

**In The Matter Of:**

*Department of Natural Resources & Environmental Control  
Sunrise Ventures, LLC's Application*

---

*Hearing  
May 28, 2019*

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DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENTAL CONTROL  
OF THE STATE OF DELAWARE

RE: Public Hearing Regarding )  
Sunrise Ventures, LLC's Application )  
to Construct a New 20 Slip Marina )

.. .. .

Indian River Marina  
39415 Inlet Road  
Rehoboth Beach, Delaware

Tuesday, May 28, 2019  
6:00 p.m.

.. .. .

BEFORE: Lisa Vest, Hearing Officer

-- Transcript of Proceedings --

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1	TABLE OF CONTENTS	
2		Page
3	Introduction by Ms. Vest . . . . .	4
4	Introduction by the Division, Ms. Molina. . . . .	10
5	Entry of Exhibits . . . . .	25
6	Public Speakers:	
7	Ed Launay for Applicant . . . . .	26
8	Charlie O'Donnell . . . . .	33
9	Debbie O'Donnell . . . . .	34
10	Steve Foster . . . . .	37
11	Dale Teat . . . . .	38
12	Ron Derr . . . . .	39
13	George Chevlon . . . . .	41
14	Hillary Black . . . . .	42
15	Jeff Black . . . . .	43
16	Gary Fisher . . . . .	44
17	Janet Urdahl . . . . .	45
18	Mary Ann Sockriter . . . . .	46
19	Susie Guberman . . . . .	47
20	Charlie O'Donnell . . . . .	49
21	Charlie Turner . . . . .	49
22	Mary Ann Sockriter . . . . .	50
23	Closing Remarks by Ms. Vest . . . . .	
24	Certificate of Reporter . . . . .	57



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

INDEX TO EXHIBITS

- DNREC Exhibits: (Entered on Page 26)
- 1 - Applicable statute of regulations
- 2 - Original application
- 3 - Public notice for original application
- 4 - Final application
- 5 - Original and final large scale plan
- 6 - Community plans
- 7 - Public notice for public hearing
- 8 - Public hearing posting on DNREC website
- 9 - (not specified in hearing)
- 10- All public comments received
  
- Applicant's Exhibit 1 - Large Drawing/Project . . 32

1 MS. VEST: Good evening. Can  
2 everybody hear me?

3 UNIDENTIFIED SPEAKER: Yes.

4 MS. VEST: If we could all get our  
5 seats, I'm going to go ahead and start the  
6 proceedings.

7 I want to thank you everyone for  
8 taking their time out of your busy schedules to  
9 be here tonight.

10 The date is Tuesday, May 28, 2019,  
11 and we are here this evening to provide a  
12 formal platform for the State of Delaware's  
13 Department of Natural Resources and  
14 Environmental Control to receive public comment  
15 on the permit application submitted by Sunrise  
16 Ventures LLC for the construction of a new  
17 20-slip marina which is to be located south of  
18 the intersection of Kaitlyn Drive and Oyster  
19 House Road in Rehoboth Beach.

20 For those of you who may not have  
21 seen me before, my name is Lisa Vest. And  
22 DNREC Secretary Garvin has appointed me to  
23 serve as the hearing officer for tonight's  
24 proceedings.



1 I'm going to apologize right off  
2 the bat for that. I will talk as loud as I  
3 can. Hopefully, it won't be too much of a  
4 distraction. (Referring to music in  
5 background)

6 Again, if you have not already done  
7 so or if you have come in late, I would ask  
8 that you do sign the sign-in sheets that are  
9 located right at the back of the room, to  
10 indicate on the sheet whether you wish to  
11 submit comment at tonight's hearing.

12 Those persons wishing to offer  
13 comment for the record will be given an  
14 opportunity to do so following the brief  
15 presentations to be given by both the  
16 Department and the applicant.

17 And I will recognize you for those  
18 moments when we get to that point in the  
19 proceedings.

20 Even if you don't wish to offer  
21 comment, it is important that we have an  
22 accurate record of attendance for tonight's  
23 hearing. So if you sign in now, I'd really  
24 appreciate it.



1           Once I get done with my  
2           introductory remarks, I will be turning the  
3           hearing over to Department staff, who has a  
4           brief formal presentation.

5           The applicant, itself, will also be  
6           making a brief presentation through their  
7           consultant. Following those proceedings, the  
8           comment will begin to become accepted by the  
9           record.

10           With regard to the comment wishing  
11           to be offered tonight, there are, as in the  
12           case for all DNREC public hearings, formal  
13           protocols which must be adhered to, so I need  
14           to take a couple of minutes right now and go  
15           over those.

16           Consistent with all public hearings  
17           held by DNREC, all comment must be limited  
18           solely to the subject matter of tonight's  
19           hearing, which again is the permit application  
20           submitted to DNREC by Sunrise Ventures LLC.

21           It should be noted on the record  
22           that this proposed marina project does have  
23           multiple steps and different approval processes  
24           that are ongoing simultaneously.



1           The purpose of tonight's hearing is  
2           to receive comment only on the permitting  
3           matters associated with the jurisdictional  
4           authority of DNREC's Wetlands and Subaqueous  
5           Lands Section.

6           All other matters associated with  
7           this proposed project which may fall under the  
8           purview of other permitting authorities, such  
9           as U.S. Army Corps of Engineers and those  
10          application processes, are outside of the scope  
11          of this hearing.

12          Pursuant to the subject matter of  
13          this particular hearing, all comments pertinent  
14          to the aforementioned marina project and the  
15          Department's Wetlands and Subaqueous Lands  
16          Section permitting authority will be  
17          incorporated automatically into the formal  
18          hearing record.

19          As is DNREC's policy at all formal  
20          hearings such as this, each person wishing to  
21          offer comment is asked to do so in precise a  
22          manner as possible.

23          In order to treat attendees at all  
24          DNREC hearings held throughout the state





1       equally, each person will be granted a total of  
2       three minutes of time to offer their comment  
3       for the record.

4                To facilitate that protocol and to  
5       ensure fairness with regard to the amount of  
6       time each person is allotted, there will be a  
7       visual timer in place to help everyone be aware  
8       of their time remaining.

9                If, by any chance, you have brought  
10       prepared written comments or statements with  
11       you tonight, you can feel free to give those to  
12       me when you are recognized. I will enter those  
13       comments, as written, into the record, and then  
14       you can use your three minutes to simply tell  
15       the body that's here tonight what your comments  
16       are.

17               There is no yielding of time from  
18       one commenter to another, again to ensure  
19       fairness and equality for each person.

20               And it should be noted there is  
21       only one authenticated record of this  
22       proceeding, and it is the official court  
23       reporter's verbatim transcript. We will have a  
24       transcript to commemorate this evening's



1 proceedings. As soon as I get that from the  
2 court reporter, we will make sure to put that  
3 up online so you can see that.

4 But please be mindful, especially  
5 with the music going on in the background, that  
6 she can only hear and accurately transcribe one  
7 voice at a time, so I would ask that courtesy  
8 prevail.

9 Please do not speak while another  
10 person is speaking, and do not call out from  
11 the audience for any reason.

12 Whether listening or speaking, we  
13 ask that everyone here tonight be respectful  
14 and considerate of all comment offered with  
15 regard to this matter, even though some comment  
16 may, of course, differ from your own.

17 Additionally, I would also ask that  
18 all cell phones be either muted or turned off  
19 for the duration of the hearing so as to avoid  
20 any other disruptions. I do apologize.

21 The statutory purpose of tonight's  
22 hearing is to allow citizens to offer comment  
23 for this proposed project.

24 A record consisting of the



1 transcript of the comments given tonight, all  
2 written comments, if they came in by e-mail or  
3 USPS prior to tonight, all of the exhibits,  
4 both for the Department and from the applicant,  
5 and my formal hearing officer's report will all  
6 be given to Secretary Garvin, and he will  
7 review all of that prior to his making a  
8 decision in this matter.

9 Myself and other DNREC staff  
10 members are present to facilitate and be in  
11 receipt of the public comment, but they will  
12 not be participating in the proceedings. There  
13 will be no formal Q and A session permitted  
14 this evening.

15 Lastly, it's important to note that  
16 no decision has already been made by the  
17 Department, nor will any decision be made  
18 tonight. Again, the sole purpose of the  
19 hearing is to provide a formal platform to come  
20 and offer comment specifically related to this  
21 permit application.

22 That being said, I am going to turn  
23 it over to the Department, who I believe has a  
24 brief presentation. And if at anytime you are



1 unable to hear, please just let us know.

2 MS. MOLINA: Hello. My name is  
3 Julie Molina, and I'm here presenting on behalf  
4 of Wetlands and Subaqueous Lands Section.

5 So today we are here to provide  
6 you, the public, an opportunity to give me your  
7 comments on the application for Sunrise  
8 Ventures LLC, which they are requesting to  
9 construct a new 20-slip community marina.

10 Now, in applying for this community  
11 marina, it goes through separate application  
12 processes. For example, they have applied for  
13 a subaqueous lands permit. That subaqueous  
14 lands permit goes under our section's review  
15 based on the Subaqueous Lands Act, as well as  
16 the regulations based on -- rather, the  
17 Regulations Governing Use of Subaqueous Lands.

18 They have also applied for a water  
19 quality certification. That review is based  
20 off of Section 401 of the Clean Water Act. And  
21 during that review, we look to make sure that  
22 the state water quality standards are met in  
23 compliance to that.

24 They have also applied for a marina



1 permit. That's reviewed under the marina  
2 regulations. And we do have jurisdiction over  
3 the ancillary facilities that are associated  
4 with the marina.

5 That would, you know, have to do  
6 with if they have a dry stack storage or any  
7 parking, stormwater, those type of things that  
8 are on the uplands that we would have also  
9 jurisdiction of as long as it's under the -- it  
10 has to do with operations of the marina.

11 And then they have also applied for  
12 an operations and maintenance plan. The  
13 operations and maintenance plan has to do with  
14 basically the routine best management practices  
15 that they are implementing following our  
16 statutory requirements.

17 So going into the project, the  
18 project is located in Rehoboth Beach, Delaware.  
19 It's located on the Lewes and Rehoboth Canal  
20 east of Bay Vista Road. And my pointer is not  
21 working today, so I can't really use it.

22 So, basically, it's between, it's  
23 right -- Bay Point Villas -- Blue Point Villas  
24 and Bay Harbor, which is located here.



1           So Sunrise Ventures is the  
2           applicant, and they are the owner of the parcel  
3           that's highlighted in yellow there.

4           Now, they don't actually own the  
5           lands where the project is going to be located  
6           which is highlighted in blue. That's actually  
7           owned by the United States of America, and the  
8           U.S. Army Corps of Engineers has a separate  
9           permitting process which they have to go  
10          through whenever a permitting structure is on  
11          their property.

12          And typically they do allow -- they  
13          do have visas that they authorize where they  
14          would allow adjoining properties to have water  
15          access as long as they have an adjoining  
16          property to their -- to the United States of  
17          America property.

18          So I do want to go over the initial  
19          project as submitted, because there has been  
20          some changes, but I do want to go over the  
21          original.

22          So what's seen here is the, of  
23          course, the linear dock, and there are two  
24          access piers that are associated with the dock.



1           The dock is -- the docking facility  
2 was originally proposed to be 520 feet long,  
3 as well as there was a proposed kayak launch  
4 ladder located there.

5           Now, the red line on this drawing,  
6 it shows the mean high water line, and that's  
7 where, based on our subaqueous regulations,  
8 where our jurisdiction is. However, we do,  
9 like I mentioned before, have jurisdiction on  
10 the uplands, as long as it's associated with  
11 the operation of the marina.

12           So the area labeled in or  
13 highlighted in green shows the riprap revetment  
14 that was proposed, which was 470 linear feet.

15           And then here you can slightly see  
16 it in pink. That actually shows the location  
17 of where the proposal to replace the existing  
18 bulkhead. There is a little landing piece  
19 that's there that's proposed to replace.

20           And then the area in blue is where  
21 they are proposing to maintenance dredge. And  
22 they are proposing in the original application  
23 to maintenance dredge 300 cubic yards of  
24 material.



1           And then in this area, this purple  
2 area here, they were originally going to  
3 deposit that, that material there, and they  
4 would go about to dewater. They would then  
5 grade it and then cap it with topsoil.

6           I will get into the changes that  
7 were made later on.

8           And then I do want to touch on  
9 this, but I will get into more details on it  
10 later. The area that's labeled in orange there  
11 is where the DNREC Waterway Management compound  
12 was being proposed to be relocated.

13           So the DNREC Waterway Section, they  
14 do have an existing lease with the Army Corps  
15 of Engineers. It's located currently right  
16 here. But originally they were going to  
17 propose to relocate it.

18           So the project was placed on a  
19 20-day public notice period and in two  
20 newspapers. We received several calls and  
21 questions about the project. And we did have  
22 an informal meeting with Bay Harbor Homeowners  
23 Association.

24           And then after that meeting, we





1 ended up receiving one written comment, an  
2 objection. Although we did have several other  
3 calls and concerns, we actually received only  
4 one comment, but we still went forward with a  
5 public hearing.

6 While the project also is on public  
7 notice, it also goes to review from DNREC  
8 Division of Fish and Wildlife, and they review  
9 for any species of concern.

10 What they recommended is for  
11 construction activity to take place outside of  
12 the time-of-year restriction; so if the project  
13 was to be approved, it would have to be  
14 constructed outside of that March 1st through  
15 September 30th time restriction to protect  
16 summer flounder.

17 And then DNREC Division of Water,  
18 Groundwater Protection Branch, also has a  
19 meeting, because there will be dredge material,  
20 and they evaluate the disposal area to see if  
21 it's going to have any impact on groundwater.

22 So going into more detail with  
23 their review, they had monitoring wells already  
24 located on site.



1           And also because it is a Brownfield  
2 site, the site investigation remediation  
3 section, which is SIRS, they actually had their  
4 own comments and concerns that they gave on the  
5 project.

6           So according to SIRS, they were  
7 letting us know that there is currently methane  
8 remediation actively taking place on the site  
9 where the spoils were originally proposed to be  
10 placed. And they had several concerns with  
11 that, because that actually caused additional  
12 methane formation.

13           So at the request of SIRS,  
14 either -- the applicant was given two options.  
15 Either they could remove the dredge spoils to  
16 another location, or they could sample the  
17 soils to determine if it could be placed there.  
18 And then they have their specific criteria that  
19 they have to sample for if they wanted to keep  
20 it.

21           So, based on agency consultation,  
22 there were several changes to the project made.  
23 One thing I do want to mention is the name of  
24 the applicant had to change. You know,



1 according to State's regulations, the name of  
2 the applicant has to be the current owner. So  
3 we did have to update that, because Oyster  
4 House Village is the potential buyer after all  
5 the permitting is in place, but right now it is  
6 still currently Sunrise Ventures, so the  
7 application had to change, be corrected.

8 The length of the dock was reduced  
9 by 48 linear feet.

10 The length of the riprap revetment  
11 was reduced by 135 linear feet. As I spoke  
12 earlier, the DNREC compound has to be  
13 relocated, but I will get into some more detail  
14 with that on the other slides.

15 And then there was a little bit of  
16 additional riprap also that needed to be added  
17 to the application, because it was channeling  
18 the high water line for the two stormwater  
19 outfall aprons.

20 There was approximately 35 cubic  
21 yards less of dredged material.

22 And then there was also a new  
23 disposal location based on the groundwater  
24 protection branch review.



1           So this is the final project as  
2           proposed currently. So here you can see the  
3           docking facility has been shortened to a total  
4           of 472 linear feet. The access piers are  
5           remaining the same, but they have relocated the  
6           kayak launch ladder to the other -- to that  
7           other access pier there.

8           The shoreline stabilization again  
9           was shortened.

10          And then they plan on replacing the  
11          bulkhead as it currently is right now, too.

12          And then you can see here, this is  
13          where the stormwater outfalls were added to  
14          show that the portions that are protruding  
15          outside of the riprap are actually under  
16          State's jurisdiction.

17          And then they are, like I had  
18          mentioned before, proposing to dredge a  
19          slightly small area, 265 cubic yards of  
20          material.

21          And in this case, instead of  
22          putting it on site, they are going to relocate  
23          it to a new location, which this shows the new  
24          location.



1           So it's actually south of where we  
2           are right now. It's located in Dagsboro,  
3           Delaware.

4           So this area has previously been  
5           used for small amounts of dredged material, but  
6           it's located northeast of the intersection of  
7           Iron's Landing, Old Mill Road.

8           And, as mentioned earlier, if they  
9           were going to change it to a new location, then  
10          it has to be reevaluated by the Groundwater  
11          Protection branch, which it currently is being  
12          evaluated.

13          So going back to that DNREC  
14          compound area, I did want to explain a little  
15          bit more detail about that area.

16          So currently, like I said, they  
17          have a lease from the U.S. Army Corps of  
18          Engineers to stage their dredge operations  
19          there.

20          They actually oversee -- that  
21          section oversees the State of Delaware's  
22          dredging operations. And typically in that  
23          area, they store their pipeline. They may need  
24          further pipeline there. And they have their



1 barge specifically moored along that area. And  
2 currently it is fenced, and it would remain  
3 fenced for safety, because they do have the  
4 heavy equipment there.

5 So before the applicants can apply  
6 for any changes, they have to -- DNREC  
7 Shoreline Water Management Section has to  
8 actually amend their lease with the Army Corps  
9 to the relocated area.

10 So I do have a couple more lines on  
11 this map here.

12 So this area in purple right here  
13 is the originally proposed relocated area of  
14 the DNREC compound, which is not going to be  
15 utilized because it has been changed. And then  
16 this area marked in purple here is the current  
17 location of the DNREC compound. And they are  
18 actually moving it to this large area, is what  
19 they are proposing.

20 So it's similar to where they were  
21 at, but in this case where it was originally  
22 proposed, it was actually blocking off access  
23 to an existing boat ramp. That's historically  
24 been there. So the boat ramp doesn't have any



1 structure associated with it. It's just an  
2 unvegetated dirt area.

3 And so there is no actual lease on  
4 file with the Corps for anyone to be using  
5 that. But at least it would remain open by the  
6 relocation to the orange area highlighted as a  
7 DNREC compound.

8 So also, in detailing a little bit  
9 more about this, since there is a current  
10 lease, as I stated before, that the DNREC  
11 compound has, and now you have the applicant  
12 coming in wanting to utilize the same area,  
13 they have entered into an agreement that they  
14 are drafting up.

15 And this agreement is going to be,  
16 you know, it's still in the works to be  
17 drafted. But once it's finalized, they would  
18 be allowed use of the southern 125-foot section  
19 of dock adjacent to the fenced area, and they  
20 would be allowed use only from September 10th  
21 to March 31st, which is the typical dredging  
22 season.

23 And then during that time, the  
24 community would not be able to moor any vessels



1       there, so -- and that's included in their  
2       operations and maintenance plan.

3                 So speaking of the operations and  
4       maintenance plan, I mentioned earlier the  
5       applicant has submitted a draft plan, and it  
6       includes best-management practices for the  
7       routine operations in the marina.

8                 The marina is only supposed to be  
9       utilized by community residents of the Oyster  
10      House Village, the community that's proposed to  
11      go in, with the exception of the DNREC  
12      compound.

13                Also listed in the operations and  
14      maintenance plan is an allowance for maximum  
15      mooring of 20 vessels.

16                Now, there is not any designated  
17      mooring areas. It's more just a linear  
18      feature, as we saw earlier. So depending on  
19      the length of the vessel would depend on how  
20      many vessels that would moor there, but it  
21      would only be a maximum of 20.

22                There is a marina storage building  
23      on the uplands that contains any still  
24      equipment and a life ring station. They have a





1 portable marina pump-out station, different  
2 best management practices.

3 And then they also have step by  
4 step instructions on what to do in the event of  
5 a fuel oil, sewage spill, or during severe  
6 weather.

7 They are managing their facility  
8 based on the State of Delaware Fish Waste  
9 Management Policy. And then they do advise  
10 marina users to use the community clubhouse or  
11 their own facilities in their own home for a  
12 restroom.

13 And then there are several details  
14 on the rules and procedures for marina users.

15 And then there are not any fueling  
16 or maintenance facilities on the uplands,  
17 although they do allow minor fueling and  
18 maintenance activities as long as they follow  
19 certain best-management practices as detailed  
20 in the O&M Plan.

21 So this is my contact information.  
22 What I have also included is a link. You may  
23 want to just jot that link down or take a  
24 picture of it with your phone. With that link,



1       you would be able to go ahead and go online,  
2       and you could view any exhibits that are  
3       entered today, or you could also view any of  
4       the exhibits or the Secretary's order that is  
5       associated with this project.

6               So, while you are doing that, I do  
7       want to enter in the Department's exhibits  
8       relating to this project.

9               So I have -- I am going to enter  
10       Exhibit 1, which is the applicable statute of  
11       regulations as I mentioned before.

12               Exhibit 2 which is the original  
13       application.

14               Exhibit 3, public notice for the  
15       original application.

16               Exhibit 4, the final application.

17               Exhibit 5, original and final  
18       large-scale plan.

19               Exhibit 6, community plans.

20               Exhibit 7, public notice for the  
21       public hearing.

22               Exhibit 8, public hearing posting  
23       on DNREC website.

24               And Exhibit 10, all comments



1 received.

2 So I am going to turn it over back  
3 to you, Lisa.

4 MS. VEST: Thank you, Julie.

5 Let the record reflect that  
6 Department Exhibits 1 through 10, as identified  
7 just now by staff, are hereby entered in the  
8 formal hearing record.

9 Does that conclude the Department's  
10 comments at this time? That concludes all  
11 comment?

12 MS. MOLINA: Yes.

13 MS. VEST: Okay. Thank you, Julie.

14 At this point I will allow the  
15 applicant to offer a brief presentation for the  
16 record. Mr. Launay?

17 MR. LAUNAY: All right. My name is  
18 Ed Launay from Environmental Resources Inc.,  
19 and I'm representing Oyster House Village LLC.

20 As Julie explained, they are the  
21 equitable owner of the property. However, you  
22 know, Sunset Ventures is currently listed, and  
23 so the Department requested that we file the  
24 revised application to make Sunrise Ventures



1 the applicant. So I think everybody  
2 understands --

3 UNIDENTIFIED SPEAKER: Can he speak  
4 up a little bit and maybe face this way?

5 MR. LAUNAY: I think everybody  
6 understands that at this point.

7 This is the plan, the latest plan.  
8 I have highlighted a couple of things on there.  
9 And I just wanted to make a couple of  
10 additional points.

11 I think the Department has done an  
12 extraordinary job of going through everything  
13 and talking about all the impacts. So I don't  
14 really -- I don't have too much to say.

15 Again, we have shortened the dock,  
16 and I did show the dock in a brown color, you  
17 know, so that highlights it a bit for people.

18 And I did highlight, as the  
19 Department's exhibit, the proposed  
20 consolidation of the existing waterway  
21 management maintenance area, their storage  
22 area.

23 And the line in blue basically  
24 shows the area that is currently closed in



1 chain link fence, and that represents their  
2 current lease with the Department of the Army.

3 So really just a couple, I think,  
4 major public benefits from the project:

5 It's really a simple project. It's  
6 a simple dock that's going to accommodate  
7 parallel mooring of not more than 20 vessels  
8 and be used exclusively by the residents of the  
9 future Oyster House Village project, which is  
10 an approved project that has all the approvals  
11 from Sussex County.

12 And typically, as Julie mentioned,  
13 there is many instances up and down the canal,  
14 much of which is lands owned by the United  
15 States. They allow the adjacent owners,  
16 adjacent to the waterfront of the canal, to be  
17 able to apply for docks and piers and  
18 waterfront access.

19 So, you know, that's essentially  
20 the component of this application that we are  
21 talking about.

22 The major benefits, I did highlight  
23 an area in pink here. Currently, there is no  
24 shoreline protection at that location. It's an



1 extremely high bank, in other words from the  
2 mean high water line to the top of the bank,  
3 and it's almost a vertical eroding bank.

4 So, currently, the situation is  
5 that there is a very nice stand of mature trees  
6 along the edge of the bank which, because of  
7 the erosion rate, those trees are slowly  
8 falling into the water.

9 And with boat wakes and so forth,  
10 all this land here is actively eroding. So  
11 that's about 200 linear feet that we are going  
12 to repair and put a new riprap revetment, which  
13 I think is quite a good benefit, public benefit  
14 that will result both to the government and to  
15 the public at large by implementing the  
16 project.

17 The other thing is that this was  
18 historically known as Oyster House Village.  
19 There was an oyster house processing facility  
20 there. The entire shoreline what is, you know,  
21 kind of is and was developed, there is a number  
22 of deteriorated piles, pieces of bulkhead, just  
23 about everything you can imagine, all of which  
24 is going to be cleaned up and removed.



1           The current landing that the  
2 Department's Waterway Maintenance Section uses  
3 to tie up at is right here. And we are going  
4 to enclose that with a bulkhead. The current  
5 condition of that is that's, you know, that's  
6 basically falling apart as we speak.

7           So, you know, by implementing this  
8 thing and cooperating with DNREC in terms of  
9 the dredging, their dredging operations, you  
10 know, we are going to provide them a place to  
11 seasonally tie up; we are going to provide a  
12 fire hydrant fire protection on a couple of  
13 different locations along here so that now they  
14 will have fire protection.

15           A little bit about the compound,  
16 which will be a chain linked compound: It's  
17 actually going to have a fiber screen that goes  
18 in between chain link fence slats, so it's  
19 going to in terms of, you know, the visual  
20 impact that the compound has had on people,  
21 it's going to have less of an impact again as  
22 we develop and finish the project.

23           And, again, that's all written into  
24 the specifications of the agreement with the



1 Waterway Management Section.

2 And other than that, I think the  
3 other major thing was that we heard earlier was  
4 keeping this earth and boat ramp available to  
5 the public.

6 All the fast lands out here on the  
7 project are available to the public except for  
8 the DNREC compound, which is locked and  
9 secured.

10 So that's all public property. The  
11 public still is allowed to walk, utilize, enjoy  
12 the trees in the area, you know, enjoy the  
13 landing.

14 You know, the docks, themselves,  
15 are for privately tying up the boats for Oyster  
16 Neck Village.

17 But we can't, though we have this  
18 lease, the access to use this area by the  
19 public is not restricted.

20 I think that's all I have to add.

21 MS. VEST: Okay. Thank you, Mr  
22 Launay.

23 Does the applicant have any  
24 exhibits?





1                   MR. LAUNAY: I will leave that with  
2 you, since I brought that, so I can take that  
3 off the board and fold it up neatly for you.

4                   MS. VEST: Okay. For the purposes  
5 of the record, Mr. Launay is offering the  
6 drawing of the project in question that's  
7 sitting on the easel physically present at the  
8 hearing. And we will go ahead and mark that as  
9 Applicant's Exhibit Number 1. And thank you  
10 again, Mr. Launay.

11                   At this time I am going to go ahead  
12 and go down the list of people that have signed  
13 up. I am going to hit everybody that indicated  
14 a desire to speak.

15                   If you heard and you decided not  
16 to, that's fine. I will just move to the next  
17 one.

18                   After I get done going through all  
19 the yesses, I will ask then if anyone has  
20 changed their mind and maybe said no initially  
21 and now wishes to speak. So I will make sure  
22 to get to everybody before we are done. Are  
23 you ready?

24                   MS. MOLINA: I am ready.



1 MS. VEST: And that's Mr. Launay.  
2 First Debbie and Charlie O'Donnell. Yes? No?

3 MR. O'DONNELL: Yeah, we are here.  
4 I just have a question about you talked about  
5 removal of the dredging. Are you allowed to  
6 ask questions?

7 MS. VEST: No. It's not a Q and A  
8 session.

9 MR. O'DONNELL: So I just wanted to  
10 make a comment that I have concerns about the  
11 removal of the dredging and how that is done.

12 MS. VEST: Okay.

13 MR. O'DONNELL: And then also I'm  
14 not sure if -- I understand that the boats are  
15 going to be parallel parked inside the boat  
16 slips. But then how are they going to be  
17 removed at the end of the boating season? I  
18 have a question about that, concerns about  
19 that.

20 MS. VEST: Okay.

21 MR. O'DONNELL: I just don't know  
22 whether that existing boat ramp is going to be  
23 used to take all these boats out at the end of  
24 the year. So that's just a couple questions I



1 have.

2 MS. VEST: Okay. Debbie, did you  
3 want to ask anything or offer comment?

4 MS. O'DONNELL: The only comment  
5 that I have is like concern about  
6 transportation developing this.

7 I understand that the project,  
8 itself, the development, has been approved, so  
9 we don't discuss that here. It's obviously not  
10 the appropriate place, and it's a done deal.

11 But you spoke of heavy equipment.  
12 I wasn't exactly sure, because this really is  
13 not my thing. This is not my role house at  
14 all.

15 So when you were talking about the  
16 area that's going to be fenced in with the  
17 heavy equipment, are you talking about on site,  
18 or are you talking about off site? I was  
19 confused about that.

20 Where is this heavy equipment that  
21 we are talking about, how is it getting there?  
22 How is it going to impact the surrounding  
23 communities during the development of the  
24 project? And then, once it's done, is that



1 equipment going to be there?

2 MS. VEST: Understood. And I  
3 appreciate the concerns. And just so everybody  
4 understands, all of the comments and concerns  
5 that get voiced tonight, they will go into the  
6 official transcript, and then I will be asking  
7 Julie and that section to do a formal response  
8 to all of that.

9 And that's a public document. It  
10 will go up on the website, as well. So, even  
11 though we are not doing a Q and A session, it's  
12 going to get answered for the record. And I  
13 won't let that record stop until I know that  
14 everything has been fully addressed.

15 MS. O'DONNELL: I think most of us  
16 would appreciate that. Because for those of us  
17 who have never been involved in a process like  
18 this, not being able to ask questions seems a  
19 little bizarre to me.

20 MS. VEST: Understood.

21 MS. O'DONNELL: And most of us  
22 probably aren't intelligent enough to ask the  
23 appropriate questions. So if you are funneling  
24 through and feeding back answers to the



1 questions we are not allowed to ask, that would  
2 be very helpful.

3 MS. VEST: No, but the concerns can  
4 absolutely be voiced. So we want to make sure  
5 that it's a full information gathering. So I  
6 appreciate that.

7 And even though it's not on there,  
8 again, when we get done this, you can feel free  
9 to either come up and get a business card from  
10 me or from Julie and Tyler.

11 And, by all means, if you didn't  
12 get a chance to write down that link or snap a  
13 picture of it, we can direct it to you, or send  
14 us an e-mail, and I will direct you to it. And  
15 as soon as it's done, it's a public document.

16 MS. O'DONNELL: So you are saying  
17 the concerns will be on there and the answers,  
18 or what?

19 MS. VEST: The concerns that get  
20 voiced at tonight's meeting will be addressed  
21 in full in a formal technical response document  
22 which will be provided to the hearing officer  
23 by the staff, and that document is a public  
24 document.



1 MS. O'DONNELL: But not answers?

2 MS. VEST: Yes. A response, yes.

3 Yes. I'm sorry. It's been a long day.

4 MS. O'DONNELL: I know.

5 MS. VEST: Yes. Everything that  
6 gets voiced tonight will be responded to by the  
7 Department.

8 Steve and Lori Foster, I believe?

9 MR. FOSTER: Yeah. I guess one  
10 comment that I would like to make to get some  
11 feedback on, there is a significant amount of  
12 wildlife back in that area that are going to be  
13 displaced by this project. And how are they  
14 going to be handled?

15 MS. VEST: Okay.

16 MR. FOSTER: I know for a fact that  
17 I have counted at least ten different deer back  
18 there. So that's obviously their home. And so  
19 foxes, as well. So what's the plan to have  
20 them located?

21 And, secondly, I would like to get  
22 more information about the public boat ramp.

23 MS. VEST: Uh-huh. Okay. Thank  
24 you. Dale Teat or Dave Teat?



1 MR. TEAT: Yes.

2 MS. VEST: Okay. Is it Dave or  
3 Dale?

4 MR. TEAT: Dale, with an L, yes. I  
5 have a question. I purchased my house, which  
6 is directly behind this project, in 2012.

7 And we looked at other properties.  
8 One of the main reasons I bought this was  
9 access to the water that I have with -- they  
10 say it's a little ramp. But it's not big  
11 enough to put my boat in but big enough to put  
12 my jet-skis in.

13 I know we can't ask questions, but  
14 what's been presented tonight has not answered  
15 the question to am I still going to have access  
16 to the water?

17 The gentleman said I can walk  
18 around the marina and enjoy the trees. But am  
19 I going to be able to put my jet-skis in the  
20 water, which is right by my house? And for the  
21 past five years or seven years I have been able  
22 to do that. But now this project is kind of I  
23 don't see any answers to that.

24 MS. VEST: Understood.



1 MR. TEAT: And like I say, that's  
2 one of the main reasons I bought that property  
3 was the access to the water that I have right  
4 now.

5 MS. VEST: Be sure to grab a  
6 business card from staff before you leave  
7 tonight. And things that are of that kind of  
8 concern that's a public -- or not so much  
9 public but a personal concern about property,  
10 the Department can work with you one on one and  
11 get some answers to you.

12 MR. TEAT: Okay. Thank you.

13 MS. VEST: Okay. There was a  
14 maybe, possibly. Ron Derr?

15 MR. DERR: Yes.

16 MS. VEST: Did you wish to speak?

17 MR. DERR: Yes, please.

18 MS. VEST: Okay.

19 MR. DERR: A couple questions. One  
20 is in regards to the shoreline and the  
21 deterioration of it.

22 How far does the new bulkhead go up  
23 in front of -- I'm from Blue Point Villas, and  
24 there are trees that have fallen into the canal





1           presently that are on DNREC property.

2                         Are they part of the cleanup of the  
3 canal right there and the new bulkhead that's  
4 going in?

5                         And then also, is the canal going  
6 to be dredged to the point where it does permit  
7 two boats to go side by side through there?

8                         Because I know that when the  
9 pontoons go up there, it's very tight. And at  
10 low tide they cannot go side by side up there.

11                         And then the other thing, I guess,  
12 with the 20-plus boat slips going in there,  
13 that's a very narrow section of the canal. And  
14 there is already, at certain time periods,  
15 there are boats that fly up and down that  
16 canal.

17                         And how is that going to be  
18 monitored if we put an additional 20 boats that  
19 are going to be docked in there?

20                         MS. VEST: Okay.

21                         MR. DERR: And then the next one, I  
22 guess the other thing, is how are the dredging  
23 spoils going to be removed?

24                         MS. VEST: Okay.



1 MR. DERR: Thank you.

2 MS. VEST: Thank you. Kim Rankin?  
3 You said maybe.

4 MS. RANKIN: No, thank you.

5 MS. VEST: No thank you? Okay.

6 Um, at this point I think -- oh, no  
7 I missed George Chevlon?

8 MR. CHEVLON: That's me. I'm an  
9 adjoining landowner on the opposite side of the  
10 project from Dale.

11 And this project is completely out  
12 of character with the neighborhood. It's all  
13 single-family homes along the canal.

14 I know there are some docks along  
15 there, but there is not this concentration of  
16 20 boat slips in such a small area.

17 It's already a very crowded and  
18 congested part of the canal. It's a place  
19 where we see horseshoe crabs breed and birds  
20 and egrets and all kinds of things.

21 And, again, it's so congested that  
22 we just don't need 20 more boat slips.

23 You can understand how that is  
24 going to have an adverse impact on the



1 environment with the noise, the churning of the  
2 propellers, the gas discharge, all kinds of  
3 things, how that could possibly have a negative  
4 impact apart from the increased traffic.

5 So, again, there was some  
6 commercial development going on there many,  
7 many years ago before the Bay Harbor thought  
8 about and bought our homes over there. So it's  
9 not commercial; it's all single-family homes  
10 (inaudible).

11 It's completely inappropriate for  
12 that part of the canal and will have serious  
13 adverse impacts on the environmental life of  
14 animals along the canal there.

15 MS. VEST: Okay. Thank you, sir.  
16 At this point I have gone through everybody  
17 that either indicated a yes or a possibly or a  
18 maybe. Is there anyone that I haven't  
19 referred -- oh, Hillary Black.

20 MS. BLACK: Yeah. Hi.

21 MS. VEST: Sorry.

22 MS. BLACK: That's all right.

23 George covered a lot of it. I live  
24 in Bay Harbor across from him.



1                   We lived through the noise of the  
2                   construction of the sewer plant. We now have  
3                   the noise from the sewer plant. We have the  
4                   boat noise, which is adorable right now with a  
5                   little honk like every few hours. It's not  
6                   going to be adorable when the marina is there.

7                   There is going to be partying.  
8                   There is going to be honking. There is going  
9                   to be -- who knows if they will keep it marina  
10                  owners only, or will they sublet? We have no  
11                  control once it's out to the developers' hands.  
12                  We don't have control over the pollution.

13                  We, you know, the neighborhood  
14                  doesn't need it. We don't want it. Most of  
15                  us, anyway. (Applause)

16                  MS. VEST: Thank you.

17                  Anyone else that would --

18                  MS. BLACK: Oh, yes, Jeffrey.

19                  MR. BLACK: Let me help her a  
20                  little bit.

21                  MS. VEST: Can I get you to say  
22                  your full name.

23                  MS. BLACK: Jeff Black. Same name.  
24                  Family.



1                   MR. BLACK: So I was looking at the  
2 chart here. And I can't ask questions, but I  
3 seen these two storm sewer outlets going out to  
4 the canal.

5                   And I'm a little confused as to  
6 where all this stuff begins? Is it in a  
7 parking lot? If it is, your waste is going  
8 into the canal. I'm not sure if that's legal  
9 or not with DNREC and water quality and all  
10 that. There is concern about those two storm  
11 sewer outlets.

12                  MS. VEST: Okay. Thank you, Jeff.  
13 For those of you who may have had a problem  
14 hearing -- and, again, I'm so sorry about  
15 this -- the concern was dealing with storm  
16 sewers that were depicted on there and how that  
17 may affect the water quality.

18                  Anyone else that wishes to voice a  
19 concern? Can I have your name?

20                  MR. FISHER: Yes. My name is Gary  
21 Fisher. I'm in the Bay Harbor Subdivision back  
22 a few lots from the canal.

23                  But I am most concerned that the  
24 outfall requirements for the sewage and the



1 upland uses that go across the Army Corps of  
2 Engineers land and are controlled by the DNREC  
3 Clean Water Act regulations and Subaqueous  
4 regulations are enforced and policed.

5 And as far as I know, there are no  
6 provisions in here as to how those provisions  
7 are going to be controlled by the State,  
8 monitored by the State, actions taken if they  
9 are violated.

10 And I am really concerned about the  
11 air and water quality.

12 I'm a former environmental  
13 enforcement attorney. And I know that  
14 sometimes when the developers walk away from  
15 these places, you know, action is not taken to  
16 continue the promises that were made.

17 And I want our concerns addressed  
18 in the responses as to how the ongoing  
19 enforcement and our quality of life are  
20 maintained if this development is approved.

21 (Applause)

22 MS. VEST: Okay. Yes, ma'am?

23 MS. URDAHL: Hi. I'm Janet Urdahl,  
24 and I live in Point Villa.



1                   My concern is that when and if this  
2 does happen, what is going to be the traffic  
3 flow, pattern, down Oyster Bay Road?

4                   I understand that that is a public  
5 road. And also Blue Point Drive, what's the  
6 plan there?

7                   Are we going to clean up everything  
8 that the machinery, tractors, whatever coming  
9 through, or is the access going to be from Bay  
10 Vista Road?

11                  MS. VEST: Okay. And, Janet, can  
12 you spell your last name?

13                  MS. URDAHL: U-R-D-A-H-L.

14                  MS. VEST: I'm glad I asked. I  
15 scribbled it completely wrong. (Laughter)  
16 Yes, ma'am?

17                  MS. SOCKRITER: My name is Mary Ann  
18 Sockriter. I'm a resident of Blue Point  
19 Villas.

20                  I also have concerns about the  
21 added congestion to that part of the canal. It  
22 is narrow through there.

23                  There is a no-wake zone from the  
24 bridge down to where the marina will be. We



1 routinely see boats that do not obey that. The  
2 boats fly up and down.

3 You see boats trying to pass other  
4 boats that are obeying these laws.

5 And I fear for the accidents and  
6 congestion that could happen with a marina  
7 there with 20 boats added to that.

8 MS. VEST: Thank you, Mary Ann.

9 (Applause)

10 MS. VEST: Anyone else? Yes,  
11 ma'am.

12 MS. GUBERMAN: I'm Susie Guberman.  
13 And I would just like to read the letter that I  
14 wrote to Ms. Calder last June.

15 MS. VEST: Okay.

16 MS. GUBERMAN: And I understand  
17 there is something in here about Army Corps of  
18 Engineers that has nothing to do with it, but  
19 this is the letter I sent to Ms. Calder.

20 Ms. Calder, I'm writing to object  
21 to the proposed Oyster House Village  
22 application. Bay Harbor, previously Burtons  
23 Farms, developed in a way to live in  
24 tranquility with large lots, enjoying the flora





1 and fauna.

2 Having owned my home for over 20  
3 years backing up to the wetlands and canal, I  
4 worry how this project will affect wildlife and  
5 the quiet peace of being on the canal.

6 Furthermore, the conversion of  
7 government land to private use for the benefit  
8 of the few appears to be counter to the  
9 original construction and purpose of the canal,  
10 which was to be used for transportation of  
11 agricultural projects.

12 Another concern is the staging of  
13 dredging operations in what is essentially a  
14 tranquil residential neighborhood.

15 (Applause)

16 MS. VEST: Thank you, Susan. Did  
17 you want me to have a copy of that for this  
18 record or?

19 MS. GUBERMAN: If you let me make  
20 sure I have actually -- I didn't bring extra.

21 MS. MOLINA: It's actually included  
22 in the exhibits.

23 MS. VEST: Oh, okay. Then it's in  
24 there. Excellent. Thank you, ma'am.



1 I thought I saw one more hand.

2 MR. O'DONNELL: I'm Charlie  
3 O'Donnell. I know Janet brought up a good  
4 point about disruption to our roads.

5 And I just would like some  
6 consideration -- I don't think it falls  
7 underneath DNREC's purview -- but that our  
8 roads are addressed at the end of this project  
9 in terms of mill overlay, rebuild, whatever is  
10 necessary with all the construction equipment.

11 UNIDENTIFIED SPEAKER: To the  
12 developer, really.

13 MS. VEST: Thank you, sir. Yes.

14 MR. TURNER: Yeah, my name is  
15 Charlie Turner. I live in Bay Harbor. And I  
16 would just like to ask a question of how many  
17 other marinas exist along the canal?

18 I'm familiar with the ones up in  
19 Lewes in the commercial area, but I am not  
20 aware of any other marinas of this size  
21 anywhere else along the canal.

22 And if there are any along the  
23 canal, I would like to get some information on  
24 that in terms of when it was built and if any



1 issues have been uncovered.

2 MS. VEST: Okay.

3 MR. TURNER: That's it.

4 MS. VEST: Sir, I would make sure  
5 you get a business card, as well, from staff,  
6 and they would be more than happy to help you  
7 with that.

8 MS. BLACK: Well, I think we all  
9 would like to know that. So that one goes in?

10 MS. VEST: Oh, yes, it's  
11 automatically in. All the comments are coming  
12 in. Anyone else?

13 MS. SOCKRITER: Can I just add one  
14 small sentence in? My concern is that this  
15 will set a precedent.

16 MS. VEST: Okay. Thank you. All  
17 right. I want to thank everybody,  
18 especially since the music stopped right now, I  
19 want to thank everybody for their patience with  
20 the noise and everything. We obviously did not  
21 anticipate that additional distraction.

22 You guys have been most patient.  
23 As soon as the transcript is received in my  
24 office, we will put that online.



1                   We will get staff to immediately  
2 write formal responses to all concerns  
3 addressed here.

4                   Again, if you would like, you can  
5 feel free to get my business card or any one of  
6 the staff here.

7                   MS. BLACK: I know we are not  
8 supposed to ask questions, but this is about  
9 the process here.

10                  MS. VEST: Sure.

11                  MS. BLACK: What does what we went  
12 through now affect?

13                  MS. VEST: What does what?

14                  MS. BLACK: What do our comments  
15 affect in the decision? Like how --

16                  MS. VEST: Sure. All the comments  
17 that came in tonight are verbally captured by  
18 the court reporter, and they will be a part of  
19 the transcript from tonight's proceedings.

20                  When I get that, that will  
21 immediately be given to staff, and they will  
22 begin to go painstakingly one by one and  
23 provide responses to all of those concerns.

24                  I will not even begin to write my



1 report until I see that staff has addressed all  
2 of the concerns. And then that becomes part of  
3 the record.

4 And all of that goes with my  
5 hearing officer's report up to the Secretary's  
6 office.

7 And then Secretary Garvin is the  
8 one that deliberates on it and makes his formal  
9 decision on the matter.

10 So actually what happens here is  
11 more or less a vetting of the full application,  
12 any changes that have occurred along the way,  
13 and, most importantly, the ability for the  
14 public to say hey, how about this, because  
15 that's just as important as making sure that  
16 all aspects of the application are gotten.

17 And then the Secretary takes all of  
18 that into consideration when making a decision.

19 No decision has been made on this  
20 yet tonight.

21 UNIDENTIFIED SPEAKER: What is the  
22 amount of timeline?

23 MS. VEST: It varies.

24 UNIDENTIFIED SPEAKER: Okay.



1 MS. VEST: And I'm not trying to  
2 hedge the answer. June is extremely busy  
3 because Legislature is still in session up in  
4 Dover. So I would hope in the next 30 to 60  
5 days.

6 UNIDENTIFIED SPEAKER: Oh, okay.

7 MS. VEST: I would hope. But I  
8 can't be held to that. That's what I strive  
9 for.

10 MR. TURNER: Is there a time after  
11 receipt of the record that the comments are  
12 answered for the public?

13 MS. VEST: Well, if there is  
14 questions about personal property and  
15 everything, I would encourage, like I've said  
16 already, for people to contact the Department  
17 on a one-on-one basis.

18 But all of the concerns that are  
19 voiced here -- the comment period will close  
20 tonight with the closing of these proceedings.  
21 And then there will be time for the Department  
22 to put together responses. And then, as I  
23 said, the Secretary needs time to make his  
24 decision.



1 MS. BLACK: Can we respond to the  
2 responses?

3 MS. VEST: No. (Laughter) No.  
4 But I do want to thank everybody.

5 This event tonight and hearings  
6 like this are more or less a fact-finding  
7 mission and an ability to increase and grow the  
8 record pursuant to the concerns of the public.

9 And that's why what you do tonight  
10 is a very important part of the process that we  
11 do.

12 So I do want to thank everybody for  
13 attending. Again, I apologize for the  
14 distractions and the noise.

15 MR. FOSTER: Excuse me. One last  
16 thing as far as the process. Just to be clear,  
17 this evening and these comments, they are  
18 specifically pertaining to the marina, not to  
19 the community.

20 MS. VEST: Yes.

21 MR. FOSTER: So from the previous  
22 presentation that we just heard, it's my  
23 understanding that the community is already  
24 going through, that's approved, that's a done



1 deal? This is just addressing the marina?

2 MS. VEST: The only thing that this  
3 proceeding addresses tonight is the application  
4 that's pending. Anything that's going on with  
5 the community, I don't have anything to do with  
6 that.

7 MR. FOSTER: Right. Okay. So what  
8 I heard earlier what's going on with the  
9 presentation, that Sussex County has already  
10 approved the community, so we are just talking  
11 about the marina?

12 MS. VEST: We are talking about the  
13 pending application for the marina itself.

14 MR. FOSTER: I just wanted to make  
15 sure.

16 MS. VEST: And that's true  
17 throughout the State. Whatever the County does  
18 at that level, that's outside my purview. Can  
19 I have your name again?

20 MR. FOSTER: Steve Foster.

21 MS. VEST: I want to thank  
22 everybody. Again, your comments are very  
23 important to the overall process.

24 Be sure to grab a business card if





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you wish to do so. This meeting is adjourned.

(Concluded at 6:57 p.m.)

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CERTIFICATE

I, Lorena J. Hartnett, a Notary Public and Registered Professional Reporter, do hereby certify that the foregoing is an accurate and complete transcription of the proceeding held at the time and place stated herein, and that the said proceeding was recorded by me and then reduced to typewriting under my direction, and constitutes a true record of the testimony given by said witnesses.

I further certify that I am not a relative, employee, or attorney of any of the parties or a relative or employee of either counsel, and that I am in no way interested directly or indirectly in this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office on this 2nd day of June 2019.



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Lorena J. Hartnett  
Registered Professional Reporter

<b>A</b>	<b>actual (1)</b> 22:3	<b>aforementioned (1)</b> 7:14	5:6 10:16 16:23 40:14 41:17 53:16 54:23 55:9
<b>ability (2)</b> 52:13 54:7	<b>actually (16)</b> 13:4,6 14:16 16:3 17:3,11 19:15 20:1,20	<b>after (4)</b> 15:24 18:4 32:18 53:10	<b>also (21)</b> 6:5 9:17 11:18,24 12:8,11 16:6,7,18 17:1 18:16,22 22:8 23:13 24:3,22 25:3 33:13 40:5 46:5,20
<b>able (6)</b> 22:24 25:1 28:17 35:18 38:19,21	21:8,18,22 30:17 48:20,21 52:10	<b>Again (17)</b> 5:6 6:19 8:18 10:18 19:8 27:15 30:21,23 32:10 36:8 41:21 42:5 44:14 51:4 54:13 55:19,22	<b>Although (2)</b> 16:2 24:17
<b>absolutely (1)</b> 36:4	<b>add (2)</b> 31:20 50:13	<b>agency (1)</b> 17:21	<b>amend (1)</b> 21:8
<b>accepted (1)</b> 6:8	<b>added (4)</b> 18:16 19:13 46:21 47:7	<b>ago (1)</b> 42:7	<b>America (2)</b> 13:7,17
<b>access (11)</b> 13:15,24 19:4,7 21:22 28:18 31:18 38:9,15 39:3 46:9	<b>additional (5)</b> 17:11 18:16 27:10 40:18 50:21	<b>agreement (3)</b> 22:13,15 30:24	<b>amount (3)</b> 8:5 37:11 52:22
<b>accidents (1)</b> 47:5	<b>Additionally (1)</b> 9:17	<b>agricultural (1)</b> 48:11	<b>amounts (1)</b> 20:5
<b>accommodate (1)</b> 28:6	<b>addressed (6)</b> 35:14 36:20 45:17 49:8 51:3 52:1	<b>ahead (4)</b> 4:5 25:1 32:8,11	<b>ancillary (1)</b> 12:3
<b>according (2)</b> 17:6 18:1	<b>addresses (1)</b> 55:3	<b>air (1)</b> 45:11	<b>animals (1)</b> 42:14
<b>accurate (1)</b> 5:22	<b>addressing (1)</b> 55:1	<b>allotted (1)</b> 8:6	<b>Ann (2)</b> 46:17 47:8
<b>accurately (1)</b> 9:6	<b>adhered (1)</b> 6:13	<b>allow (6)</b> 9:22 13:12,14 24:17 26:14 28:15	<b>another (4)</b> 8:18 9:9 17:16 48:12
<b>across (2)</b> 42:24 45:1	<b>adjacent (3)</b> 22:19 28:15,16	<b>allowance (1)</b> 23:14	<b>answer (1)</b> 53:2
<b>Act (3)</b> 11:15,20 45:3	<b>adjoining (3)</b> 13:14,15 41:9	<b>allowed (5)</b> 22:18,20 31:11 33:5 36:1	<b>answered (3)</b> 35:12 38:14 53:12
<b>action (1)</b> 45:15	<b>adjourned (1)</b> 56:1	<b>almost (1)</b> 29:3	<b>answers (5)</b> 35:24 36:17 37:1 38:23 39:11
<b>actions (1)</b> 45:8	<b>adorable (2)</b> 43:4,6	<b>along (10)</b> 21:1 29:6 30:13 41:13,14 42:14 49:17, 21,22 52:12	<b>anticipate (1)</b> 50:21
<b>actively (2)</b> 17:8 29:10	<b>adverse (2)</b> 41:24 42:13	<b>already (8)</b>	<b>anyone (7)</b> 22:4 32:19 42:18 43:17 44:18 47:10
<b>activities (1)</b> 24:18	<b>advise (1)</b> 24:9		
<b>activity (1)</b> 16:11	<b>affect (4)</b> 44:17 48:4 51:12,15		

50:12	<b>appointed (1)</b>	7:3,6 12:3 13:24	<b>backing (1)</b>
<b>anything (3)</b>	4:22	14:10 22:1 25:5	48:3
34:3 55:4,5	<b>appreciate (4)</b>	<b>Association (1)</b>	<b>bank (4)</b>
<b>anytime (1)</b>	5:24 35:3,16 36:6	15:23	29:1,2,3,6
10:24	<b>appropriate (2)</b>	<b>attendance (1)</b>	<b>barge (1)</b>
<b>anyway (1)</b>	34:10 35:23	5:22	21:1
43:15	<b>approval (1)</b>	<b>attendees (1)</b>	<b>based (7)</b>
<b>anywhere (1)</b>	6:23	7:23	11:15,16,19 14:7
49:21	<b>approvals (1)</b>	<b>attending (1)</b>	17:21 18:23 24:8
<b>apart (2)</b>	28:10	54:13	<b>basically (4)</b>
30:6 42:4	<b>approved (6)</b>	<b>attorney (1)</b>	12:14,22 27:23 30:6
<b>apologize (3)</b>	16:13 28:10 34:8	45:13	<b>basis (1)</b>
5:1 9:20 54:13	45:20 54:24 55:10	<b>audience (1)</b>	53:17
<b>appears (1)</b>	<b>approximately (1)</b>	9:11	<b>bat (1)</b>
48:8	18:20	<b>authenticated (1)</b>	5:2
<b>Applause (4)</b>	<b>aprons (1)</b>	8:21	<b>Bay (11)</b>
43:15 45:21 47:9	18:19	<b>authorities (1)</b>	12:20,23,24 15:22
48:15	<b>area (31)</b>	7:8	42:7,24 44:21 46:3,9
<b>applicable (1)</b>	14:12,20 15:1,2,10	<b>authority (2)</b>	47:22 49:15
25:10	16:20 19:19 20:4,14,	7:4,16	<b>Beach (2)</b>
<b>applicant (12)</b>	15,23 21:1,9,12,13,16,	<b>authorize (1)</b>	4:19 12:18
5:16 6:5 10:4 13:2	18 22:2,6,12,19 27:21,	13:13	<b>become (1)</b>
17:14,24 18:2 22:11	22,24 28:23 31:12,18	<b>automatically (2)</b>	6:8
23:5 26:15 27:1 31:23	34:16 37:12 41:16	7:17 50:11	<b>becomes (1)</b>
<b>applicants (1)</b>	49:19	<b>available (2)</b>	52:2
21:5	<b>areas (1)</b>	31:4,7	<b>before (9)</b>
<b>Applicant's (1)</b>	23:17	<b>avoid (1)</b>	4:21 14:9 19:18
32:9	<b>Army (8)</b>	9:19	21:5 22:10 25:11
<b>application (19)</b>	7:9 13:8 15:14	<b>aware (2)</b>	32:22 39:6 42:7
4:15 6:19 7:10	20:17 21:8 28:2 45:1	8:7 49:20	<b>begin (3)</b>
10:21 11:7,11 14:22	47:17	<b>away (1)</b>	6:8 51:22,24
18:7,17 25:13,15,16	<b>around (1)</b>	45:14	<b>begins (1)</b>
26:24 28:20 47:22	38:18	<b>B</b>	44:6
52:11,16 55:3,13	<b>asked (2)</b>		<b>behalf (1)</b>
<b>applied (4)</b>	7:21 46:14	<b>back (7)</b>	11:3
11:12,18,24 12:11	<b>asking (1)</b>	5:9 20:13 26:2	<b>behind (1)</b>
<b>apply (2)</b>	35:6	35:24 37:12,17 44:21	38:6
21:5 28:17	<b>aspects (1)</b>	<b>background (2)</b>	<b>being (5)</b>
<b>applying (1)</b>	52:16	5:5 9:5	10:22 15:12 20:11
11:10	<b>associated (7)</b>		35:18 48:5

<b>believe (2)</b> 10:23 37:8	40:7,15,18 47:1,2,3,4, 7	18:4	8:9 36:12
<b>benefit (3)</b> 29:13,13 48:7	<b>body (1)</b> 8:15	<b>C</b>	<b>change (3)</b> 17:24 18:7 20:9
<b>benefits (2)</b> 28:4,22	<b>both (3)</b> 5:15 10:4 29:14		<b>Calder (3)</b> 47:14,19,20
<b>best (2)</b> 12:14 24:2	<b>bought (3)</b> 38:8 39:2 42:8	<b>call (1)</b> 9:10	<b>changes (5)</b> 13:20 15:6 17:22 21:6 52:12
<b>best-management (2)</b> 23:6 24:19	<b>Branch (3)</b> 16:18 18:24 20:11	<b>calls (2)</b> 15:20 16:3	<b>channeling (1)</b> 18:17
<b>between (2)</b> 12:22 30:18	<b>breed (1)</b> 41:19	<b>came (2)</b> 10:2 51:17	<b>character (1)</b> 41:12
<b>big (2)</b> 38:10,11	<b>bridge (1)</b> 46:24	<b>Canal (22)</b> 12:19 28:13,16 39:24 40:3,5,13,16 41:13,18 42:12,14 44:4,8,22 46:21 48:3, 5,9 49:17,21,23	<b>Charlie (3)</b> 33:2 49:2,15
<b>birds (1)</b> 41:19	<b>brief (5)</b> 5:14 6:4,6 10:24	<b>cannot (1)</b> 40:10	<b>chart (1)</b> 44:2
<b>bit (7)</b> 18:15 20:15 22:8 27:4,17 30:15 43:20	<b>bring (1)</b> 48:20	<b>cap (1)</b> 15:5	<b>Chevron (2)</b> 41:7,8
<b>bizarre (1)</b> 35:19	<b>brought (3)</b> 8:9 32:2 49:3	<b>card (5)</b> 51:17 36:9 39:6 50:5 51:5 55:24	<b>churning (1)</b> 42:1
<b>Black (13)</b> 42:19,20,22 43:18, 19,23,23 44:1 50:8 51:7,11,14 54:1	<b>brown (1)</b> 27:16	<b>captured (1)</b> 51:17	<b>citizens (1)</b> 9:22
<b>blocking (1)</b> 21:22	<b>Brownfield (1)</b> 17:1	<b>case (3)</b> 6:12 19:21 21:21	<b>Clean (3)</b> 11:20 45:3 46:7
<b>Blue (7)</b> 12:23 13:6 14:20 27:23 39:23 46:5,18	<b>building (1)</b> 23:22	<b>caused (1)</b> 17:11	<b>cleaned (1)</b> 29:24
<b>board (1)</b> 32:3	<b>built (1)</b> 49:24	<b>cell (1)</b> 9:18	<b>cleanup (1)</b> 40:2
<b>boat (12)</b> 21:23,24 29:9 31:4 33:15,22 37:22 38:11 40:12 41:16,22 43:4	<b>bulkhead (6)</b> 14:18 19:11 29:22 30:4 39:22 40:3	<b>certification (1)</b> 11:19	<b>clear (1)</b> 54:16
<b>boating (1)</b> 33:17	<b>Burtons (1)</b> 47:22	<b>chain (3)</b> 28:1 30:16,18	<b>close (1)</b> 53:19
<b>boats (11)</b> 31:15 33:14,23	<b>business (5)</b> 36:9 39:6 50:5 51:5 55:24	<b>chance (2)</b>	<b>closed (1)</b> 27:24
	<b>busy (2)</b> 4:8 53:2		<b>closing (1)</b> 53:20
	<b>buyer (1)</b>		<b>clubhouse (1)</b> 24:10
			<b>color (1)</b> 27:16

<b>come (3)</b> 5:7 10:19 36:9	41:15	<b>construction (5)</b> 4:16 16:11 43:2 48:9 49:10	28:3 30:12 33:24 39:19
<b>coming (3)</b> 22:12 46:8 50:11	<b>concern (10)</b> 16:9 34:5 39:8,9 44:10,15,19 46:1	<b>consultant (1)</b> 6:7	<b>course (2)</b> 9:16 13:23
<b>commemorate (1)</b> 8:24	48:12 50:14	<b>consultation (1)</b> 17:21	<b>court (3)</b> 8:22 9:2 51:18
<b>comment (23)</b> 4:14 5:11,13,21 6:8, 10,17 7:2,21 8:2 9:14, 15,22 10:11,20 16:1,4 26:11 33:10 34:3,4 37:10 53:19	<b>concerned (2)</b> 44:23 45:10	<b>contact (2)</b> 24:21 53:16	<b>courtesy (1)</b> 9:7
<b>commenter (1)</b> 8:18	<b>concerns (17)</b> 16:3 17:4,10 33:10, 18 35:3,4 36:3,17,19 45:17 46:20 51:2,23 52:2 53:18 54:8	<b>contains (1)</b> 23:23	<b>covered (1)</b> 42:23
<b>comments (17)</b> 7:13 8:10,13,15 10:1,2 11:7 17:4 25:24 26:10 35:4 50:11 51:14,16 53:11 54:17 55:22	<b>conclude (1)</b> 26:9	<b>continue (1)</b> 45:16	<b>crabs (1)</b> 41:19
<b>commercial (3)</b> 42:6,9 49:19	<b>Concluded (1)</b> 56:2	<b>Control (3)</b> 4:14 43:11,12	<b>criteria (1)</b> 17:18
<b>communities (1)</b> 34:23	<b>concludes (1)</b> 26:10	<b>controlled (2)</b> 45:2,7	<b>crowded (1)</b> 41:17
<b>community (11)</b> 11:9,10 22:24 23:9, 10 24:10 25:19 54:19, 23 55:5,10	<b>condition (1)</b> 30:5	<b>conversion (1)</b> 48:6	<b>cubic (3)</b> 14:23 18:20 19:19
<b>completely (3)</b> 41:11 42:11 46:15	<b>confused (2)</b> 34:19 44:5	<b>cooperating (1)</b> 30:8	<b>current (6)</b> 18:2 21:16 22:9 28:2 30:1,4
<b>compliance (1)</b> 11:23	<b>congested (2)</b> 41:18,21	<b>copy (1)</b> 48:17	<b>currently (12)</b> 15:15 17:7 18:6 19:2,11 20:11,16 21:2 26:22 27:24 28:23 29:4
<b>component (1)</b> 28:20	<b>congestion (2)</b> 46:21 47:6	<b>Corps (8)</b> 7:9 13:8 15:14 20:17 21:8 22:4 45:1 47:17	
<b>compound (12)</b> 15:11 18:12 20:14 21:14,17 22:7,11 23:12 30:15,16,20 31:8	<b>considerate (1)</b> 9:14	<b>corrected (1)</b> 18:7	<b>D</b>
<b>concentration (1)</b>	<b>consideration (2)</b> 49:6 52:18	<b>could (8)</b> 4:4 17:15,16,17 25:2,3 42:3 47:6	<b>Dagsboro (1)</b> 20:2
	<b>Consistent (1)</b> 6:16	<b>counted (1)</b> 37:17	<b>Dale (4)</b> 37:24 38:3,4 41:10
	<b>consisting (1)</b> 9:24	<b>counter (1)</b> 48:8	<b>date (1)</b> 4:10
	<b>consolidation (1)</b> 27:20	<b>County (3)</b> 28:11 55:9,17	<b>Dave (2)</b> 37:24 38:2
	<b>construct (1)</b> 11:9	<b>couple (8)</b> 6:14 21:10 27:8,9	<b>day (1)</b> 37:3
	<b>constructed (1)</b> 16:14		<b>days (1)</b>

53:5	23:16	<b>directly (1)</b>	<b>document (5)</b>
<b>deal (2)</b>	<b>desire (1)</b>	38:6	35:9 36:15,21,23,24
34:10 55:1	32:14	<b>dirt (1)</b>	<b>done (11)</b>
<b>dealing (1)</b>	<b>detail (3)</b>	22:2	5:6 6:1 27:11 32:18,
44:15	16:22 18:13 20:15	<b>discharge (1)</b>	22 33:11 34:10,24
<b>Debbie (2)</b>	<b>detailed (1)</b>	42:2	36:8,15 54:24
33:2 34:2	24:19	<b>discuss (1)</b>	<b>Dover (1)</b>
<b>decided (1)</b>	<b>detailing (1)</b>	34:9	53:4
32:15	22:8	<b>displaced (1)</b>	<b>down (8)</b>
<b>decision (8)</b>	<b>details (2)</b>	37:13	24:23 28:13 32:12
10:8,16,17 51:15	15:9 24:13	<b>disposal (2)</b>	36:12 40:15 46:3,24
52:9,18,19 53:24	<b>deteriorated (1)</b>	16:20 18:23	47:2
<b>deer (1)</b>	29:22	<b>disruption (1)</b>	<b>draft (1)</b>
37:17	<b>deterioration (1)</b>	49:4	23:5
<b>Delaware (3)</b>	39:21	<b>disruptions (1)</b>	<b>drafted (1)</b>
12:18 20:3 24:8	<b>determine (1)</b>	9:20	22:17
<b>Delaware's (2)</b>	17:17	<b>distraction (2)</b>	<b>drafting (1)</b>
4:12 20:21	<b>develop (1)</b>	5:4 50:21	22:14
<b>deliberates (1)</b>	30:22	<b>distractions (1)</b>	<b>drawing (2)</b>
52:8	<b>developed (2)</b>	54:14	14:5 32:6
<b>Department (14)</b>	29:21 47:23	<b>Division (2)</b>	<b>dredge (6)</b>
4:13 5:16 6:3 10:4,	<b>developer (1)</b>	16:8,17	14:21,23 16:19
17,23 26:6,23 27:11	49:12	<b>DNREC (24)</b>	17:15 19:18 20:18
28:2 37:7 39:10 53:16,	<b>developers (1)</b>	4:22 6:12,17,20	<b>dredged (3)</b>
21	45:14	7:24 10:9 15:11,13	18:21 20:5 40:6
<b>Department's (5)</b>	<b>developers' (1)</b>	16:7,17 18:12 20:13	<b>dredging (8)</b>
7:15 25:7 26:9	43:11	21:6,14,17 22:7,10	20:22 22:21 30:9,9
27:19 30:2	<b>developing (1)</b>	23:11 25:23 30:8 31:8	33:5,11 40:22 48:13
<b>depend (1)</b>	34:6	40:1 44:9 45:2	<b>Drive (2)</b>
23:19	<b>development (4)</b>	<b>DNREC's (3)</b>	4:18 46:5
<b>depending (1)</b>	34:8,23 42:6 45:20	7:4,19 49:7	<b>dry (1)</b>
23:18	<b>dewater (1)</b>	<b>dock (8)</b>	12:6
<b>depicted (1)</b>	15:4	13:23,24 14:1 18:8	<b>duration (1)</b>
44:16	<b>differ (1)</b>	22:19 27:15,16 28:6	9:19
<b>deposit (1)</b>	9:16	<b>docked (1)</b>	<b>during (4)</b>
15:3	<b>different (4)</b>	40:19	11:21 22:23 24:5
<b>Derr (6)</b>	6:23 24:1 30:13	<b>docking (2)</b>	34:23
39:14,15,17,19	37:17	14:1 19:3	
40:21 41:1	<b>direct (2)</b>	<b>docks (3)</b>	<b>E</b>
<b>designated (1)</b>	36:13,14	28:17 31:14 41:14	

<b>each (4)</b> 7:20 8:1,6,19	<b>enjoy (3)</b> 31:11,12 38:18	<b>Even (5)</b> 5:20 9:15 35:10 36:7 51:24	31:24 48:22
<b>earlier (6)</b> 18:12 20:8 23:4,18 31:3 55:8	<b>enjoying (1)</b> 47:24	<b>evening (4)</b> 4:1,11 10:14 54:17	<b>exist (1)</b> 49:17
<b>earth (1)</b> 31:4	<b>enough (3)</b> 35:22 38:11,11	<b>evening's (1)</b> 8:24	<b>existing (5)</b> 14:17 15:14 21:23 27:20 33:22
<b>easel (1)</b> 32:7	<b>ensure (2)</b> 8:5,18	<b>event (2)</b> 24:4 54:5	<b>explain (1)</b> 20:14
<b>east (1)</b> 12:20	<b>enter (3)</b> 8:12 25:7,9	<b>every (1)</b> 43:5	<b>explained (1)</b> 26:20
<b>Ed (1)</b> 26:18	<b>entered (3)</b> 22:13 25:3 26:7	<b>everybody (12)</b> 4:2 27:1,5 32:13,22 35:3 42:16 50:17,19 54:4,12 55:22	<b>extra (1)</b> 48:20
<b>edge (1)</b> 29:6	<b>entire (1)</b> 29:20	<b>everyone (3)</b> 4:7 8:7 9:13	<b>extraordinary (1)</b> 27:12
<b>egrets (1)</b> 41:20	<b>environment (1)</b> 42:1	<b>everything (7)</b> 27:12 29:23 35:14 37:5 46:7 50:20 53:15	<b>extremely (2)</b> 29:1 53:2
<b>either (5)</b> 9:18 17:14,15 36:9 42:17	<b>Environmental (4)</b> 4:14 26:18 42:13 45:12	<b>exactly (1)</b> 34:12	<b>F</b>
<b>else (5)</b> 43:17 44:18 47:10 49:21 50:12	<b>equality (1)</b> 8:19	<b>example (1)</b> 11:12	<b>face (1)</b> 27:4
<b>e-mail (2)</b> 10:2 36:14	<b>equally (1)</b> 8:1	<b>Excellent (1)</b> 48:24	<b>facilitate (2)</b> 8:4 10:10
<b>enclose (1)</b> 30:4	<b>equipment (7)</b> 21:4 23:24 34:11, 17,20 35:1 49:10	<b>except (1)</b> 31:7	<b>facilities (3)</b> 12:3 24:11,16
<b>encourage (1)</b> 53:15	<b>equitable (1)</b> 26:21	<b>exception (1)</b> 23:11	<b>facility (4)</b> 14:1 19:3 24:7 29:19
<b>end (3)</b> 33:17,23 49:8	<b>eroding (2)</b> 29:3,10	<b>exclusively (1)</b> 28:8	<b>fact (1)</b> 37:16
<b>ended (1)</b> 16:1	<b>erosion (1)</b> 29:7	<b>Excuse (1)</b> 54:15	<b>fact-finding (1)</b> 54:6
<b>enforced (1)</b> 45:4	<b>especially (2)</b> 9:4 50:18	<b>Exhibit (11)</b> 25:10,12,14,16,17, 19,20,22,24 27:19 32:9	<b>fairness (2)</b> 8:5,19
<b>enforcement (2)</b> 45:13,19	<b>essentially (2)</b> 28:19 48:13	<b>exhibits (7)</b> 10:3 25:2,4,7 26:6	<b>fall (1)</b> 7:7
<b>Engineers (6)</b> 7:9 13:8 15:15 20:18 45:2 47:18	<b>evaluate (1)</b> 16:20		<b>fallen (1)</b> 39:24
	<b>evaluated (1)</b> 20:12		<b>falling (2)</b> 29:8 30:6



<b>falls (1)</b> 49:6	22:17	16:4	38:17
<b>familiar (1)</b> 49:18	<b>fine (1)</b> 32:16	<b>Foster (9)</b> 37:8,9,16 54:15,21	<b>George (2)</b> 41:7 42:23
<b>Family (1)</b> 43:24	<b>finish (1)</b> 30:22	55:7,14,20,20	<b>gets (1)</b> 37:6
<b>far (3)</b> 39:22 45:5 54:16	<b>fire (3)</b> 30:12,12,14	<b>foxes (1)</b> 37:19	<b>getting (1)</b> 34:21
<b>Farms (1)</b> 47:23	<b>First (1)</b> 33:2	<b>free (3)</b> 8:11 36:8 51:5	<b>give (2)</b> 8:11 11:6
<b>fast (1)</b> 31:6	<b>Fish (2)</b> 16:8 24:8	<b>front (1)</b> 39:23	<b>given (6)</b> 5:13,15 10:1,6 17:14 51:21
<b>fauna (1)</b> 48:1	<b>FISHER (2)</b> 44:20,21	<b>fuel (1)</b> 24:5	<b>glad (1)</b> 46:14
<b>fear (1)</b> 47:5	<b>five (1)</b> 38:21	<b>fueling (2)</b> 24:15,17	<b>goes (6)</b> 11:11,14 16:7 30:17 50:9 52:4
<b>feature (1)</b> 23:18	<b>flora (1)</b> 47:24	<b>full (4)</b> 36:5,21 43:22 52:11	<b>going (62)</b> 4:5 5:1 9:5 10:22 12:17 13:5 15:2,16 16:21,22 19:22 20:9, 13 21:14 22:15 25:9 26:2 27:12 28:6 29:11, 24 30:3,10,11,17,19, 21 32:11,13,18 33:15, 16,22 34:16,22 35:1, 12 37:12,14 38:15,19 40:4,5,12,17,19,23 41:24 42:6 43:6,7,8,8 44:3,7 45:7 46:2,7,9 54:24 55:4,8
<b>feedback (1)</b> 37:11	<b>flounder (1)</b> 16:16	<b>fully (1)</b> 35:14	
<b>feeding (1)</b> 35:24	<b>flow (1)</b> 46:3	<b>funneling (1)</b> 35:23	
<b>feel (3)</b> 8:11 36:8 51:5	<b>fly (2)</b> 40:15 47:2	<b>further (1)</b> 20:24	
<b>feet (6)</b> 14:2,14 18:9,11 19:4 29:11	<b>fold (1)</b> 32:3	<b>Furthermore (1)</b> 48:6	
<b>fence (2)</b> 28:1 30:18	<b>follow (1)</b> 24:18	<b>future (1)</b> 28:9	
<b>fenced (4)</b> 21:2,3 22:19 34:16	<b>following (3)</b> 5:14 6:7 12:15	<b>G</b>	
<b>few (3)</b> 43:5 44:22 48:8	<b>formal (13)</b> 4:12 6:4,12 7:17,19 10:5,13,19 26:8 35:7 36:21 51:2 52:8	<b>Garvin (3)</b> 4:22 10:6 52:7	
<b>fiber (1)</b> 30:17	<b>formation (1)</b> 17:12	<b>Gary (1)</b> 44:20	<b>gone (1)</b> 42:16
<b>file (2)</b> 22:4 26:23	<b>former (1)</b> 45:12	<b>gas (1)</b> 42:2	<b>Good (3)</b> 4:1 29:13 49:3
<b>final (3)</b> 19:1 25:16,17	<b>forth (1)</b> 29:9	<b>gathering (1)</b> 36:5	<b>gotten (1)</b> 52:16
<b>finalized (1)</b>	<b>forward (1)</b>	<b>gave (1)</b> 17:4	<b>Governing (1)</b> 11:17
		<b>gentleman (1)</b>	<b>government (2)</b>

29:14 48:7	<b>heard (4)</b>	42:19	<b>impact (6)</b>
<b>grab (2)</b>	31:3 32:15 54:22	<b>historically (2)</b>	16:21 30:20,21
39:5 55:24	55:8	21:23 29:18	34:22 41:24 42:4
<b>grade (1)</b>	<b>hearing (21)</b>	<b>hit (1)</b>	<b>impacts (2)</b>
15:5	4:23 5:11,23 6:3,19	32:13	27:13 42:13
<b>granted (1)</b>	7:1,11,13,18 9:19,22	<b>home (3)</b>	<b>implementing (3)</b>
8:1	10:5,19 16:5 25:21,22	24:11 37:18 48:2	12:15 29:15 30:7
<b>green (1)</b>	26:8 32:8 36:22 44:14	<b>Homeowners (1)</b>	<b>important (5)</b>
14:13	52:5	15:22	5:21 10:15 52:15
<b>Groundwater (4)</b>	<b>hearings (5)</b>	<b>homes (3)</b>	54:10 55:23
16:18,21 18:23	6:12,16 7:20,24	41:13 42:8,9	<b>importantly (1)</b>
20:10	54:5	<b>honk (1)</b>	52:13
<b>grow (1)</b>	<b>heavy (4)</b>	43:5	<b>inappropriate (1)</b>
54:7	21:4 34:11,17,20	<b>honking (1)</b>	42:11
<b>Guberman (4)</b>	<b>hedge (1)</b>	43:8	<b>inaudible (1)</b>
47:12,12,16 48:19	53:2	<b>hope (2)</b>	42:10
<b>guess (3)</b>	<b>held (3)</b>	53:4,7	<b>Inc (1)</b>
37:9 40:11,22	6:17 7:24 53:8	<b>Hopefully (1)</b>	26:18
<b>guys (1)</b>	<b>Hello (1)</b>	5:3	<b>included (3)</b>
50:22	11:2	<b>horseshoe (1)</b>	23:1 24:22 48:21
<b>H</b>	<b>help (3)</b>	41:19	<b>includes (1)</b>
	8:7 43:19 50:6	<b>hours (1)</b>	23:6
	<b>helpful (1)</b>	43:5	<b>incorporated (1)</b>
<b>hand (1)</b>	36:2	<b>House (11)</b>	7:17
49:1	<b>hereby (1)</b>	4:19 18:4 23:10	<b>increase (1)</b>
<b>handled (1)</b>	26:7	26:19 28:9 29:18,19	54:7
37:14	<b>hey (1)</b>	34:13 38:5,20 47:21	<b>increased (1)</b>
<b>hands (1)</b>	52:14	<b>However (2)</b>	42:4
43:11	<b>Hi (2)</b>	14:8 26:21	<b>indicate (1)</b>
<b>happen (2)</b>	42:20 45:23	<b>hydrant (1)</b>	5:10
46:2 47:6	<b>high (4)</b>	30:12	<b>indicated (2)</b>
<b>happens (1)</b>	14:6 18:18 29:1,2	<b>I</b>	32:13 42:17
52:10	<b>highlight (2)</b>		<b>informal (1)</b>
<b>happy (1)</b>	27:18 28:22	<b>identified (1)</b>	15:22
50:6	<b>highlighted (5)</b>	26:6	<b>information (4)</b>
<b>Harbor (7)</b>	13:3,6 14:13 22:6	<b>imagine (1)</b>	24:21 36:5 37:22
12:24 15:22 42:7,	27:8	29:23	49:23
24 44:21 47:22 49:15	<b>highlights (1)</b>	<b>immediately (2)</b>	<b>initial (1)</b>
<b>hear (3)</b>	27:17	51:1,21	13:18
4:2 9:6 11:1	<b>Hillary (1)</b>		<b>initially (1)</b>

32:20	<b>Julie (7)</b>	14:18 20:7 30:1	53:3
<b>inside (1)</b>	11:3 26:4,13,20	31:13	<b>length (3)</b>
33:15	28:12 35:7 36:10	<b>landowner (1)</b>	18:8,10 23:19
<b>instances (1)</b>	<b>June (2)</b>	41:9	<b>less (4)</b>
28:13	47:14 53:2	<b>Lands (10)</b>	18:21 30:21 52:11
<b>instead (1)</b>	<b>jurisdiction (5)</b>	7:5,15 11:4,13,14,	54:6
19:21	12:2,9 14:8,9 19:16	15,17 13:5 28:14 31:6	<b>letter (2)</b>
<b>instructions (1)</b>	<b>jurisdictional (1)</b>	<b>large (3)</b>	47:13,19
24:4	7:3	21:18 29:15 47:24	<b>letting (1)</b>
<b>intelligent (1)</b>		<b>large-scale (1)</b>	17:7
35:22	<b>K</b>	25:18	<b>level (1)</b>
<b>intersection (2)</b>		<b>last (3)</b>	55:18
4:18 20:6	<b>Kaitlyn (1)</b>	46:12 47:14 54:15	<b>Lewes (2)</b>
<b>introductory (1)</b>	4:18	<b>Lastly (1)</b>	12:19 49:19
6:2	<b>kayak (2)</b>	10:15	<b>life (3)</b>
<b>investigation (1)</b>	14:3 19:6	<b>late (1)</b>	23:24 42:13 45:19
17:2	<b>keep (2)</b>	5:7	<b>limited (1)</b>
<b>involved (1)</b>	17:19 43:9	<b>later (2)</b>	6:17
35:17	<b>keeping (1)</b>	15:7,10	<b>line (5)</b>
<b>Iron's (1)</b>	31:4	<b>latest (1)</b>	14:5,6 18:18 27:23
20:7	<b>Kim (1)</b>	27:7	29:2
<b>issues (1)</b>	41:2	<b>Laughter (2)</b>	<b>linear (7)</b>
50:1	<b>kind (3)</b>	46:15 54:3	13:23 14:14 18:9,
<b>itself (3)</b>	29:21 38:22 39:7	<b>Launay (9)</b>	11 19:4 23:17 29:11
6:5 34:8 55:13	<b>kinds (2)</b>	26:16,17,18 27:5	<b>lines (1)</b>
	41:20 42:2	31:22 32:1,5,10 33:1	21:10
<b>J</b>	<b>known (1)</b>	<b>launch (2)</b>	<b>link (6)</b>
	29:18	14:3 19:6	24:22,23,24 28:1
<b>Janet (3)</b>	<b>knows (1)</b>	<b>laws (1)</b>	30:18 36:12
45:23 46:11 49:3	43:9	47:4	<b>linked (1)</b>
<b>Jeff (2)</b>		<b>lease (7)</b>	30:16
43:23 44:12	<b>L</b>	15:14 20:17 21:8	<b>Lisa (2)</b>
<b>Jeffrey (1)</b>		22:3,10 28:2 31:18	4:21 26:3
43:18	<b>labeled (2)</b>	<b>least (2)</b>	<b>list (1)</b>
<b>jet-skis (2)</b>	14:12 15:10	22:5 37:17	32:12
38:12,19	<b>ladder (2)</b>	<b>leave (2)</b>	<b>listed (2)</b>
<b>job (1)</b>	14:4 19:6	32:1 39:6	23:13 26:22
27:12	<b>land (3)</b>	<b>legal (1)</b>	<b>listening (1)</b>
<b>jot (1)</b>	29:10 45:2 48:7	44:8	9:12
24:23	<b>landing (4)</b>	<b>Legislature (1)</b>	<b>little (11)</b>

14:18 18:15 20:14	<b>low (1)</b>	23:20 28:13 42:6,7	<b>means (1)</b>
22:8 27:4 30:15 35:19	40:10	49:16	36:11
38:10 43:5,20 44:5	<b>M</b>	<b>map (1)</b>	<b>meeting (5)</b>
<b>live (4)</b>		21:11	15:22,24 16:19
42:23 45:24 47:23	<b>ma'am (4)</b>	<b>March (2)</b>	36:20 56:1
49:15		16:14 22:21	<b>members (1)</b>
<b>lived (1)</b>	45:22 46:16 47:11	<b>marina (25)</b>	10:10
43:1	48:24	4:17 6:22 7:14 11:9,	<b>mention (1)</b>
<b>LLC (4)</b>	<b>machinery (1)</b>	11,24 12:1,4,10 14:11	17:23
4:16 6:20 11:8	46:8	23:7,8,22 24:1,10,14	<b>mentioned (6)</b>
26:19	<b>made (6)</b>	38:18 43:6,9 46:24	14:9 19:18 20:8
<b>located (12)</b>	10:16,17 15:7	47:6 54:18 55:1,11,13	23:4 25:11 28:12
4:17 5:9 12:18,19,	17:22 45:16 52:19	<b>marinas (2)</b>	<b>met (1)</b>
24 13:5 14:4 15:15	<b>main (2)</b>	49:17,20	11:22
16:24 20:2,6 37:20	38:8 39:2	<b>mark (1)</b>	<b>methane (2)</b>
<b>location (8)</b>	<b>maintained (1)</b>	32:8	17:7,12
14:16 17:16 18:23	45:20	<b>marked (1)</b>	<b>Mill (2)</b>
19:23,24 20:9 21:17	<b>maintenance (11)</b>	21:16	20:7 49:9
28:24	12:12,13 14:21,23	<b>Mary (2)</b>	<b>mind (1)</b>
<b>locations (1)</b>	23:2,4,14 24:16,18	46:17 47:8	32:20
30:13	27:21 30:2	<b>material (6)</b>	<b>mindful (1)</b>
<b>locked (1)</b>	<b>major (3)</b>	14:24 15:3 16:19	9:4
31:8	28:4,22 31:3	18:21 19:20 20:5	<b>minor (1)</b>
<b>long (6)</b>	<b>make (12)</b>	<b>matter (5)</b>	24:17
12:9 13:15 14:2,10	9:2 11:21 26:24	6:18 7:12 9:15 10:8	<b>minutes (3)</b>
24:18 37:3	27:9 32:21 33:10 36:4	52:9	6:14 8:2,14
<b>look (1)</b>	37:10 48:19 50:4	<b>matters (2)</b>	<b>missed (1)</b>
11:21	53:23 55:14	7:3,6	41:7
<b>looked (1)</b>	<b>makes (1)</b>	<b>mature (1)</b>	<b>mission (1)</b>
38:7	52:8	29:5	54:7
<b>looking (1)</b>	<b>making (4)</b>	<b>maximum (2)</b>	<b>MOLINA (5)</b>
44:1	6:6 10:7 52:15,18	23:14,21	11:2,3 26:12 32:24
<b>Lori (1)</b>	<b>management (7)</b>	<b>May (8)</b>	48:21
37:8	12:14 15:11 21:7	4:10,20 7:7 9:16	<b>moments (1)</b>
<b>lot (2)</b>	24:2,9 27:21 31:1	20:23 24:22 44:13,17	5:18
42:23 44:7	<b>managing (1)</b>	<b>maybe (5)</b>	<b>monitored (2)</b>
<b>lots (2)</b>	24:7	27:4 32:20 39:14	40:18 45:8
44:22 47:24	<b>manner (1)</b>	41:3 42:18	<b>monitoring (1)</b>
<b>loud (1)</b>	7:22	<b>mean (2)</b>	16:23
5:2	<b>many (5)</b>	14:6 29:2	<b>moor (2)</b>

22:24 23:20 <b>moored (1)</b> 21:1 <b>mooring (3)</b> 23:15,17 28:7 <b>more (14)</b> 15:9 16:22 18:13 20:15 21:10 22:9 23:17 28:7 37:22 41:22 49:1 50:6 52:11 54:6 <b>most (6)</b> 35:15,21 43:14 44:23 50:22 52:13 <b>move (1)</b> 32:16 <b>moving (1)</b> 21:18 <b>much (4)</b> 5:3 27:14 28:14 39:8 <b>multiple (1)</b> 6:23 <b>music (3)</b> 5:4 9:5 50:18 <b>must (2)</b> 6:13,17 <b>muted (1)</b> 9:18 <b>Myself (1)</b> 10:9	40:13 46:22 <b>Natural (1)</b> 4:13 <b>neatly (1)</b> 32:3 <b>necessary (1)</b> 49:10 <b>Neck (1)</b> 31:16 <b>need (4)</b> 6:13 20:23 41:22 43:14 <b>needed (1)</b> 18:16 <b>needs (1)</b> 53:23 <b>negative (1)</b> 42:3 <b>neighborhood (3)</b> 41:12 43:13 48:14 <b>never (1)</b> 35:17 <b>new (9)</b> 4:16 11:9 18:22 19:23,23 20:9 29:12 39:22 40:3 <b>newspapers (1)</b> 15:20 <b>next (3)</b> 32:16 40:21 53:4 <b>nice (1)</b> 29:5 <b>noise (6)</b> 42:1 43:1,3,4 50:20 54:14 <b>nor (1)</b> 10:17 <b>northeast (1)</b> 20:6 <b>note (1)</b>	10:15 <b>noted (2)</b> 6:21 8:20 <b>nothing (1)</b> 47:18 <b>notice (4)</b> 15:19 16:7 25:14,20 <b>no-wake (1)</b> 46:23 <b>number (2)</b> 29:21 32:9	<b>offering (1)</b> 32:5 <b>office (2)</b> 50:24 52:6 <b>officer (2)</b> 4:23 36:22 <b>officer's (2)</b> 10:5 52:5 <b>official (2)</b> 8:22 35:6 <b>oil (1)</b> 24:5 <b>Old (1)</b> 20:7 <b>Once (4)</b> 6:1 22:17 34:24 43:11 <b>one (22)</b> 8:18,21 9:6 16:1,4 17:23 32:17 37:9 38:8 39:2,10,10,19 40:21 49:1 50:9,13 51:5,22, 22 52:8 54:15 <b>one-on-one (1)</b> 53:17 <b>ones (1)</b> 49:18 <b>ongoing (2)</b> 6:24 45:18 <b>online (3)</b> 9:3 25:1 50:24 <b>only (10)</b> 7:2 8:21 9:6 16:3 22:20 23:8,21 34:4 43:10 55:2 <b>open (1)</b> 22:5 <b>operation (1)</b> 14:11 <b>operations (11)</b>
<b>N</b>		<b>O</b>	
<b>name (13)</b> 4:21 11:2 17:23 18:1 26:17 43:22,23 44:19,20 46:12,17 49:14 55:19 <b>narrow (2)</b>		<b>O&amp;M (1)</b> 24:20 <b>obey (1)</b> 47:1 <b>obeying (1)</b> 47:4 <b>object (1)</b> 47:20 <b>objection (1)</b> 16:2 <b>obviously (3)</b> 34:9 37:18 50:20 <b>occurred (1)</b> 52:12 <b>O'Donnell (13)</b> 33:2,3,9,13,21 34:4 35:15,21 36:16 37:1,4 49:2,3 <b>off (6)</b> 5:1 9:18 11:20 21:22 32:3 34:18 <b>offer (8)</b> 5:12,20 7:21 8:2 9:22 10:20 26:15 34:3 <b>offered (2)</b> 6:11 9:14	

12:10,12,13 20:18, 22 23:2,3,7,13 30:9 48:13 <b>opportunity (2)</b> 5:14 11:6 <b>opposite (1)</b> 41:9 <b>options (1)</b> 17:14 <b>orange (2)</b> 15:10 22:6 <b>order (2)</b> 7:23 25:4 <b>original (6)</b> 13:21 14:22 25:12, 15,17 48:9 <b>originally (6)</b> 14:2 15:2,16 17:9 21:13,21 <b>other (18)</b> 7:6,8 9:20 10:9 16:2 18:14 19:6,7 29:1,17 31:2,3 38:7 40:11,22 47:3 49:17, 20 <b>out (7)</b> 4:8 9:10 31:6 33:23 41:11 43:11 44:3 <b>outfall (2)</b> 18:19 44:24 <b>outfalls (1)</b> 19:13 <b>outlets (2)</b> 44:3,11 <b>outside (5)</b> 7:10 16:11,14 19:15 55:18 <b>over (10)</b> 6:3,15 10:23 12:2 13:18,20 26:2 42:8	43:12 48:2 <b>overall (1)</b> 55:23 <b>overlay (1)</b> 49:9 <b>oversee (1)</b> 20:20 <b>oversees (1)</b> 20:21 <b>own (5)</b> 9:16 13:4 17:4 24:11,11 <b>owned (3)</b> 13:7 28:14 48:2 <b>owner (3)</b> 13:2 18:2 26:21 <b>owners (2)</b> 28:15 43:10 <b>Oyster (10)</b> 4:18 18:3 23:9 26:19 28:9 29:18,19 31:15 46:3 47:21	10:12 <b>particular (1)</b> 7:13 <b>partying (1)</b> 43:7 <b>pass (1)</b> 47:3 <b>past (1)</b> 38:21 <b>patience (1)</b> 50:19 <b>patient (1)</b> 50:22 <b>pattern (1)</b> 46:3 <b>peace (1)</b> 48:5 <b>pending (2)</b> 55:4,13 <b>people (4)</b> 27:17 30:20 32:12 53:16 <b>period (2)</b> 15:19 53:19 <b>periods (1)</b> 40:14 <b>permit (7)</b> 4:15 6:19 10:21 11:13,14 12:1 40:6 <b>permitted (1)</b> 10:13 <b>permitting (6)</b> 7:2,8,16 13:9,10 18:5 <b>person (5)</b> 7:20 8:1,6,19 9:10 <b>personal (2)</b> 39:9 53:14 <b>persons (1)</b> 5:12	<b>pertaining (1)</b> 54:18 <b>pertinent (1)</b> 7:13 <b>phone (1)</b> 24:24 <b>phones (1)</b> 9:18 <b>physically (1)</b> 32:7 <b>picture (2)</b> 24:24 36:13 <b>piece (1)</b> 14:18 <b>pieces (1)</b> 29:22 <b>pier (1)</b> 19:7 <b>piers (3)</b> 13:24 19:4 28:17 <b>piles (1)</b> 29:22 <b>pink (2)</b> 14:16 28:23 <b>pipeline (2)</b> 20:23,24 <b>place (7)</b> 8:7 16:11 17:8 18:5 30:10 34:10 41:18 <b>placed (3)</b> 15:18 17:10,17 <b>places (1)</b> 45:15 <b>plan (13)</b> 12:12,13 19:10 23:2,4,5,14 24:20 25:18 27:7,7 37:19 46:6 <b>plans (1)</b> 25:19
	<b>P</b>		
	<b>painstakingly (1)</b> 51:22 <b>parallel (2)</b> 28:7 33:15 <b>parcel (1)</b> 13:2 <b>parked (1)</b> 33:15 <b>parking (2)</b> 12:7 44:7 <b>part (7)</b> 40:2 41:18 42:12 46:21 51:18 52:2 54:10 <b>participating (1)</b>		

<b>plant (2)</b> 43:2,3	50:15	10:12 51:19 53:20	21:19
<b>platform (2)</b> 4:12 10:19	<b>precise (1)</b> 7:21	<b>process (6)</b> 13:9 35:17 51:9 54:10,16 55:23	<b>protect (1)</b> 16:15
<b>please (4)</b> 9:4,9 11:1 39:17	<b>prepared (1)</b> 8:10	<b>processes (3)</b> 6:23 7:10 11:12	<b>Protection (6)</b> 16:18 18:24 20:11 28:24 30:12,14
<b>pm (1)</b> 56:2	<b>present (2)</b> 10:10 32:7	<b>processing (1)</b> 29:19	<b>protocol (1)</b> 8:4
<b>point (13)</b> 5:18 12:23,23 26:14 27:6 39:23 40:6 41:6 42:16 45:24 46:5, 18 49:4	<b>presentation (6)</b> 6:4,6 10:24 26:15 54:22 55:9	<b>project (34)</b> 6:22 7:7,14 9:23 12:17,18 13:5,19 15:18,21 16:6,12 17:5, 22 19:1 25:5,8 28:4,5, 9,10 29:16 30:22 31:7 32:6 34:7,24 37:13 38:6,22 41:10,11 48:4 49:8	<b>protocols (1)</b> 6:13
<b>pointer (1)</b> 12:20	<b>presentations (1)</b> 5:15	<b>projects (1)</b> 48:11	<b>protruding (1)</b> 19:14
<b>points (1)</b> 27:10	<b>presented (1)</b> 38:14	<b>promises (1)</b> 45:16	<b>provide (6)</b> 4:11 10:19 11:5 30:10,11 51:23
<b>policed (1)</b> 45:4	<b>presenting (1)</b> 11:3	<b>propellers (1)</b> 42:2	<b>provided (1)</b> 36:22
<b>policy (2)</b> 7:19 24:9	<b>presently (1)</b> 40:1	<b>properties (2)</b> 13:14 38:7	<b>provisions (2)</b> 45:6,6
<b>pollution (1)</b> 43:12	<b>prevail (1)</b> 9:8	<b>property (9)</b> 13:11,16,17 26:21 31:10 39:2,9 40:1 53:14	<b>public (30)</b> 4:14 6:12,16 10:11 11:6 15:19 16:5,6 25:14,20,21,22 28:4 29:13,15 31:5,7,10,11, 19 35:9 36:15,23 37:22 39:8,9 46:4 52:14 53:12 54:8
<b>pontoons (1)</b> 40:9	<b>previous (1)</b> 54:21	<b>proposal (1)</b> 14:17	<b>pump-out (1)</b> 24:1
<b>portable (1)</b> 24:1	<b>previously (2)</b> 20:4 47:22	<b>propose (1)</b> 15:17	<b>purchased (1)</b> 38:5
<b>portions (1)</b> 19:14	<b>prior (2)</b> 10:3,7	<b>proposed (15)</b> 6:22 7:7 9:23 14:2, 3,14,19 15:12 17:9 19:2 21:13,22 23:10 27:19 47:21	<b>purple (3)</b> 15:1 21:12,16
<b>possible (1)</b> 7:22	<b>private (1)</b> 48:7	<b>proposing (4)</b> 14:21,22 19:18	<b>purpose (4)</b> 7:1 9:21 10:18 48:9
<b>possibly (3)</b> 39:14 42:3,17	<b>privately (1)</b> 31:15		<b>purposes (1)</b> 32:4
<b>posting (1)</b> 25:22	<b>probably (1)</b> 35:22		<b>Pursuant (2)</b> 7:12 54:8
<b>potential (1)</b> 18:4	<b>problem (1)</b> 44:13		<b>purview (3)</b>
<b>practices (4)</b> 12:14 23:6 24:2,19	<b>problem (1)</b> 44:13		
<b>precedent (1)</b>	<b>proceedings (8)</b> 4:6,24 5:19 6:7 9:1		

7:8 49:7 55:18 <b>put (8)</b> 9:2 29:12 38:11,11, 19 40:18 50:24 53:22 <b>putting (1)</b> 19:22	5:23 12:21 27:14 28:3,5 34:12 45:10 49:12 <b>reason (1)</b> 9:11 <b>reasons (2)</b> 38:8 39:2 <b>rebuild (1)</b> 49:9 <b>receipt (2)</b> 10:11 53:11 <b>receive (2)</b> 4:14 7:2 <b>received (4)</b> 15:20 16:3 26:1 50:23 <b>receiving (1)</b> 16:1 <b>recognize (1)</b> 5:17 <b>recognized (1)</b> 8:12 <b>recommended (1)</b> 16:10 <b>record (19)</b> 5:13,22 6:9,21 7:18 8:3,13,21 9:24 26:5,8, 16 32:5 35:12,13 48:18 52:3 53:11 54:8 <b>red (1)</b> 14:5 <b>reduced (2)</b> 18:8,11 <b>reevaluated (1)</b> 20:10 <b>referred (1)</b> 42:19 <b>Referring (1)</b> 5:4 <b>reflect (1)</b>	26:5 <b>regard (3)</b> 6:10 8:5 9:15 <b>regards (1)</b> 39:20 <b>regulations (8)</b> 11:16,17 12:2 14:7 18:1 25:11 45:3,4 <b>Rehoboth (3)</b> 4:19 12:18,19 <b>related (1)</b> 10:20 <b>relating (1)</b> 25:8 <b>relocate (2)</b> 15:17 19:22 <b>relocated (5)</b> 15:12 18:13 19:5 21:9,13 <b>relocation (1)</b> 22:6 <b>remain (2)</b> 21:2 22:5 <b>remaining (2)</b> 8:8 19:5 <b>remarks (1)</b> 6:2 <b>remediation (2)</b> 17:2,8 <b>removal (2)</b> 33:5,11 <b>remove (1)</b> 17:15 <b>removed (3)</b> 29:24 33:17 40:23 <b>repair (1)</b> 29:12 <b>replace (2)</b> 14:17,19 <b>replacing (1)</b>	19:10 <b>report (3)</b> 10:5 52:1,5 <b>reporter (2)</b> 9:2 51:18 <b>reporter's (1)</b> 8:23 <b>representing (1)</b> 26:19 <b>represents (1)</b> 28:1 <b>request (1)</b> 17:13 <b>requested (1)</b> 26:23 <b>requesting (1)</b> 11:8 <b>requirements (2)</b> 12:16 44:24 <b>resident (1)</b> 46:18 <b>residential (1)</b> 48:14 <b>residents (2)</b> 23:9 28:8 <b>Resources (2)</b> 4:13 26:18 <b>respectful (1)</b> 9:13 <b>respond (1)</b> 54:1 <b>responded (1)</b> 37:6 <b>response (3)</b> 35:7 36:21 37:2 <b>responses (5)</b> 45:18 51:2,23 53:22 54:2 <b>restricted (1)</b> 31:19
<b>Q</b>			
<b>quality (6)</b> 11:19,22 44:9,17 45:11,19 <b>question (6)</b> 32:6 33:4,18 38:5, 15 49:16 <b>questions (11)</b> 15:21 33:6,24 35:18,23 36:1 38:13 39:19 44:2 51:8 53:14 <b>quiet (1)</b> 48:5 <b>quite (1)</b> 29:13			
<b>R</b>			
<b>ramp (6)</b> 21:23,24 31:4 33:22 37:22 38:10 <b>Rankin (2)</b> 41:2,4 <b>rate (1)</b> 29:7 <b>rather (1)</b> 11:16 <b>read (1)</b> 47:13 <b>ready (2)</b> 32:23,24 <b>really (8)</b>			



<b>restriction (2)</b> 16:12,15	47:1	<b>Section (13)</b> 7:5,16 11:4,20	43:2,3 44:3,11
<b>restroom (1)</b> 24:12	<b>rules (1)</b> 24:14	15:13 17:3 20:21 21:7	<b>sewers (1)</b> 44:16
<b>result (1)</b> 29:14	<b>S</b>	22:18 30:2 31:1 35:7	<b>sheet (1)</b> 5:10
<b>revetment (3)</b> 14:13 18:10 29:12	<b>safety (1)</b> 21:3	40:13	<b>section's (1)</b> 11:14
<b>review (8)</b> 10:7 11:14,19,21 16:7,8,23 18:24	<b>said (7)</b> 10:22 20:16 32:20 38:17 41:3 53:15,23	<b>secured (1)</b> 31:9	<b>sheets (1)</b> 5:8
<b>reviewed (1)</b> 12:1	<b>same (3)</b> 19:5 22:12 43:23	<b>seems (1)</b> 35:18	<b>shoreline (5)</b> 19:8 21:7 28:24 29:20 39:20
<b>revised (1)</b> 26:24	<b>sample (2)</b> 17:16,19	<b>send (1)</b> 36:13	<b>shortened (3)</b> 19:3,9 27:15
<b>right (19)</b> 5:1,9 6:14 12:23 15:15 18:5 19:11 20:2 21:12 26:17 30:3 38:20 39:3 40:3 42:22 43:4 50:17,18 55:7	<b>saw (2)</b> 23:18 49:1	<b>sent (1)</b> 47:19	<b>show (2)</b> 19:14 27:16
<b>ring (1)</b> 23:24	<b>saying (1)</b> 36:16	<b>sentence (1)</b> 50:14	<b>shows (5)</b> 14:6,13,16 19:23 27:24
<b>riprap (5)</b> 14:13 18:10,16 19:15 29:12	<b>schedules (1)</b> 4:8	<b>separate (2)</b> 11:11 13:8	<b>side (5)</b> 40:7,7,10,10 41:9
<b>Road (6)</b> 4:19 12:20 20:7 46:3,5,10	<b>scope (1)</b> 7:10	<b>September (2)</b> 16:15 22:20	<b>sign (2)</b> 5:8,23
<b>roads (2)</b> 49:4,8	<b>screen (1)</b> 30:17	<b>serious (1)</b> 42:12	<b>signed (1)</b> 32:12
<b>role (1)</b> 34:13	<b>scribbled (1)</b> 46:15	<b>serve (1)</b> 4:23	<b>significant (1)</b> 37:11
<b>Ron (1)</b> 39:14	<b>season (2)</b> 22:22 33:17	<b>session (4)</b> 10:13 33:8 35:11 53:3	<b>sign-in (1)</b> 5:8
<b>room (1)</b> 5:9	<b>seasonally (1)</b> 30:11	<b>set (1)</b> 50:15	<b>similar (1)</b> 21:20
<b>routine (2)</b> 12:14 23:7	<b>seats (1)</b> 4:5	<b>seven (1)</b> 38:21	<b>simple (2)</b> 28:5,6
<b>routinely (1)</b>	<b>secondly (1)</b> 37:21	<b>several (5)</b> 15:20 16:2 17:10, 22 24:13	<b>simply (1)</b> 8:14
	<b>Secretary (5)</b> 4:22 10:6 52:7,17 53:23	<b>severe (1)</b> 24:5	<b>simultaneously (1)</b> 6:24
	<b>Secretary's (2)</b> 25:4 52:5	<b>sewage (2)</b> 24:5 44:24	<b>single-family (2)</b> 41:13 42:9
		<b>sewer (4)</b>	<b>SIRS (3)</b> 17:3,6,13
			<b>site (7)</b>

16:24 17:2,2,8	<b>south (2)</b>	<b>stand (1)</b>	<b>store (1)</b>
19:22 34:17,18	4:17 20:1	29:5	20:23
<b>sitting (1)</b>	<b>southern (1)</b>	<b>standards (1)</b>	<b>storm (3)</b>
32:7	22:18	11:22	44:3,10,15
<b>situation (1)</b>	<b>speak (6)</b>	<b>start (1)</b>	<b>stormwater (3)</b>
29:4	9:9 27:3 30:6 32:14,	4:5	12:7 18:18 19:13
<b>size (1)</b>	21 39:16	<b>State (8)</b>	<b>strive (1)</b>
49:20	<b>SPEAKER (6)</b>	4:12 7:24 11:22	53:8
<b>slats (1)</b>	4:3 27:3 49:11	20:21 24:8 45:7,8	<b>structure (2)</b>
30:18	52:21,24 53:6	55:17	13:10 22:1
<b>slides (1)</b>	<b>speaking (3)</b>	<b>stated (1)</b>	<b>stuff (1)</b>
18:14	9:10,12 23:3	22:10	44:6
<b>slightly (2)</b>	<b>species (1)</b>	<b>statements (1)</b>	<b>Subaqueous (9)</b>
14:15 19:19	16:9	8:10	7:4,15 11:4,13,13,
<b>slips (4)</b>	<b>specific (1)</b>	<b>States (3)</b>	15,17 14:7 45:3
33:16 40:12 41:16,	17:18	13:7,16 28:15	<b>Subdivision (1)</b>
22	<b>specifically (3)</b>	<b>State's (2)</b>	44:21
<b>slowly (1)</b>	10:20 21:1 54:18	18:1 19:16	<b>subject (2)</b>
29:7	<b>specifications (1)</b>	<b>station (2)</b>	6:18 7:12
<b>small (4)</b>	30:24	23:24 24:1	<b>sublet (1)</b>
19:19 20:5 41:16	<b>spell (1)</b>	<b>statute (1)</b>	43:10
50:14	46:12	25:10	<b>submit (1)</b>
<b>snap (1)</b>	<b>spill (1)</b>	<b>statutory (2)</b>	5:11
36:12	24:5	9:21 12:16	<b>submitted (4)</b>
<b>SOCKRITER (3)</b>	<b>spoils (3)</b>	<b>step (2)</b>	4:15 6:20 13:19
46:17,18 50:13	17:9,15 40:23	24:3,4	23:5
<b>soils (1)</b>	<b>spoke (2)</b>	<b>steps (1)</b>	<b>summer (1)</b>
17:17	18:11 34:11	6:23	16:16
<b>sole (1)</b>	<b>stabilization (1)</b>	<b>Steve (2)</b>	<b>Sunrise (6)</b>
10:18	19:8	37:8 55:20	4:15 6:20 11:7 13:1
<b>solely (1)</b>	<b>stack (1)</b>	<b>still (7)</b>	18:6 26:24
6:18	12:6	16:4 18:6 22:16	<b>Sunset (1)</b>
<b>something (1)</b>	<b>staff (10)</b>	23:23 31:11 38:15	26:22
47:17	6:3 10:9 26:7 36:23	53:3	<b>supposed (2)</b>
<b>sometimes (1)</b>	39:6 50:5 51:1,6,21	<b>stop (1)</b>	23:8 51:8
45:14	52:1	35:13	<b>sure (15)</b>
<b>soon (3)</b>	<b>stage (1)</b>	<b>stopped (1)</b>	9:2 11:21 32:21
9:1 36:15 50:23	20:18	50:18	33:14 34:12 36:4 39:5
<b>sorry (3)</b>	<b>staging (1)</b>	<b>storage (3)</b>	44:8 48:20 50:4 51:10,
37:3 42:21 44:14	48:12	12:6 23:22 27:21	16 52:15 55:15,24

<p><b>surrounding (1)</b>                  34:22</p> <p><b>Susan (1)</b>                  48:16</p> <p><b>Susie (1)</b>                  47:12</p> <p><b>Sussex (2)</b>                  28:11 55:9</p> <hr/> <p style="text-align: center;"><b>T</b></p> <hr/> <p><b>taking (2)</b>                  4:8 17:8</p> <p><b>talk (1)</b>                  5:2</p> <p><b>talked (1)</b>                  33:4</p> <p><b>talking (8)</b>                  27:13 28:21 34:15,                  17,18,21 55:10,12</p> <p><b>Teat (6)</b>                  37:24,24 38:1,4                  39:1,12</p> <p><b>technical (1)</b>                  36:21</p> <p><b>ten (1)</b>                  37:17</p> <p><b>terms (4)</b>                  30:8,19 49:9,24</p> <p><b>their (23)</b>                  4:8 6:6 8:2,8 13:11,                  16 16:23 17:3,18                  20:18,23,24 21:8 23:1                  24:7,11,11 27:21 28:1                  30:9 32:20 37:18                  50:19</p> <p><b>themselves (1)</b>                  31:14</p> <p><b>there (82)</b>                  6:11 8:6,17,20</p>	<p>10:12 13:3,19,23 14:3,                  4,18,19 15:3,10 16:19</p> <p>17:7,17,22 18:15,20,                  22 19:7 20:19,24 21:4,                  24 22:3,9 23:1,16,20,                  22 24:13,15 27:8</p> <p>28:13,23 29:5,19,20,                  21 34:21 35:1 36:7,17                  37:11,18 39:13,24</p> <p>40:3,7,9,10,12,14,15,                  19 41:14,15,15 42:5,6,                  8,14,18 43:6,7,8,8                  44:10,16 45:5 46:6,22,                  23 47:7,17 48:24                  49:22 53:10,13,21</p> <p><b>they (78)</b>                  10:2,11 11:8,12,18,                  24 12:6,11,15 13:2,4,                  9,12,12,13,13,15                  14:21,22 15:2,3,4,13,                  16 16:8,10,20,23 17:3,                  4,6,10,15,16,18,19,19                  19:5,10,17,22 20:8,16,                  20,23,23,24 21:3,6,17,                  19,20 22:13,13,17,19                  23:24 24:3,7,9,17,18                  26:20 28:15 30:13                  33:16 35:5 37:13 38:9                  40:2,10 43:9,10 45:8                  50:6 51:18,21 54:17</p> <p><b>thing (9)</b>                  17:23 29:17 30:8                  31:3 34:13 40:11,22                  54:16 55:2</p> <p><b>things (5)</b>                  12:7 27:8 39:7</p> <p>41:20 42:3</p> <p><b>think (11)</b>                  27:1,5,11 28:3                  29:13 31:2,20 35:15</p>	<p>41:6 49:6 50:8</p> <p><b>though (4)</b>                  9:15 31:17 35:11                  36:7</p> <p><b>thought (2)</b>                  42:7 49:1</p> <p><b>three (2)</b>                  8:2,14</p> <p><b>throughout (2)</b>                  7:24 55:17</p> <p><b>tide (1)</b>                  40:10</p> <p><b>tie (2)</b>                  30:3,11</p> <p><b>tight (1)</b>                  40:9</p> <p><b>timeline (1)</b>                  52:22</p> <p><b>time-of-year (1)</b>                  16:12</p> <p><b>timer (1)</b>                  8:7</p> <p><b>today (3)</b>                  11:5 12:21 25:3</p> <p><b>together (1)</b>                  53:22</p> <p><b>tonight (18)</b>                  4:9 6:11 8:11,15                  9:13 10:1,3,18 35:5                  37:6 38:14 39:7 51:17                  52:20 53:20 54:5,9                  55:3</p> <p><b>tonight's (8)</b>                  4:23 5:11,22 6:18                  7:1 9:21 36:20 51:19</p> <p><b>top (1)</b>                  29:2</p> <p><b>topsoil (1)</b>                  15:5</p> <p><b>total (2)</b></p>	<p>8:1 19:3</p> <p><b>touch (1)</b>                  15:8</p> <p><b>tractors (1)</b>                  46:8</p> <p><b>traffic (2)</b>                  42:4 46:2</p> <p><b>tranquil (1)</b>                  48:14</p> <p><b>tranquility (1)</b>                  47:24</p> <p><b>transcribe (1)</b>                  9:6</p> <p><b>transcript (6)</b>                  8:23,24 10:1 35:6                  50:23 51:19</p> <p><b>transportation (2)</b>                  34:6 48:10</p> <p><b>treat (1)</b>                  7:23</p> <p><b>trees (5)</b>                  29:5,7 31:12 38:18                  39:24</p> <p><b>true (1)</b>                  55:16</p> <p><b>trying (2)</b>                  47:3 53:1</p> <p><b>Tuesday (1)</b>                  4:10</p> <p><b>turn (2)</b>                  10:22 26:2</p> <p><b>turned (1)</b>                  9:18</p> <p><b>TURNER (4)</b>                  49:14,15 50:3 53:10</p> <p><b>turning (1)</b>                  6:2</p> <p><b>two (7)</b>                  13:23 15:19 17:14                  18:18 40:7 44:3,10</p>
---	--	---	---

<p><b>tying (1)</b>                  31:15  <b>Tyler (1)</b>                  36:10  <b>type (1)</b>                  12:7  <b>typical (1)</b>                  22:21  <b>typically (3)</b>                  13:12 20:22 28:12</p>	<p><b>unvegetated (1)</b>                  22:2  <b>up (24)</b>                  9:3 16:1 22:14 27:4                  28:13 29:24 30:3,11                  31:15 32:3,13 35:10                  36:9 39:22 40:9,10,15                  46:7 47:2 48:3 49:3,                  18 52:5 53:3  <b>update (1)</b>                  18:3  <b>upland (1)</b>                  45:1  <b>uplands (4)</b>                  12:8 14:10 23:23                  24:16  <b>Urdahl (3)</b>                  45:23,23 46:13  <b>U-R-D-A-H-L (1)</b>                  46:13  <b>use (8)</b>                  8:14 11:17 12:21                  22:18,20 24:10 31:18                  48:7  <b>used (4)</b>                  20:5 28:8 33:23                  48:10  <b>users (2)</b>                  24:10,14  <b>uses (2)</b>                  30:2 45:1  <b>using (1)</b>                  22:4  <b>USPS (1)</b>                  10:3  <b>utilize (2)</b>                  22:12 31:11  <b>utilized (2)</b>                  21:15 23:9</p>	<p style="text-align: center;"><b>V</b></p> <p><b>varies (1)</b>                  52:23  <b>Ventures (7)</b>                  4:16 6:20 11:8 13:1                  18:6 26:22,24  <b>verbally (1)</b>                  51:17  <b>verbatim (1)</b>                  8:23  <b>vertical (1)</b>                  29:3  <b>vessel (1)</b>                  23:19  <b>vessels (4)</b>                  22:24 23:15,20 28:7  <b>VEST (61)</b>                  4:1,4,21 26:4,13                  31:21 32:4 33:1,7,12,                  20 34:2 35:2,20 36:3,                  19 37:2,5,15,23 38:2,                  24 39:5,13,16,18                  40:20,24 41:2,5 42:15,                  21 43:16,21 44:12                  45:22 46:11,14 47:8,                  10,15 48:16,23 49:13                  50:2,4,10,16 51:10,13,                  16 52:23 53:1,7,13                  54:3,20 55:2,12,16,21  <b>vetting (1)</b>                  52:11  <b>view (2)</b>                  25:2,3  <b>Villa (1)</b>                  45:24  <b>Village (7)</b>                  18:4 23:10 26:19                  28:9 29:18 31:16</p>	<p>47:21  <b>Villas (4)</b>                  12:23,23 39:23                  46:19  <b>violated (1)</b>                  45:9  <b>visas (1)</b>                  13:13  <b>Vista (2)</b>                  12:20 46:10  <b>visual (2)</b>                  8:7 30:19  <b>voice (2)</b>                  9:7 44:18  <b>voiced (5)</b>                  35:5 36:4,20 37:6                  53:19</p>
<b>U</b>			
<p><b>Um (1)</b>                  41:6  <b>unable (1)</b>                  11:1  <b>uncovered (1)</b>                  50:1  <b>under (5)</b>                  7:7 11:14 12:1,9                  19:15  <b>underneath (1)</b>                  49:7  <b>understand (5)</b>                  33:14 34:7 41:23                  46:4 47:16  <b>understanding (1)</b>                  54:23  <b>understands (3)</b>                  27:2,6 35:4  <b>Understood (3)</b>                  35:2,20 38:24  <b>UNIDENTIFIED (6)</b>                  4:3 27:3 49:11                  52:21,24 53:6  <b>United (3)</b>                  13:7,16 28:14  <b>until (2)</b>                  35:13 52:1</p>			<p style="text-align: center;"><b>W</b></p> <p><b>wakes (1)</b>                  29:9  <b>walk (3)</b>                  31:11 38:17 45:14  <b>wanted (4)</b>                  17:19 27:9 33:9                  55:14  <b>wanting (1)</b>                  22:12  <b>Waste (2)</b>                  24:8 44:7  <b>water (18)</b>                  11:18,20,22 13:14                  14:6 16:17 18:18 21:7                  29:2,8 38:9,16,20                  39:3 44:9,17 45:3,11  <b>waterfront (2)</b>                  28:16,18  <b>Waterway (5)</b>                  15:11,13 27:20</p>

30:2 31:1	<b>written (5)</b> 8:10,13 10:2 16:1	<b>1st (1)</b> 16:14	<b>35 (1)</b> 18:20
<b>way (3)</b> 27:4 47:23 52:12	30:23		
<b>weather (1)</b> 24:6	<b>wrong (1)</b> 46:15	<b>2</b>	<b>4</b>
<b>website (2)</b> 25:23 35:10	<b>wrote (1)</b> 47:14	<b>2 (1)</b> 25:12	<b>4 (1)</b> 25:16
<b>wells (1)</b> 16:23	<b>Y</b>	<b>20 (8)</b> 23:15,21 28:7	<b>401 (1)</b> 11:20
<b>Wetlands (4)</b> 7:4,15 11:4 48:3		40:18 41:16,22 47:7	<b>470 (1)</b> 14:14
<b>whatever (3)</b> 46:8 49:9 55:17	<b>yards (3)</b> 14:23 18:21 19:19	<b>200 (1)</b> 29:11	<b>472 (1)</b> 19:4
<b>what's (5)</b> 13:22 37:19 38:14 46:5 55:8	<b>year (1)</b> 33:24	<b>2012 (1)</b> 38:6	<b>48 (1)</b> 18:9
<b>whenever (1)</b> 13:10	<b>years (4)</b> 38:21,21 42:7 48:3	<b>2019 (1)</b> 4:10	<b>5</b>
<b>Wildlife (3)</b> 16:8 37:12 48:4	<b>yellow (1)</b> 13:3	<b>20-day (1)</b> 15:19	
<b>wish (4)</b> 5:10,20 39:16 56:1	<b>yesses (1)</b> 32:19	<b>20-plus (1)</b> 40:12	<b>5 (1)</b> 25:17
<b>wishes (2)</b> 32:21 44:18	<b>Z</b>	<b>20-slip (2)</b> 4:17 11:9	<b>520 (1)</b> 14:2
<b>wishing (3)</b> 5:12 6:10 7:20		<b>zone (1)</b> 46:23	<b>265 (1)</b> 19:19
<b>words (1)</b> 29:1	<b>1</b>	<b>28 (1)</b> 4:10	<b>6 (1)</b> 25:19
<b>work (1)</b> 39:10		<b>3</b>	<b>6:57 (1)</b> 56:2
<b>working (1)</b> 12:21	<b>1 (3)</b> 25:10 26:6 32:9	<b>3 (1)</b> 25:14	<b>60 (1)</b> 53:4
<b>works (1)</b> 22:16	<b>10 (2)</b> 25:24 26:6	<b>30 (1)</b> 53:4	<b>7</b>
<b>worry (1)</b> 48:4	<b>10th (1)</b> 22:20	<b>300 (1)</b> 14:23	<b>7 (1)</b> 25:20
<b>write (3)</b> 36:12 51:2,24	<b>125-foot (1)</b> 22:18	<b>30th (1)</b> 16:15	<b>8</b>
<b>writing (1)</b> 47:20	<b>135 (1)</b> 18:11	<b>31st (1)</b> 22:21	
			<b>8 (1)</b>

25:22