Your Honor.

15 A: --- landward of the setback line.

16 **THE COURT:** Do you wish to offer re-direct?

17 **MR. REDDY:** Yes, Your Honor, I would. I would love
18 to re-direct myself.

19 **THE COURT:** Okay. Testimony on questions they've
20 asked of you.

21 **MR. REDDY:** Yes.

22 **MR. REDDY - RE-DIRECT STATEMENT:**

23 **MR. REDDY:** So, in re-directing myself, I just --
24 I'm going to make sure -- how do I do this?
25 This is the wall. This is the beach. All over



1 here is my yard. If I blow this out, this yard
2 falls down. My -- it's -- it's not possible.
3 It's -- it's just physically impossible for
4 what she just asked in cross. The second
5 thing, again, going back to the specific
6 question she was saying, my testimony has been
7 entirely consistent that when I built the house
8 next door, which is a 7000 square foot house
9 from the ground up, and we -- we did two
10 renovations on the existing house that we have,
11 one when we bought it and rented it, and one
12 when we decided to move into it, we have never,
13 to my knowledge, gotten a permit for anything
14 landward of the setback line. Has never been
15 asked of us. Has never been told to us. I --
16 I -- I don't really know where it's coming from
17 right now. It's a -- it's a -- something new.

18 **MR. REDDY:** I rest, Your Honor.

19 **THE COURT:** You may step down.

20 **MR. REDDY:** Do I need to turn this in? What do I do
21 with this? What do I do with this? Give it to
22 her? Give it to you?

23 **THE COURT:** Just leave it there for right now.

24 **MR. REDDY:** Just -- okay. Your Honor, this is some
25 other depositions of Ms. Elizabeth von Kolnitz



1 that we -- she's not here, but we'd like to
2 enter this.

3 **COURT REPORTER:** Can you just move the microphone
4 for me? Thank you. Thank you so much.

5 **THE COURT:** Is this -- is that marked or ...

6 **MR. REDDY:** This is Ms. Elizabeth's deposition.

7 **THE COURT:** Elizabeth whom?

8 **MR. REDDY:** She's the 30 -- She's one of the
9 deposition people for DHEC.

10 **THE COURT:** Okay. Go ahead. You can step down.
11 You can step down from the witness stand.

12 **MR. REDDY:** Thank you.

13 (Off the record conversations.)

14 **MR. REDDY:** It's on the list we turned in she said,
15 109 and 110.

16 **COURT REPORTER:** One was Cedzo. 109 is the
17 designations of the testimony of Elizabeth
18 Kolnitz.

19 **MR. REDDY:** Yes, ma'am.

20 **COURT REPORTER:** And then 110 was the deposition of
21 Emily Christina Cedzo.

22 **MS. MILTON:** Okay. So, one, I thought we went
23 through said, Cedzo earlier. I'm not sure
24 exactly what was put into the record here on
25 that. Are we -- do we have something new?



1 **THE COURT:** I don't know.

2 **MS. MILTON:** Okay. I just -- I'm trying
3 desperately, Your Honor.

4 **THE COURT:** I'm here to rule on evidence.

5 **MS. MILTON:** I'm just trying to keep up, Your Honor.

6 **THE COURT:** All right. So, you are offering -- is
7 that Cedzo?

8 **MS. MILTON:** That's what I just heard is that this
9 was Cedzo.

10 **MR. REDDY:** I'm sorry. Cedzo's already in, I think.
11 Cedzo was in this morning.

12 **COURT REPORTER:** So, Exhibit 110, which it was my
13 understanding you admitted, is the deposition
14 testimony of the 30(b)(6) of Emily Christina
15 Cedzo. So, this is the deposition itself of
16 Cedzo.

17 **MS. MILTON:** Is that from this morning?

18 **COURT REPORTER:** And then -- yes, ma'am. And then
19 Exhibit 109 is the Respondent's designations of
20 the deposition testimony of Elizabeth von
21 Kolnitz.

22 **MR. REDDY:** May I ask for forgiveness, Your Honor?

23 **THE COURT:** Okay.

24 **MR. REDDY:** Ms. Cedzo's was already entered. This
25 is just for 109.



DEPOSITION DESIGNATIONS - ELIZABETH VON KOLNITZ:

MR. REDDY: Elizabeth von Kolnitz.

THE COURT: So, you're offering again ---

MR. REDDY: Elizabeth -- 1 -- 109.

THE COURT: Any objection?

MR. CHURDAR: The entire deposition?

MR. REDDY: This is -- what do you call it?

MR. CHURDAR: The deposition transcript.

MR. REDDY: Yeah -- no, the highlighted version,
what do y'all call it? The designated ---

MR. CHURDAR: Oh, you're offering the designations?

MR. REDDY: Yeah.

MR. CHURDAR: Okay. Well, do you have the ---

THE COURT: Normally, you have the designations
taken -- taken out, so that you only offer the
designations themselves.

MR. REDDY: Oh.

THE COURT: Do you wish to ---

MR. REDDY: It's a beautiful highlight, Your Honor.

THE COURT: Do you wish to -- Allow him to admit the
highlighted portions of the ---

MR. CHURDAR: Well, if we could go through, and I'm
not implying that anything would be done
purposefully highlighting something, but I've
been given the designation to just ensure that



1 that's the only thing that's highlighted. But
2 before I do that ---

3 **THE COURT:** Or you could just stipulate that -- we
4 could agree that the exhibit is admitted, but
5 only as to the designations that were ---

6 **MR. CHURDAR:** Well ---

7 **MR. REDDY:** You got them digitally, right? You got
8 the designation ---

9 **THE COURT:** Whoa, let me talk to ---

10 **MR. CHURDAR:** I didn't. We did. But one question
11 that I have kind of this more foundational
12 question, is under Rule -- Rule 32, this is
13 section (a)(5), where it talks about excerpts
14 from depositions to be offered at trial, says,
15 at least one day prior to offering excerpts
16 from the deposition in the case in chief,
17 unless otherwise ordered by the trial court
18 judge, shall furnish to the trial judge, and at
19 the same time and by the same means, furnish to
20 all opposing counsel the excerpts from the
21 deposition. And if there was one provided to
22 the -- to the Court, we weren't copied on it.
23 I mean, we have gotten excerpts previously, but
24 I don't believe the Court has.

25 **THE COURT:** Well ---



1 **MR. REDDY:** 109 was exchanged, Your Honor. The
2 designations were turned in digitally.

3 **MR. CHURDAR:** If they've been turned into the Court,
4 I'm not aware of that.

5 **THE COURT:** Right.

6 **MR. CHURDAR:** That's my -- that's my point. Under -
7 - under the rule, that's ---

8 **THE COURT:** I recognize what the rule says, but he's
9 offering it. What's the prejudice. If it's
10 submitted to the Court so that I can make a
11 ruling and understand what the ruling would be.
12 You're right. I don't have it in front of me
13 to argue about what designations should come in
14 and what shouldn't if there were arguments as
15 -- as to some of the designation --
16 designations not being admissible.

17 **MR. CHURDAR:** Uh-huh.

18 **THE COURT:** But if that's not the issue for you, and
19 that you are aware of the designation, and you
20 have no objection to the designation, I don't
21 see that as a ---

22 **MR. CHURDAR:** I do have some objections.

23 **THE COURT:** Okay.

24 **MR. CHURDAR:** But I just thought before I got to
25 that, I would mention ---



1 **THE COURT:** Okay.

2 **MR. CHURDAR:** --- that requirement under the rule.

3 **THE COURT:** All right.

4 **OBJECTION:**

5 **MR. CHURDAR:** As far as the objections to the
6 designations, the Department objects to the
7 designation that is page 42, starting at line
8 23 ---

9 **THE COURT:** Well, then, I need someone to hand me a
10 deposition. Well, you need your copy, don't
11 you?

12 **COURT REPORTER:** That's just the designations.

13 **THE COURT:** Yeah, but that won't help me. I need to
14 read it. All right. Go ahead.

15 **MR. CHURDAR:** So, Mr. Reddy is designated page 42,
16 line -- starting at line 23 through 44 line 1.
17 And, Your Honor, I believe that in light of the
18 Court's summary judgment order, it is
19 irrelevant. I believe that it is also
20 irrelevant regarding legislative intent, which
21 I believe is the purpose of that.

22 **THE COURT:** This is a 30(b)(6), correct? I overrule
23 that objection.

24 **COURT REPORTER:** Mr. Reddy, you see that microphone
25 right in front of you, could you just move it



1 on the other side of that space? That would be
2 great. Thank you so much. Just gets feedback.
3 Thank you.

4 **MR. CHURDAR:** That she was not designated as a
5 30(b)(6) witness, so.

6 **THE COURT:** Okay. So, this person was -- is simply
7 deposed?

8 **MR. CHURDAR:** Yes, sir.

9 **THE COURT:** Now, I've got to go back and look at it
10 again.

11 (Laughter)

12 **THE COURT:** That changes everything. All right.
13 Any response to his -- his -- she's testifying
14 about retreat, and I don't know that that was
15 an issue before this Court, the policy of
16 retreat.

17 **MR. REDDY:** The connection between retreat and
18 what's going on here is this, she was involved
19 in this reformulation of the regulations that
20 came out of the workforce group that they ended
21 up getting approved. And part of the way this
22 whole thing played out was this issue of saying
23 that they repeated many times that the erosion
24 was somewhat moving past the so-called old
25 beach dune setback lines, and, therefore, they



1 needed to preserve the beach by getting more
2 jurisdiction. And this is a conversation that
3 relates directly to why they changed the
4 regulation. But really they changed the
5 regulation eventually and retroactively applied
6 it to me. So, this is all tied in -- I mean,
7 it's all part of the conversation. She, after
8 all, is an agent of the opposing party. I
9 think she was some type of chief. I don't know
10 what type of designations they have over there,
11 but if someone is the chief, they speak as a
12 chief.

13 **THE COURT:** It would be an admission of a party
14 opponent. It's just the issue of relevancy.
15 Any response?

16 **MR. CHURDAR:** Well, Your Honor, I mean, the
17 Department is -- Ms. Flake has testified, in
18 addition to -- the Court's aware of Summer
19 House, there are other ongoing enforcement
20 actions. This is not something that is -- that
21 is a selective enforcement action.

22 **THE COURT:** That's your position. His position is
23 different.

24 **MR. CHURDAR:** Right, but I'm saying there -- there
25 has been testimony specifically to other



1 enforcement actions that have been initiated
2 right now.

3 **THE COURT:** I don't know how that responds to ---

4 **MR. CHURDAR:** To his -- it's just -- it's
5 responsive to his belief that this was -- that
6 this was specifically an enforcement action,
7 specifically to him. And I guess, by
8 implication, no one else, so.

9 **THE COURT:** This is about a change of policy, and --
10 or about the change -- changing the regulation
11 and the policy behind changing that regulation.

12 **MR. CHURDAR:** Right.

13 **THE COURT:** How's that got to do with what you just
14 said? I don't really get it.

15 **MR. CHURDAR:** I -- I was responding to something
16 that probably is not really germane to the
17 issue, so ---

18 **THE COURT:** Okay.

19 **MR. CHURDAR:** --- just ...

20 **MR. REDDY:** Again, Your Honor ---

21 **THE COURT:** How about on this, you objected to this.

22 **MR. CHURDAR:** Right. Your Honor, I believe that the
23 legislative intent is not -- I mean, what --
24 what Your Honor wrote in the summary judgment
25 order with regard to the jurisdiction that the



1 Department has, whether It's landward of the
2 setback line or not, the ---

3 **THE COURT:** Can I stop you just a second?

4 **MR. CHURDAR:** Yes, sir.

5 **THE COURT:** Because you remember how I started this
6 case when I was addressing Mr. Reddy's
7 arguments regarding the implications of the
8 summary judgment order, and I said, clearly,
9 the case law says that my order is not a final
10 order on the law, so, I don't think you can use
11 my summary judgment order as a final order on
12 the law and then thereby base that premise to
13 go forward on another argument.

14 **MR. CHURDAR:** Well ---

15 **THE COURT:** That's the only weakness I'm seeing
16 there.

17 **MR. CHURDAR:** Okay.

18 **THE COURT:** Maybe not the only ---

19 **MR. CHURDAR:** Your Honor, as far as -- far as the --
20 any kind of legislative intent that was -- that
21 was derived out of what Ms. Von Kolnitz
22 testified to at her -- at her deposition,
23 whether it's stakeholder work groups or line
24 reports or anything like that, I don't believe
25 that those things are relevant to determining



1 legislative intent.

2 **MR. REDDY:** Can I respond?

3 **THE COURT:** Yeah.

4 **MR. REDDY:** I promise next time I come in, Your
5 Honor, I'll have a law degree.

6 (Laughter)

7 **MR. REDDY:** I have no idea what he's talking about.
8 So, if you recall ---

9 **THE COURT:** What he's arguing is in South Carolina -
10 --

11 **MR. REDDY:** Yeah.

12 (Inaudible due to simultaneous speakers.)

13 **THE COURT:** --- someone's testimony about legislative
14 intent, whether it be a lawmaker or anyone
15 else, is not admissible unless they're
16 testifying about the policy behind the makings
17 of the law ---

18 **MR. REDDY:** Correct.

19 **THE COURT:** --- and that policy is something that
20 would be relevant, so.

21 **MR. REDDY:** So, this workgroup that they're talking
22 about that directly ended up changing the
23 regulations that they're talking about, that
24 now they're using to say gives them
25 jurisdiction, came out of this 2018 retreat



1 policy change. So, that was the basis for
2 forming this group is the 2018 policy change.
3 So, we're going to form a workgroup, we're
4 going to take the workgroup, the workgroup's
5 going to look at this thing, what does it mean,
6 how do we need to change the regulations in
7 response to that change. That's what she's
8 talking about. That's what the chief's talking
9 about.

10 **THE COURT:** I've allowed your evidence in about the
11 workgroup as it relates to any potential
12 penalty you may have to pay because, you know,
13 that reflects the -- their public position
14 regarding this law. This fee relates more to
15 the changing of the law, and I think I'm going
16 to sustain that objection on this particular
17 question.

18 **MR. REDDY:** Okay.

19 **THE COURT:** Do you have any other objection?

20 **MR. CHURDAR:** Well, I have -- I have three more.
21 There's -- there's a number of them that --
22 that we are not objecting to.

23 **THE COURT:** I would hope so. But what's the other
24 three?

25 **OBJECTION:**



1 MR. CHURDAR: Page, 46 line 13 to 50, line 7.

2 THE COURT: Let me -- let me get there.

3 MR. REDDY: Must not be a very good chief, Your
4 Honor.

5 THE COURT: What's your objection here?

6 MR. CHURDAR: It's the same thing, Your Honor.

7 COURT REPORTER: You said page 46, line ---

8 MR. CHURDAR: 13 ---

9 COURT REPORTER: Thank you.

10 MR. CHURDAR: --- through page 50, line 7.

11 THE COURT: So, this appears to be the beach/dune
12 system and the standards regarding it. Is this
13 related to the change of legislation?

14 MR. REDDY: This is related to the regulation he's
15 talking about, where they changed the
16 regulation in '24 that directly is the
17 regulation they're using retroactively on me.

18 MR. CHURDAR: Your Honor, I'll tell you what, I will
19 withdraw that one and move on to the next one.
20 (Objection withdrawn.)

21 THE COURT: Yeah. Go ahead.

22 OBJECTION:

23 MR. CHURDAR: Page 79, line 18 to 80, line 8.

24 MR. REDDY: Hold on. 79, what?

25 MR. CHURDAR: Line -- starting at line 18.



1 **THE COURT:** I really don't even get the answer from
2 that.

3 **MR. CHURDAR:** I'm sorry?

4 **THE COURT:** I mean, the answer is just, okay. I
5 don't know how pertinent that is. There's a
6 question ---

7 **MR. CHURDAR:** Well ---

8 **THE COURT:** --- and then there's an okay, which
9 really doesn't answer the question, is what I'm
10 getting at.

11 **MR. REDDY:** He wants to eliminate all of it where
12 she now -- Your Honor, I have to say most of
13 the people who work in private business, they'd
14 fire them if they made this many mistakes. It
15 says, yeah, it's probably a mistake that was
16 written.

17 **THE COURT:** I must have read the wrong ---

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

19 **THE COURT:** Yeah, it just said okay at the end of
20 everything. I don't know -- I'll sustain that
21 ---

22 **MR. REDDY:** Could you tell -- could you tell me --
23 I'm not sure what you're saying. What are you
24 saying?

25 **MR. CHURDAR:** Well, just that the ---



1 **MR. REDDY:** Which line to which line?

2 **THE COURT:** I don't know how it hurts or helps
3 anybody, so I really don't understand your
4 objection, and I don't see the need to ---

5 **MR. REDDY:** I'm trying to understand what he's
6 objecting to. What is the lines again?

7 **THE COURT:** He said ---

8 **MR. CHURDAR:** Because, Your Honor, the -- the
9 meeting minutes that are being asked -- Ms. Von
10 Kolnitz is being asked about, it's not a
11 reflection of the legislative intent. I mean,
12 it's -- there's so many things that were
13 brought up in discovery about ---

14 **THE COURT:** It's just a question where you derive
15 evidence is in answers.

16 **MR. CHURDAR:** Well, Your Honor, that -- that is
17 where I think it's going. I mean. So, anyway,
18 I've made my objection, and I ---

19 **THE COURT:** I'll sustain the objection.

20 **MR. REDDY:** Your Honor, can I say something before
21 you do that?

22 **THE COURT:** Oh, yes, sir.

23 **MR. REDDY:** That -- if you actually read that in
24 context, that's just setting up for her test-
25 -- for what she talks about again on page 81.



1 **THE COURT:** Okay.

2 **MR. REDDY:** That's just a setup for page 81. It's
3 not -- it's not just okay. Just -- she -- he
4 goes to these things and then -- and then it
5 continues on in page 81, which is -- if you
6 read page 81 without that, it -- it's like
7 missing something there. So, it's just a set
8 up to continue. And if you look at page 81,
9 it's all relevant. It's all about beachfront
10 jurisdictional lines.

11 **THE COURT:** I don't see -- I think I can discern
12 page 81 without the previous one.

13 **MR. REDDY:** You're the boss.

14 **THE COURT:** I don't know if I'm the boss. I'm just
15 saying based on what I've heard, I can
16 understand that. All right. That the last
17 one.

18 **OBJECTION:**

19 **MR. CHURDAR:** Then the last one is page ---

20 **THE COURT:** And I'm holding you to this one.

21 **MR. CHURDAR:** Page -- page 91, line 21 to 92, line
22 1.

23 **THE COURT:** Okay.

24 **MR. CHURDAR:** And ---

25 **THE COURT:** This really hurts the Department. I



1 mean ---

2 **MR. CHURDAR:** Well, I -- I -- I under- ---

3 **THE COURT:** I just think that's almost humorous, Mr.
4 Churdar.

5 **MR. CHURDAR:** Well, I'm glad to entertain you, Your
6 Honor. It is -- it is ---

7 **THE COURT:** Do you recall working on a workgroup?
8 Yes.

9 **MR. CHURDAR:** You know what, I'll withdraw that.
10 (Objection withdrawn.)

11 **THE COURT:** Thank you.

12 **MR. CHURDAR:** Okay. And then ---

13 **MR. REDDY:** I think he used up his quarter, Your
14 Honor.

15 **MR. CHURDAR:** So, we have designations that we agree
16 to, 11:14 to 12:6, 18:5 to 18:15; and then 22:2
17 to 22:10; and I was paying attention to this,
18 so, to -- what you were saying, Your Honor, so,
19 I don't recall that I have designated -- you
20 know what, I'm sorry. These are -- these are
21 my designations.

22 **THE COURT:** Yeah.

23 **MR. CHURDAR:** My apologies.

24 **THE COURT:** Yeah.

25 **MR. CHURDAR:** Okay. And then 42:4 to 42:22, but



1 that was only if you had overruled my objection
2 to pages 42 and 45, which you did not do, so.
3 So, scratch that one, scratch the next two.
4 Okay. And then let's move on designating 55:8
5 to 55:16.

6 **THE COURT:** I thought you said you had -- you were -
7 - oh, you're now talking about yours?

8 **MR. CHURDAR:** Yes, sir.

9 **THE COURT:** All right.

10 **MR. CHURDAR:** So -- so, I just ---

11 **THE COURT:** I don't think he objected to your
12 designations, did he? Or this is a new one?

13 **MR. CHURDAR:** I'm publishing my designations right
14 now.

15 **THE COURT:** Okay. Go ahead then.

16 **MR. CHURDAR:** So, 55:8 to 55:16, 65:6 to 65:15,
17 69:21 to 70:11, 76:8 to 77:3, 77:17 to 77:25,
18 86:4 to 86:10, 86:15 to 86:23, 87:14 to 87:20,
19 91:4 to 91:20.

20 **THE COURT:** Any objection to those?

21 **MR. CHURDAR:** He can have them, Your Honor.

22 **THE COURT:** That's what I figured you'd say. How
23 about -- any objection?

24 **MR. CHURDAR:** I'm sorry?

25 **THE COURT:** I'm looking to ---



1 **MS. MILTON:** None, Your Honor.

2 **THE COURT:** All right. Well, those are so
3 designated.

4 (Portion of Ms. Von Kolnitz' deposition have been
5 designated.)

6 **THE COURT:** All right. Mr. Reddy, I think I might -
7 - if those are designated, do I have anything
8 in the record to -- you have them highlighted?

9 **MR. REDDY:** Y'all are gonna need this, right?

10 **THE COURT:** Yes, I think so. Do you have that
11 marked?

12 **MR. REDDY:** Yeah.

13 **COURT REPORTER:** This will be Respondent's Exhibit
14 111.

15 (Respondent's Exhibit Number 111 was marked for
16 identification purposes.)

17 **THE COURT:** All right. Respondent's 111 is
18 admitted for the highlighted portions that
19 reflect designation.

20 (Respondent's Exhibit Number 111 was admitted into
21 evidence for the highlighted portions that reflect
22 designation.)

23 **THE COURT:** Are we good on that, Mr. Churdar?

24 **MR. CHURDAR:** Yes, sir.

25 **THE COURT:** Okay. All right. Mr. Reddy, anything



1 else?

2 **MR. REDDY:** We rest.

3 **THE COURT:** Oh, okay. Well, then I guess we'll just
4 start back tomorrow. What time? 9:00 again or
5 ...

6 **MR. REDDY:** Perfect.

7 **MS. LENHARDT:** Ms. Milton would like to start at
8 10:00.

9 **MS. MILTON:** I'd like to start at 10:00 tomorrow,
10 Your Honor.

11 **MR. REDDY:** Your Honor, we want -- we want to finish
12 up tomorrow. We need to get home to our child.

13 **MS. PHELAN:** I think we can easily finish up
14 tomorrow. I don't know ---

15 **THE COURT:** Yeah ---

16 **MS. PHELAN:** Your Honor is ---

17 **THE COURT:** I don't know if I possess that same
18 confidence. I would like to go at 9:00. I'm
19 sorry. 9:00. Or either I'd like to start at
20 4:00 and let's end at 5:00.

21 **MS. MILTON:** I would also like that.

22 **THE COURT:** Do you intend to offer rebuttal
23 evidence?

24 **MS. PHELAN:** Yes.

25 **THE COURT:** Okey doke.



1 **MS. PHELAN:** I just wanted a point of clarification.
2 Are we -- are we arguing closings tomorrow or
3 are we proposing orders only?

4 **THE COURT:** All right. I normally -- Mr. Reddy, I
5 normally prefer rather than have closing
6 arguments, I have parties, in these type of
7 cases, present a proposed order of which they
8 can make their arguments in the proposed
9 orders. Do you feel comfortable doing that?

10 **MR. REDDY:** Your Honor, I -- I'm a closer, Your
11 Honor. I'd like to make a closing argument.

12 **THE COURT:** Okay. I'm still gonna want to proposed
13 orders.

14 **MR. REDDY:** That's fine. That's fine.

15 **THE COURT:** I won't need the argument and ---

16 **MR. REDDY:** I promise to keep it brief.

17 **THE COURT:** Well, under the circumstances, I'm going
18 to have closing argument and then in the
19 proposed orders, submit an order that you would
20 believe that I would sign.

21 **MR. REDDY:** All right.

22 **MS. MILTON:** My estimate was ---

23 **THE COURT:** I'm fine ---

24 **MS. MILTON:** My estimate was without closing, so,
25 don't hold me to ---



1 (Laughter)

2 **THE COURT:** Therein lies the reason I would like to
3 start at 9:00.

4 **MR. REDDY:** Your Honor, can I ask as a novice, how
5 long would we have to provide a proposed order?

6 **THE COURT:** What I normally say is 30 days from the
7 date of the trial or if transcripts are
8 requested, 30 days from the date the transcript
9 is made available to you.

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

11 **MR. CHURDAR:** And, Your Honor, I -- you told us your
12 preference, and that's what we've always done.
13 But in the case of Mr. Reddy wanting to make an
14 argument, would you want the Department to make
15 one, as well? I mean, I ---

16 **THE COURT:** Absolutely, if I'm going to let one side
17 make a closing argument ---

18 **MR. CHURDAR:** Okay.

19 **THE COURT:** --- I don't know if I want it, but I
20 will allow you the opportunity to make one.

21 (Laughter)

22 **THE COURT:** How about that?

23 **MR. CHURDAR:** Yes, sir.

24 **THE COURT:** All right. Thank y'all ---

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



1 **THE COURT:** Hearing's adjourned for today.

2 **(Day 4 of the hearing adjourned at 5:07 p.m.)**

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1 DAY 5 - MONDAY, MAY 20, 2025

2 **COURT REPORTER:** All rise.

3 **THE COURT:** Be seated.

4 **PRELIMINARY MATTERS:**

5 **THE COURT:** All right. Y'all, I want to address a
6 few issues first. I had insomnia last night,
7 so I was thinking about this trial. You know,
8 some people count sheep. But I kept using --
9 or not kept, several times yesterday, I used
10 the phrase equal protection, and that was
11 inartful phraseology. What I was really getting
12 at is there's the jurisdictional issue, the
13 sanction issue, and I didn't use the word
14 disparate treatment, either, because that's an
15 equal protection concept. But in making my
16 rulings, I was considering whether the exhibits
17 at the time were pertinent or probative to the
18 fairness of the sanction. And so I wanted to
19 clarify y'all that I do understand equal
20 protection and I inartfully used the word. The
21 other thing is, when I was making a ruling, I
22 want all of y'all to understand when I'm making
23 these rulings, y'all are trying throwing these
24 exhibits at me, and I haven't had a chance to
25 read them. I'm hearing what y'all are saying



1 about the exhibits, but the Hilton Head one, I
2 haven't read that consent order, so I've
3 allowed some things in. If it was a jury
4 trial, I might not would have allowed them in
5 until I read it, but I've allowed them in
6 knowing that I can read it and discern the
7 probative value. Finally, I have a meeting
8 scheduled at 1:00 o'clock involving my court
9 that's been scheduled for a while. It is one
10 with a person of whom I cannot put off. So,
11 I'm going to need to break about 12:30, 12:45
12 -- closer to 12:30 and 12:30 to 1:30. Okay,
13 y'all. Anything else?

14 **MR. REDDY:** Yes, Your Honor. Yesterday, during my
15 testimony, we had -- we talked about Hilton
16 Head Piping Plover, and I look at it as an
17 equal protection issue, like you said, and
18 unequal application. So, there were several
19 Respondent Exhibits associated with Piping
20 Plover that were not allowed in in some
21 instances, and -- and are sitting on the
22 Respondent list that were not agreed to on the
23 joint list. So, what I'd like to do is offer
24 all the Piping Plover exhibits, because I
25 believe they're relevant, to be entered into



1 the evidence or into the record.

2 **THE COURT:** And Piping Plover involved what?

3 **MR. REDDY:** Piping Plover is the Hilton Head case.

4 **THE COURT:** Oh, so that's -- that's the Hilton Head
5 case.

6 **MR. REDDY:** That's the Hilton Head case, the five --
7 five -- five homes built a wall that's still
8 standing.

9 **THE COURT:** Okay. Well, I thought I let some of
10 that in.

11 **MR. REDDY:** You did let some of it in, but there's
12 several exhibits on this list that are not in
13 ---

14 **THE COURT:** Oh ---

15 **MR. REDDY:** --- all relating to Piping Plover.

16 **THE COURT:** Okay. So, you're wishing that they be
17 entered now or ---

18 **MR. REDDY:** Yes, yes, sir, Your Honor.

19 (Inaudible due to simultaneous speakers.)

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

21 **THE COURT:** Are you wishing that they be entered
22 into evidence?

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

24 **THE COURT:** Okay. What's the position?

25 **MS. LENHARDT:** I'm not even sure which ones he's



1 referring to.

2 **MR. REDDY:** Yeah, I apologize.

3 **MS. LENHARDT:** Your Honor, we'll need a minute to
4 go through them to figure out ---

5 **THE COURT:** Why?

6 **MR. REDDY:** They were all shared previously, so.

7 **THE COURT:** I know, but she probably needs to look
8 at them again. Oh, by the way, we've got a new
9 -- wow -- we've got a new system, and we're --
10 it's not functioning properly.

11 **MS. LENHARDT:** Your Honor, just -- we might have to
12 go through all of them individually.
13 Unfortunately, there are many objections I've
14 got ---

15 **THE COURT:** I got you. Can we just hold off on
16 this?

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

18 **THE COURT:** Can we just let y'all review this maybe
19 over lunch?

20 **MS. LENHARDT:** Yes.

21 **THE COURT:** And then -- and then I'll address the
22 issue after lunch.

23 **MR. REDDY:** Sure. Thank you, Your Honor.

24 **THE COURT:** All right. Now, remember, talk about
25 these exhibits, like I said yesterday, y'all



1 are throwing some exhibits at me and we're
2 discussing them, I haven't reviewed them
3 myself, so, kind of give me as much detail as
4 y'all can about the exhibits, so, I know what
5 I'm -- I have more discernment about what I'm
6 ruling on. Okay? Thanks. All right. Mr.
7 Churdar, you're looking at me ---

8 **MR. CHURDAR:** I'm loo- -- because I'm assuming that
9 you were gonna say, call your next witness.

10 **THE COURT:** Yes, I am.

11 **PETITIONER'S REBUTTAL CASE:**

12 **MR. CHURDAR:** Okay. Your Honor, the Department
13 would call Mr. Chris Stout.

14 **OBJECTION:**

15 **MR. REDDY:** We object, Your Honor.

16 **THE COURT:** Okay.

17 **MR. REDDY:** This -- you already ruled on this that
18 the witness list is closed. All of the people
19 are going to call are closed. Chris Stout is
20 on our witness list. We decided not to call
21 him. Now, he's trying to add him at the last
22 minute.

23 **THE COURT:** That's interesting. Any response?

24 **MR. CHURDAR:** Yes, sir. On our witness list that we
25 supplied to Mr. Reddy's prior lawyers we had --



1 we had said on April 22nd that we -- in
2 addition to the above-named witnesses that we
3 had named, DES reserves the right to call any
4 witnesses named by the Respondents in this
5 case. And Mr. Stout was, as he mentioned, was
6 on the Reddys -- on their witness list. He was
7 -- has been subpoenaed to appear at trial.

8 **THE COURT:** I get it. Can you respond to that? You
9 were so close.

10 **MR. REDDY:** Your Honor, they can't have a blanket
11 witness list that they can call whoever they
12 want.

13 **THE COURT:** Well, now, it wasn't a blanket list.

14 **MR. REDDY:** Yeah.

15 **THE COURT:** What he's telling me, it said that the
16 Department reserves the right to call any
17 witness on your witness list, and Mr. Stout was
18 on your witness list, so they -- and at the
19 time, the counsel made no objection to that
20 reservation. So ...

21 **MR. REDDY:** Your Honor, but your own ruling was that
22 the witness lists were closed. And, you know,
23 trial has started, and now we're going to start
24 moving things around. And I'm not even -- Mr.
25 Stout hasn't even been deposed by us. I have



1 no -- I'm not prepared to question him or cross
2 him. I have no idea what he's gonna say.

3 **MR. CHURDAR:** I mean, Your Honor ---

4 **MR. REDDY:** And by the way, we were informed about
5 this 15 minutes ago.

6 **THE COURT:** What's Mr. Stout going to testify to,
7 because this is rebuttal?

8 **MR. CHURDAR:** Right. He is -- he is going to be
9 testifying broad categories.

10 **THE COURT:** Oh, I'm not going ---

11 **MR. CHURDAR:** I haven't even told you the broad
12 categories yet.

13 **THE COURT:** Well, broad -- you started out with
14 broad and you're getting a reaction from me
15 because ---

16 **MR. CHURDAR:** I will tell you the categories.

17 **THE COURT:** Okay.

18 **MR. CHURDAR:** Okay.

19 **THE COURT:** Mr. Stout, can you just sit down?

20 **MR. CHURDAR:** He is going to -- Mr. Reddy had
21 brought up yesterday the penalty with Piping
22 Plover and so Mr. Stout is going to address
23 that, specifically the differences between the
24 penalty calculation for that and for this case.
25 Mr. Reddy, yesterday, introduced -- entered the



1 Piping Plover interrogatory responses, and
2 particularly he focused on interrogatory
3 response number 7, and Mr. Stout is going to
4 address that. That was -- that was the -- the
5 basis for the Department making beaches
6 critical area permitting decisions prior to the
7 May 2024 reg package. There was some testimony
8 from Mr. Goodrich about -- yesterday that the
9 vegetation line is not a reliable indicator of
10 periodical -- periodic inundation, and thus not
11 a reliable basis for determining the landward
12 extent of the beaches critical area. We have
13 some -- both pictures that Mr. Stout took just
14 last week, as well as some aerial imagery that
15 indicates the veg line that was -- that was
16 from December 2023, and, in particular ---

17 **THE COURT:** Why would that not be offered in your
18 case in chief?

19 **MR. CHURDAR:** Well, Mr. -- Mr. Reddy has argued that
20 the -- that the -- the Department's decision to
21 assert jurisdiction was based on one data point
22 and -- and what I'd like to demonstrate is that
23 this is using an image that was already
24 admitted into evidence as Joint Exhibit 65,
25 just isolating the data point from December



1 18th, 2023 to rebut that assertion.

2 **THE COURT:** That assertion was made new in his -- in
3 his testimony? Y'all didn't know about that
4 assertion is what I'm asking?

5 **MR. CHURDAR:** Well ---

6 **THE COURT:** I mean, I thought he made that assertion
7 in his opening arguments.

8 **MR. CHURDAR:** Well ---

9 **MR. REDDY:** Your Honor, honestly, he can't -- he
10 can't go off in this thing. He's getting into
11 everything; he wants now to talk about
12 vegetation lines and rediscuss all of this. If
13 he wanted to do that, he had an ample
14 opportunity to call Chris Stout when he could
15 have. He informed me this morning, 15 minutes
16 ago, and now he wants to talk about a whole
17 bunch of stuff. However, since I'm the nice
18 guy, Your Honor, if he would restrict Chris
19 Stout to talk about Hilton Head and Piping
20 Plover ---

21 **THE COURT:** Now, I'm okay with that.

22 **MR. REDDY:** Yeah.

23 **THE COURT:** But ---

24 **MR. CHURDAR:** Well, Your Honor, if I could just
25 speak to the scope of rebuttal, State versus



1 Jackson, when a party introduces evidence about
2 a particular matter, the other party is
3 entitled to explain it or rebut it.

4 **THE COURT:** Yeah, that's why I was asking the
5 questions that I was asking. Are you taking
6 the theory that, under that case law, that you
7 can just put up whatever case in chief you
8 want, just wait for them to put their case up,
9 and respond to everything in their case, and
10 call that rebuttal? I mean, I'm aware of the
11 case law. It's just what the case law was
12 speaking of is you put up your case in chief,
13 and then they put up their -- their case, and
14 they put up something that you need to respond
15 to, and you respond to. And what I -- you
16 know, certainly, before I became a judge, I
17 tried many a cases. Certainly been there and
18 done that on the rebuttal side of things, had
19 to experience judges ruling against me. But
20 you just don't throw your whole case in chief
21 in the rebuttal.

22 **MR. CHURDAR:** No, I agree.

23 **THE COURT:** I'm going to take a break.

24 **MR. CHURDAR:** Okay.

25 **(Off the record from 9:14 a.m. until 9:16 a.m.)**



1 **COURT REPORTER:** All rise.

2 **THE COURT:** All right. Y'all be seated. Okay. Mr.
3 Churdar, finish up what you were arguing about.

4 **MR. CHURDAR:** Well, Your Honor ---

5 **THE COURT:** I can tell you, I'm going to -- from
6 what I've heard, I'm going to let in the Piping
7 Plover testimony. I'm gonna let in your data
8 points, but you're going to have to be really
9 narrow in that issue. And I just, I really
10 feel like what you're trying to do is retry
11 what you should have put up in your case in
12 chief. But I'm going to -- but I recognize
13 some of the data point argument, testimony
14 could be responsive to their case, but it's
15 going to have to be responsive. Go ahead.

16 **MR. CHURDAR:** Go ahead and call Mr. Stout or go
17 ahead ---

18 **THE COURT:** No, what else do you want to offer?

19 **MR. CHURDAR:** Oh.

20 **THE COURT:** I want to know specifically what -- so,
21 I want you to go through the list.

22 **MR. CHURDAR:** Okay. Well, I had said three pictures
23 that he had taken from the close of trial last
24 week.

25 **MR. REDDY:** Your Honor, there is no way -- there is



1 no way we're going to allow them to put in new
2 pictures after the close of trial. Can they
3 stop harassing me and coming to my house and
4 taking pictures, Your Honor?

5 **MR. CHURDAR:** Your Honor, this -- this was not
6 taking pictures in his house. It wasn't on his
7 property. It was just ---

8 **MR. REDDY:** It is my property, that's the dispute.

9 **THE COURT:** Well, how -- no. I don't know if I
10 agree with you on that. I mean, these pictures
11 -- so, you wait after your case in chief, go
12 get someone to take pictures ---

13 **MR. REDDY:** Exactly.

14 **THE COURT:** --- of the house and -- and now that's
15 rebuttal, I don't under- -- can you respond to
16 that?

17 **MR. CHURDAR:** Your Honor, the -- the -- in State
18 versus Prather, the Supreme Court said that any
19 arguably contradictory testimony on reply is
20 appropriate. And what we have here is
21 testimony from Mr. Goodrich, disconnecting ---

22 **THE COURT:** Well, most lawyers, when they say
23 arguably contradictory, they -- I reckon --
24 I've read the case law, I've read a good bit of
25 rebuttal, and they don't mean that Brad Churdar



1 just goes in for -- his case in chief, waits
2 till the other side puts up their case, and
3 then goes, oh, everything's contradictory. So,
4 I'm now going to put up an entirely new case.
5 And can -- you do recognize that there's an
6 extent to that, don't ---

7 **MR. CHURDAR:** I -- I do.

8 **THE COURT:** --- do you not? Okay.

9 **MR. CHURDAR:** I do recognize that.

10 **THE COURT:** And I figured that's what your response
11 was going to be. I didn't think you were going
12 to be unreasonable.

13 **MR. CHURDAR:** Right. And as far as the -- the
14 testimony and how -- how it relates to
15 something that is contradictory and, therefore,
16 proper -- properly in reply, this would go to
17 the same thing that I mentioned earlier. Mr.
18 Reddy said there's only one data point that's
19 been collected.

20 **THE COURT:** I told you you could present evidence
21 about that.

22 **MR. CHURDAR:** Well, right, but what I'm saying is
23 the -- the same -- the same basis that I am
24 going to be submitting or presenting the aerial
25 imagery with the December data point, is the



1 same basis that I would like to present the
2 three pictures that Mr. Stout took.

3 **THE COURT:** Well, I'm gonna allow you to present the
4 evidence, and I'll rule on it at the time. I
5 may rule it out; I may take it under
6 advisement. What else?

7 **MR. CHURDAR:** And then, lastly, there was some
8 testimony from Mr. -- If I -- if I could just
9 interrupt and say, I think part of the problem
10 that -- that I have had, as well as other
11 counsel on the respondents, is it's a very
12 different context with a pro se litigant as to
13 what is being said as -- as evidence, what is
14 being said as a preface to a question. What is
15 being said in opening statements. It's all
16 coming from the same person, and it feels like
17 the -- well, it doesn't feel like it, the line
18 gets blurry in my mind as to what -- what is
19 being presented for what context. It's kind of
20 like what Ms. Phelan said yesterday as to what
21 is foundation for a document versus what is
22 actual testimony. And it's kind of the same
23 issue. But -- but that's just an aside. The
24 last thing that that I am going to ask Mr.
25 Stout to testify to is there was testimony



1 yesterday regarding Mr. Reddy expressed safety
2 concerns about not being allowed to put sand
3 out in front of the first wall. And I'd like
4 for Mr. Stout to address that.

5 **THE COURT:** Do you intend to call any other
6 witnesses?

7 **MR. CHURDAR:** Ms. Phelan is going to call Mr. Chris
8 Jones.

9 **THE COURT:** All right. Well, I'll address that when
10 we get to it then. All right. Any response?

11 **MR. REDDY:** Yes, Your Honor. First of all, they
12 closed their case. They said they were done.
13 They closed their case. Their case was closed.
14 After they closed their case, they now are
15 saying they're going to introduce evidence of
16 pictures and stuff they took after they closed
17 their case, to make some argument. I don't
18 understand how you could close the case and
19 then send someone out there with cameras to try
20 to change the narrative. Last night ---

21 **THE COURT:** Well, the problem is that's the -- may
22 be beyond discovery. I'll have to figure that
23 out later. But I don't know what the issues
24 were in that regard, but I'm going to rule on
25 the pictures or the photos separately from the



1 testimony. In other words, I'm going to
2 scrutinize that a little more closely.

3 **MR. REDDY:** Your Honor, I have no way of responding
4 to them. They took pictures after they were
5 closed, and now I'm going to put Chris up
6 there.

7 **THE COURT:** I understand.

8 **MR. REDDY:** What do I do with that?

9 **THE COURT:** I understand.

10 **MR. REDDY:** And you, Your Honor, you said
11 specifically in your ruling between them
12 closing and this that you were not going to
13 allow any more witnesses added or any more new
14 evidence to be introduced. That's what we're
15 doing here. So, I was not allowed to do it,
16 but apparently he can come this morning, ten
17 minutes before it starts. They all had a pow
18 wow last night, decided that they don't have a
19 case, and now they're changing the narrative,
20 and they're coming in and inform -- informing
21 me, not only are they going to call a new
22 witness that I am not prepared for, that hasn't
23 been deposed by us, but they're going to
24 actually introduce evidence, new evidence that
25 they actually went out and developed after they

