

STATE OF NEW JERSEY
COMMISSION OF INVESTIGATION

----- :
 IN THE MATTER OF: :
 :
 DIRTY DIRTY: :
 : **PUBLIC HEARING**
 THE CORRUPT RECYCLING :
 OF CONTAMINATED SOILS :
 AND DIRT :
 ----- :

DATE: MAY 25, 2016

STATE HOUSE ANNEX
COMMITTEE ROOM 11
125 West State Street
Trenton, New Jersey 08625

B E F O R E:

COMMISSIONERS

JOSEPH F. SCANCARELLA, CHAIR
ROSEMARY IANNACONE
ROBERT J. BURZICHELLI
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1 MR. SEGLEM: I'd like to ask everybody to
2 put their cell phones and handhelds on mute or
3 otherwise silence them. I appreciate that.

4 Good morning and welcome. I'm Lee Seglem,
5 Acting Executive Director of State Commission of
6 Investigation. I'd like to introduce the SCI Chairman,
7 Joseph Scancarella, in the middle there. And, also,
8 his colleagues to my left, Commissioner Rosemary
9 Iannacone to Chair's Scancarella's left, Commissioner
10 Robert Burzichelli, and his left, Commissioner Frank
11 Leanza.

12 As we begin today, I'd like to say a few
13 words to provide context for why we are here.

14 Not so long ago, back in the 1970s and
15 80s, New Jersey spent a lot of time and taxpayer money
16 addressing its persistent reputation as a dumping
17 ground. Many remember the stark images of hypodermic
18 needles and medical debris washing up on our
19 beaches. The industrial waste discharged near our
20 rivers and streams and in our forests. The fires and
21 explosions. The poisoned drinking water. And the fact
22 that more Superfund sites were identified here than in
23 any other state in the nation.

24 This sorry history spawned serious public
25 health issues and major environmental damage. It also

1 exposed significant gaps in our regulatory and
2 statutory framework. With clean-ups ordered, penalties
3 imposed and tougher state and federal environmental
4 regulations put in place, it was easy to believe that
5 the dumping-ground days were over. But they are not.
6 Not by a long shot. Today, you will learn how elements
7 of New Jersey's recycling industry have been
8 transformed into a lucrative underground economy that
9 profits from the indiscriminate dumping of tons upon
10 tons of contaminated soil and construction debris. You
11 will hear how enormous amounts of tainted material have
12 been trucked from out-of-state and left to foul the
13 water's edge along Raritan Bay.

14 You will hear how a small recycling center
15 in South Jersey became a sprawling landfill occupied by
16 acres of construction debris strewn within shouting
17 distance of the Delaware River. And you will hear
18 about the costs - both economic and environmental - of
19 reclaiming and cleaning up these haphazard dumping
20 grounds.

21 It should surprise no one that the
22 architects of this toxic trafficking include
23 organized crime associates and convicted criminals. In
24 one form or another, profiting from society's refuse
25 has always been part of the mob's twisted business

1 model, as the SCI itself has amply demonstrated by
2 repeated investigations. Just five years ago, the
3 Commission revealed continued organized crime intrusion
4 in the solid waste industry and offered a series of
5 reform recommendations designed to crack down yet again
6 on unscrupulous trash haulers.

7 During this hearing, we will show why
8 strong government oversight should encompass elements
9 of the recycling industry as well. We will introduce
10 you to the primary purveyors of this scourge - rogue
11 "dirt brokers" whose criminal ties have remained secret
12 because they are subject to no licensing requirements,
13 not even simple background checks. We will show how
14 they have been able to recruit truckers to haul
15 contaminated soil and debris and unload it virtually
16 anywhere they want to get the best bang for their
17 tainted buck.

18 And because the industry is so loosely
19 regulated, this activity doesn't just pose a threat to
20 the immediate dump sites or impact only those who live
21 nearby. It is a reckless menace where the damage can
22 include everything from polluted run-off to creeks and
23 streams to toxic dirt passed off as properly recycled
24 topsoil - perhaps destined for gardens and flower beds
25 in neighborhoods across this State.

1 Today's hearing is part of a comprehensive
2 statewide investigation that is not yet complete. But
3 there is an urgency to this matter that demands public
4 and official attention now, and that is why we are
5 here. Throughout their efforts to develop the facts in
6 this case, our investigators have been working
7 diligently with state and local environmental and other
8 authorities to alert them to our findings so that
9 emergent remedial actions could be taken as warranted.
10 We will continue to seek that cooperation as we move
11 forward.

12 Please call the first witness.

13 MR. CLIVER: Thank you, Mr. Seglem. My
14 name is Andrew Cliver, I'm counsel to the Commission,
15 and I am the lead attorney on this investigation. I'll
16 be conducting the hearing today.

17 I want to also acknowledge Nicole McCann,
18 our investigative analyst, who will be handling the
19 presentation that goes along with much of our testimony
20 today. Our first two witnesses that we will be calling
21 are agents Carol Palmer and Robert Collins of the SCI,
22 and I'd ask them both to stand and be sworn in by the
23 reporter.

24 CAROL PALMER and ROBERT COLLINS, after
25 having been first duly sworn, were examined and

1 testified as follows:

2 MR. CLIVER: Thank you. Agents, can you
3 both introduce yourself and describe your positions
4 with the State Commission of Investigation?

5 MS. PALMER: My name is Carol Palmer, and
6 I'm a special agent investigative accountant.

7 MR. COLLINS: Robert Collins, and I'm a
8 special agent.

9 MR. CLIVER: And how long have you both
10 been with the SCI and what are some of your backgrounds
11 in investigating, organized crime, and the like?

12 MS. PALMER: I've been with the Commission
13 a little over 12 years. I started my law enforcement
14 career as a special agent with the intelligence, now
15 Criminal Investigation Division of the Internal Revenue
16 services. I was there nearly 30 years and my
17 investigations included those of organized crime
18 figures. While at the Commission, almost every
19 investigation has involved issues that are systemic.

20 MR. COLLINS: I've been with the SCI,
21 approximately, three years. I was a New Jersey State
22 Trooper for 28 years. For, approximately, 20 years. I
23 was assigned to the Intelligence Bureau as a detective.
24 I was responsible for conducting organized crimes
25 investigations.

1 MR. CLIVER: Thank you. Now, you both
2 heard Mr. Seglem's opening statements about the
3 Commission's investigation into the recycling industry.
4 Can you describe what triggered the Commission's
5 investigation?

6 MS. PALMER: The State Commission of
7 Investigation, since our inception, has continually
8 worked to rid the trash hauling business of criminal
9 elements. Most recently, in 2011, the Commission
10 issued a public report uncovering rampant abuse in the
11 state's waste hauling industry and recycling industry
12 thanks to a lack of regulatory oversight and lack of
13 licensing requirements for recyclers.

14 MR. COLLINS: Despite our findings, there
15 have been no licensing procedure mechanisms implemented
16 on recyclers. Additionally, Commission staff have been
17 alerted to the dumping of construction material that
18 appeared to be in violation of the New Jersey DEP
19 regulations through disposal of this material.

20 MR. CLIVER: Did the current investigation
21 focus on a specific part of the recycling industry?

22 MS. PALMER: Yes. We focused on the
23 recycling of contaminated dirt and construction debris
24 statewide.

25 MR. CLIVER: What issues have you found

1 regarding the disposal of this type of material?

2 MS. PALMER: The Commission uncovered
3 rampant abuse within the industry. We found that large
4 chunks of concrete, asphalt, rebar and contaminated
5 dirt from construction projects were turning up in
6 unapproved sites out of sight of state regulators.

7 MR. COLLINS: Simply put, people are
8 taking contaminated improper material to sites that are
9 not approved to accept it often in environmentally
10 fragile areas.

11 MR. CLIVER: Now, you mentioned that there
12 are no licensing requirements for recyclers, are there
13 specific requirements for solid waste haulers?

14 MR. COLLINS: Yes. Individuals operating
15 solid waste industries are required to submit an
16 application to the state's A901 licensure program which
17 includes fingerprinting, personal and financial
18 disclosure statements, and background investigation
19 conducted by the State Police.

20 MR. CLIVER: So recyclers are not subject
21 to the same licensing scheme as solid waste haulers,
22 correct?

23 MR. COLLINS: That's correct.

24 MR. CLIVER: Recyclers are not required to
25 undergo any background checks, fingerprinting, submit a

1 personal or financial statement to enter into the
2 recycling business?

3 MS. PALMER: None. In fact, the
4 legislative package that created our state's recycling
5 process, specifically excluded the recycling business
6 from A901 licensure.

7 MR. CLIVER: Did the investigation reveal
8 individuals who are currently working in the recycling
9 industry who would be barred from solid waste industry?

10 MS. PALMER: Yes.

11 MR. CLIVER: What's the impact of this
12 lack of a regulatory scheme in the recycling industry?

13 MS. PALMER: The Commission found that
14 there's an impact on the environment, public health
15 issues, and the lack of oversight allows for the
16 infiltration of the industry by criminal elements.

17 MR. CLIVER: Agent Palmer, I want you to
18 take a look at Exhibit 106, can you explain for the
19 Commission what it depicts?

20 MS. PALMER: It is a summary of the issues
21 that were uncovered by the Commission's investigation.
22 The issues are a result of the lax oversight and lack
23 of licensing mechanism in the recycling industry.

24 MR. CLIVER: Now, it talks about
25 environment issues, what type of environment issues did

1 the Commission's investigation reveal?

2 MS. PALMER: Statewide we found improper
3 dumping of construction debris and contaminated soil.
4 We have seen brick, rebar, and concrete with known
5 contaminants dumped alongside the Raritan Bay in Old
6 Bridge, New Jersey. We found similar material dumped
7 at an unauthorized recycling center adjacent to the
8 Pennsauken Creek in Palmyra.

9 MR. CLIVER: Did you also find one
10 community in which contaminated fill was used to
11 replace the shore line damaged by Super Storm Sandy?

12 MS. PALMER: Yes, and that particular
13 scenario will be detailed later in the hearing.

14 MR. CLIVER: Agent Collins, do facilities
15 exist here in New Jersey where this type of material
16 can be properly stored or disposed of or recycled?

17 MR. COLLINS: Yes, depending on the DEP
18 classification, material can be sent to any number of
19 sites. Completely clean material can be used in most
20 type of construction projects, including homes. Then
21 depending on how contaminated it is, materials can be
22 used in industrial projects. On some cases it can only
23 be sent to the locations pre-approved to handle it.
24 Even contaminated soils can be recycled and reused, but
25 the companies and sites that can do so are limited.

1 MR. CLIVER: And who facilitates that
2 movement?

3 MR. COLLINS: In the industry they are
4 known as dirt brokers.

5 MR. CLIVER: Can you explain for the
6 Commission what a, quote, dirt broker is, and how they
7 are involved in finding a home for construction debris
8 or fill?

9 MR. COLLINS: Yes, a dirt broker is an
10 individual engaged in a business of identifying sources
11 of construction debris or soil and identifying a home
12 for the material's storage, recycle, or reuse.
13 Basically, a dirt broker manages to find a home for
14 generated materials.

15 MR. CLIVER: How does a legitimate dirt
16 broker go about their business?

17 MR. COLLINS: Basically, dirt brokers
18 don't always take physical control of the material.
19 They'll make a deal, usually on behalf of the entity
20 generating the material, to send it to a place that can
21 lawfully accept it. They will have an engineering firm
22 review the laboratory analytical reports describing the
23 nature of the material and then identifying the most
24 cost effective way to dispose it. Often, but not
25 always, brokers will also help arrange for the trucking

1 of the material.

2 MR. CLIVER: Now, Agent Palmer, did the
3 Commission's investigation reveal some of these dirt
4 brokers that were involved in the improper disposition
5 of debris?

6 MS. PALMER: Yes. Instead of contracting
7 to send this debris to approved locations, we found
8 dirt brokers making deals to dump it in waste yards,
9 construction sites, private properties, and even along
10 waterways, not all these properties have approval to
11 accept the material.

12 MR. CLIVER: Are dirt brokers required to
13 be licensed in any way by the state?

14 MS. PALMER: No. Dirt brokers are
15 currently not subject to licensing.

16 MR. CLIVER: So what you are saying is,
17 despite being responsible for identifying sources of
18 construction debris or soil, identifying a home for
19 this soil to end up at, dirt brokers are not subject to
20 a background check? No fingerprinting?

21 MS. PALMER: None, no background check,
22 and not even a registry to enter your name. As a
23 witness in the industry put it to us, all you need is a
24 fax and a phone line, and you are in business.

25 MR. CLIVER: So, basically, the system

1 helps to enable this material to be dumped virtually
2 anywhere in the state?

3 MS. PALMER: Yes. The state has no
4 ability at the moment to monitor anyone who enters into
5 the dirt broker business and very little ability to
6 monitor their activity.

7 MR. CLIVER: Now, Exhibit 106 also talks
8 about public health concerns, does this material
9 present a danger to the environment or to the public
10 health in any way?

11 MS. PALMER: Yes. The materials generated
12 and recycled from construction and demolition processes
13 are often contaminated and inappropriate for placement
14 in residential and commercial areas. If a material
15 high in contaminant is placed on a certain site, that
16 site could be excluded from residential use.

17 MR. CLIVER: Is there a contaminant that's
18 often found in these materials, that's typically found
19 in the material?

20 MS. PALMER: Polycyclic aromatic
21 hydrocarbon, known as PAH's, a known cancer-causing
22 agent. There are levels of PAH that are acceptable for
23 residential areas, nonresidential areas, and, at some
24 point, only appropriate for a solid waste dump.

25 MR. CLIVER: So the dangers are serious?

1 MS. PALMER: Yes. PAH's are a known
2 carcinogen. The state has stringent parameters for the
3 amount of PAH a particular material can have before it
4 needs to be housed in a special site or treated. There
5 are set levels of direct contact residential and
6 nonresidential, once it exceeds the nonresidential
7 level, it is classified as solid waste.

8 MR. CLIVER: Now, is there a potential
9 that adjacent water or soil could become contaminated
10 with a result of improperly dumped material?

11 MS. PALMER: Yes. We have seen
12 contaminated material dumped very close to a bay in
13 Central New Jersey and numerous examples where the
14 material designated as solid waste was dumped at
15 unauthorized sites. This not only affects the
16 immediate area, but the contamination can affect
17 adjacent aquifers and wells.

18 MR. CLIVER: Agent Collins, we are going
19 to look back at Exhibit 106 here, it talks about
20 criminal infiltration, what type of criminal
21 infiltration has the Commission's investigation
22 uncovered?

23 MR. COLLINS: During our investigation we
24 discovered a significant infiltration by organized
25 crime members from New York and Philadelphia

1 organizations. We also identified individuals with
2 criminal pasts unaffiliated with organized crime. Our
3 investigation has shown payments in the tens of
4 thousands of dollars moving to and from illicit
5 recycling sites and dirt brokers to known members of
6 the Newark mob.

7 Just about every location we found illegal
8 or improper dumping, we found someone with a criminal
9 record or criminal connection involved.

10 MR. CLIVER: So what's the incentive here?
11 Why is this criminal infiltration happening?

12 MR. COLLINS: It's all about money.
13 Finding a home for soil, especially contaminated soiled
14 is extremely expensive. If someone cuts corners and
15 sends dirty material expecting it to be clean, they can
16 increase profit margins significantly.

17 MR. CLIVER: Why New Jersey? Why is New
18 Jersey such a popular destination for this rogue
19 operation?

20 MR. COLLINS: I think we have a coming
21 together of criminal elements who've always worked in
22 the industry combined with a nonexistent regulatory
23 scheme. Unsavory individuals who previously worked in
24 the solid waste industry have just transitioned to the
25 recycling industry.

1 MR. CLIVER: And why is that?

2 MR. COLLINS: Basically, because they are
3 not subject to criminal background checks.

4 MR. CLIVER: Agent Collins, how widespread
5 is this activity? Is it the whole state?

6 MR. COLLINS: Yes. Our investigation was
7 statewide. We discovered improper work being done from
8 Palmyra to New York.

9 MR. CLIVER: And did any of the debris
10 originate in locations outside of New Jersey?

11 MR. COLLINS: Yes. We identified several
12 sites, including a large construction site in the
13 Bronx, New York where contaminated soil originated from
14 that ended up in New Jersey, some of it dumped on the
15 banks of Raritan Bay.

16 MR. CLIVER: Agent Palmer, how does New
17 Jersey differ from other jurisdictions?

18 MS. PALMER: Each state and jurisdiction
19 differ, but, importantly, in New York City, recyclers
20 are required to subject to the same background and
21 licensing procedures as solid waste haulers.

22 MR. CLIVER: And how does this illicit
23 activity subvert or undermine the legitimate actors
24 within the recycling industry?

25 MS. PALMER: We have spoken with leaders

1 in the recycling industry, large and small, and they
2 tell us they are hurt by this type of behavior.

3 MR. CLIVER: What have they told you?

4 MS. PALMER: On the smaller end of the
5 business, legitimate brokers are hit by deep discounts
6 that dirty brokers and recycling centers are able to
7 offer. We have been told by some that they often hear
8 prices their potential customers are quoted and there
9 is no way that job can be done on the level at that
10 price.

11 MR. CLIVER: What about the larger
12 businesses, are they impacted as well?

13 MS. PALMER: Well, simply, the big guys
14 just can't work with the large pool of brokers for fear
15 of getting burned. If they send or accept soil that's
16 inappropriate, they can end up with the cost of
17 remediating the problem, not to mention any fines or
18 penalties coming from state regulators.

19 MR. CLIVER: And what has the Commission
20 found the impact to the taxpayer is of this activity?

21 MS. PALMER: To give you an idea, the cost
22 of mitigating the dumping at one of the sites we
23 investigated, will likely be in excess of \$250,000
24 billable to the taxpayers of Old Bridge, and, of
25 course, environmental investigations cost money.

1 MR. CLIVER: Can this activity also have
2 an affect on a property's value?

3 MS. PALMER: Yes. We have seen properties
4 that will always have deed restrictions.

5 MR. CLIVER: And what will those deed
6 restrictions require?

7 MS. PALMER: Deed restrictions will limit
8 the future use of property and, in turn, limit the
9 resale value.

10 MR. CLIVER: Now, what role have you found
11 that the state and local environment authorities have
12 played in this investigation? Has state Department of
13 Environment Protection been aware of the activity?

14 MS. PALMER: Yes. The New Jersey DEP has
15 been extremely helpful in our investigation. We have
16 worked hand in hand with them by alerting them to
17 potentially dangerous sites and received their help in
18 evaluating laboratory reports learning of the dangers
19 and finding what constructive actions need to be taken.

20 MR. CLIVER: What has the DEP's response
21 been when we have reported those things?

22 MS. PALMER: The DEP has been quick to
23 respond to all of the sites we have identified. They
24 have been eager to learn of the problem areas and are
25 interested, greatly, in stopping this type of behavior.

1 However, the lack of regulatory scheme or registration
2 for these brokers means that NJDEP has no way of
3 proactively stopping this type of behavior. They can
4 only react when it's reported.

5 MR. CLIVER: Has the DEP initiated any
6 administrative actions as a result of our
7 investigation?

8 MS. PALMER: Yes. There have been fines,
9 corrective actions, cease and desist orders as a result
10 of the Commission's work.

11 MR. CLIVER: And has the investigation
12 resulted in any criminal referrals?

13 MS. PALMER: Yes. As a direct result of
14 our investigation, two men were sentenced to federal
15 prison for extorting thousands of dollars from the
16 Hudson County Improvement Authority.

17 MR. CLIVER: The HCIA?

18 MS. PALMER: Yes.

19 MR. CLIVER: Can you explain that
20 conspiracy for the Commission?

21 MS. PALMER: Well, HCIA was overseeing the
22 construction of a 9-hole public golf course and
23 required hundreds of thousands of cubic yards of soil,
24 fill material and crushed stone for the site. Gerard
25 Pica an environment scientists with the HCIA conspired

1 with James Castaldo a documented associate of the
2 DeCavalcante organized crime family and another member
3 of the HCIA staff to obtain payments from certain
4 contractors. And they did this in exchange for Pica's
5 and the other HCIA staff member's cooperation in
6 gaining approval to provide the material. They were
7 able to extort more than \$50,000 in payments from those
8 contractors.

9 MR. CLIVER: Now, it is my understanding
10 that during the Defendant Castaldo's sentencing that an
11 interesting statement was made about the industry, can
12 you describe it for the Commission?

13 MS. PALMER: Yes. In argument to lessen
14 Castaldo's sentence, his attorney argued that Castaldo
15 was a broker in this material, that it was his job to
16 bring those who have the material together with those
17 who needed it, and taking this type of payment was part
18 of Castaldo's business.

19 MR. CLIVER: Thank you, agents.

20 I have no further questions for these
21 witnesses.

22 Commissioners, do you have any questions?

23 COMMISSIONER BURZICHELLI: Good morning.
24 And thank you for your excellent work on behalf of the
25 Commission and the people of the State of New Jersey.

1 You just referred to both Mr. Pica and Mr. Castaldo,
2 could you give us an idea what type of sentence those
3 two individuals received?

4 MR. COLLINS: Yes, sir. Mr. Gerard Pica
5 was sentenced to 35 months in a federal prison followed
6 by three years of supervised release. Mr. James
7 Castaldo was sentenced to 51 months in federal prison
8 followed by three years of supervised release.
9 Mr. Castaldo received an enhanced sentence based upon
10 his two prior federal convictions.

11 COMMISSIONER BURZICHELLI: Those
12 convictions, would they have precluded Mr. Castaldo
13 from acquiring an A901 license?

14 MR. COLLINS: Yes, sir, that's correct.

15 COMMISSIONER BURZICHELLI: Do any
16 legitimate dirt brokers in the state already have an
17 A901 license?

18 MR. COLLINS: Yes, sir. Even though dirt
19 brokers aren't required to have one, during our
20 investigation we have identified several brokers that
21 currently possess an A901 license.

22 COMMISSIONER BURZICHELLI: Thank you,
23 Mr. Collins.

24 MR. CLIVER: Are there any other
25 questions?

1 COMMISSIONER SCANCARELLA: Yes. For
2 purpose of clarification and context, can you tell us
3 what an A901 license is and what it covers?

4 MR. COLLINS: Basically an A901 is a solid
5 hazard waste broker's license. It's issued by the DEP,
6 and it goes through the State Police. They do a
7 complete background investigation. They do a total
8 background investigation to determine any type of
9 criminal activity, and DEP actually grants it, I
10 believe, sir.

11 COMMISSIONER SCANCARELLA: You say some
12 legitimate dirt brokers apply, they are not required to
13 apply, they just do so?

14 MR. COLLINS: I was advised during an
15 interview that they expect at some point in time that
16 they will need to have a license, and these legitimate
17 individuals acquired that license in anticipation for
18 them to enter into the industry.

19 COMMISSIONER SCANCARELLA: And, obviously,
20 these two that were sentenced did not apply and are
21 not, therefore, legitimate?

22 MR. COLLINS: No, sir.

23 COMMISSIONER SCANCARELLA: Thank you.

24 MR. CLIVER: Okay. If there is nothing
25 further, the witnesses are excused. Thank you both.

1 And, Mr. Chair, at this time we call Agent
2 Joseph Bredehoft to testify.

3 Can you swear in the witness?

4 JOSEPH BREDEHOFT, after having been first
5 duly sworn, was examined and testified as follows:

6 MR. CLIVER: Good morning, Agent. Could
7 you please state your name and position with the State
8 Commission of Investigation for the record.

9 MR. BREDEHOFT: Joseph Michael Bredehoft.
10 I'm a special agent with the New Jersey State
11 Commission of Investigation.

12 MR. CLIVER: Agent Bredehoft, can you talk
13 a little bit about your previous experience and
14 experience with SCI and investigating criminal and
15 systemic investigations.

16 MR. BREDEHOFT: I've been a special agent
17 with the New Jersey State Commission of Investigation
18 for, approximately, eight and a half years. I have a
19 total in excess 40 years of federal and state law
20 enforcement and prosecutorial experience, mostly
21 dealing with white collar crime and organized crime.

22 MR. CLIVER: Thank you. I want to speak
23 with you today about the portion of our investigation
24 that encompasses the Cliffwood Beach area of Old
25 Bridge, New Jersey, and you are familiar with that,

1 right?

2 MR. BREDEHOFT: Yes, sir.

3 MR. CLIVER: Can you please describe the
4 Cliffwood Beach area of Old Bridge, New Jersey for the
5 Commission?

6 MR. BREDEHOFT: Specifically the Furman
7 Boulevard section of Cliffwood Beach is a residential
8 area that's adjacent to the Raritan Bay. The homes sit
9 on top of a cliff which is approximately 20, 25 feet
10 over the beach area which is adjacent to the Raritan
11 Bay.

12 MR. CLIVER: Can you describe this cliff?
13 Is it severe? Has it changed over time?

14 MR. BREDEHOFT: It's extremely steep now
15 because of erosion, okay. It's mostly dirt, sandy
16 bluff with very little rock foundation. The cliff has
17 suffered erosion from previous storms, however, there
18 was extreme erosion due to Super Storm Sandy in October
19 2012. The surf was described as having reached over
20 the cliff which I mentioned is about 20, 25 feet high.
21 With that, it took a large portion of the land away,
22 mostly the public property that lay between the private
23 homes and the edge of the cliff.

24 MR. CLIVER: So there was a significant
25 reduction in the beach after the storm?

1 MR. BREDEHOFT: Yes, sir.

2 MR. CLIVER: And what were some of the
3 consequences of this erosion for the homeowners in the
4 area?

5 MR. BREDEHOFT: Because of the large
6 portion of land that had been eroded by the storm,
7 which was mostly public land, it now encroached onto
8 the private property. In some cases, up to the fence
9 line. In one case it was within 15 feet of the
10 foundation of one of the private homes.

11 MR. CLIVER: We are going to take a look
12 at some photos. I'm going to your attention to Exhibit
13 107, can you describe what we are looking at?

14 MR. BREDEHOFT: Yes. This is an aerial
15 view of that specific Furman Boulevard section of
16 Cliffwood Beach. As you can see, to your extreme right
17 is the Raritan Bay. The light color area is the beach.
18 You can see a large amount of vegetation between the
19 beach and the private homes.

20 MR. CLIVER: This yellow square, that
21 indicates the general area that we are discussing.

22 MR. BREDEHOFT: Yes, sir.

23 MR. CLIVER: Let's move to Exhibit 108,
24 we've got photos on the left and right here. Can you
25 describe the two photos and the difference between the

1 two?

2 MR. BREDEHOFT: Yes. The photo on the
3 left describes the same aerial view that was taken in
4 May of 2011 which was pre-Super Storm Sandy. The one
5 on the right was taken in November 2012 immediately
6 after Super Storm Sandy which was late October. As you
7 can see, the beach has greatly increased in size. The
8 vegetation that was between the beach area and private
9 homes is diminished, and you can actually see that one
10 small circle depicts a home where the actual cliff went
11 up to the foundation.

12 MR. CLIVER: The circled home is in
13 several slides that we are going to be showing is the
14 same home for orientation purposes, right?

15 MR. BREDEHOFT: Yes, for reference.

16 MR. CLIVER: And the square is, generally,
17 the same area we are discussing throughout as well?

18 MR. BREDEHOFT: Yes. The four or five
19 private homes in the Furman section of Cliffwood Beach.

20 MR. CLIVER: Let's move on to Exhibit 109,
21 this is a closer example. Can you talk a little bit
22 about what we are looking at here?

23 MR. BREDEHOFT: Again, this is post Sandy.
24 You can see the beach is enlarged. That yellow line
25 depicts the new cliff edge, okay, which is right up to

1 the edge of the private homes. That one home that's
2 circled in yellow for reference, you can see where the
3 cliff is almost touching the foundation of the home.

4 MR. CLIVER: Now, did SCI learn of how the
5 homeowners went about trying to fix this problem?

6 MR. BREDEHOFT: Yes. Because the
7 homeowners now felt that this encroachment endangered
8 their property, they solicited the help of a local dirt
9 broker who's name was given to them as Gregory Guido.
10 They actually solicited him to bring in fill material
11 to actually bolster the area so they would not have an
12 endangerment to their private property.

13 MR. CLIVER: And did Guido get soil into
14 that area?

15 MR. BREDEHOFT: Yes, the soil came fast
16 and furious. Over the late winter months, November
17 December, into January of 2013, approximately 7,000;
18 7,500 cubic yards of fill came into this area.

19 MR. CLIVER: 7,000 cubic yards, how much
20 is that in truckloads?

21 MR. BREDEHOFT: It would be,
22 approximately, 350 or a little excess of truckloads of
23 material.

24 MR. CLIVER: 350 trucks. And what were
25 those trucks filled with? What was the nature of that

1 fill?

2 MR. BREDEHOFT: Most of it the fill was
3 construction debris. It was large pieces of concrete,
4 it was recycled concrete and aggregate. It was rebar,
5 wood, asphalt, brick, solid and broken up, and dirt.

6 MR. CLIVER: And did we learn anything
7 about the agreement Guido made with the homeowners?

8 MR. BREDEHOFT: Initially, Guido said he
9 would supply this material as they needed at no cost
10 whatsoever. Okay. That was the original contract. He
11 started delivering the material, but when the
12 homeowners saw the nature of the material with the
13 large amount of construction debris, they stopped it.
14 However, Guido continued to bring it in and most of the
15 7,500 cubic yards of material is on the public land
16 which is between the private homes and cliff's edge.

17 MR. CLIVER: So the vast majority ended up
18 on Old Bridge owned property, essentially?

19 MR. BREDEHOFT: Correct.

20 MR. CLIVER: And what was paid to Guido
21 for this, either by the homeowners or the township?
22 Did he pay them anything to dump there?

23 MR. BREDEHOFT: The township was unaware
24 of this. There was no approvals granted or requested.
25 This was supposed to be free material to the homeowners

1 for their protection of their homes. It was one
2 particular homeowner that paid Guido \$200 for
3 alledgedly premium fill which is supposed to be clean
4 fill.

5 MR. CLIVER: Outside of that \$200 payment
6 Guido made, he paid no one else a dumping fee at all
7 to dump anything there?

8 MR. BREDEHOFT: All done for no cost at
9 all.

10 MR. CLIVER: And did the SCI's
11 investigation and you and your investigators witness
12 any of this dumping firsthand?

13 MR. BREDEHOFT: Yes. We had several days
14 of surveillance in the area. On one particular day we
15 were able to witness approximately 12 trucks actually
16 back up to the area, the drivers interacted with
17 Gregory Guido, and was given directions. They went up
18 to the edge of the cliff and then dumped their
19 material.

20 MR. CLIVER: And what were your
21 observations of the beach after this was completed?
22 What does it look like?

23 MR. BREDEHOFT: We looked at the material
24 that was dumped there, and, as I mentioned before, it
25 was large amounts of concrete, rebar, aggregate

1 concrete, brick, whole and broken up, soil, wood,
2 asphalt and other debris.

3 MR. CLIVER: I want to move onto Exhibit
4 110. Take a look at that, Agent, we've got two photos,
5 one to the left and one to the right. Can you describe
6 the photo on the left, please?

7 MR. BREDEHOFT: The one on the left, as
8 you can see, that yellow line depicts the edge of the
9 new cliff that was created because of the dumping of
10 the material. You can actually see that now this large
11 amount is about 20, 25 feet high above the white sandy
12 beach, just now between the beach and the private
13 homes. As you can see, that one home that's circled
14 again, that was our reference point, a large amount of
15 material was placed there between the beach and the
16 private home.

17 MR. CLIVER: This photo on the right, I
18 understand that photo was taken near that home?

19 MR. BREDEHOFT: That photo was taken right
20 near his home. Actually, depicts how high the area
21 was, about 20, 25 feet up, looking down towards the
22 beach. That fence there is not a fence on the end of
23 his property. That's a fence on the end of his patio
24 next to his house, almost right up to his house.

25 MR. CLIVER: You can see the severity of

1 the cliff drop with the new material placed as well
2 there?

3 MR. BREDEHOFT: Correct.

4 MR. CLIVER: Let's move on to Exhibit 111,
5 these are two closer views from the beach level. Can
6 you describe what we are looking at there?

7 MR. BREDEHOFT: Again, as was mentioned,
8 this was from the beach looking towards the cliff and
9 the private homes. Again, you can see how the
10 elevation of the cliff is about 20, 25 feet. You can
11 actually look and see the large pieces of concrete. If
12 it was a closer view, you could see the rebar, red
13 brick broken and solid, a lot of material and other
14 debris.

15 MR. CLIVER: You can see several spots of
16 material here, I'm pointing with a pointer.

17 Agent, let's talk a little bit about the
18 nature and source of this material that was dumped at
19 Cliffwood Beach. Where did it come from and what are
20 some of its characteristics?

21 MR. BREDEHOFT: As I mentioned, we had
22 surveillance activity to this area of Cliffwood Beach.
23 Once we saw the trucks dump soil with the material, we
24 followed these trucks to a location at 237th Street in
25 the Bronx. This was a large demolition project. We

1 saw the trucks in the Bronx being loaded with this
2 demolition material and actually followed them back to
3 Cliffwood Beach. We saw them, again, interact with
4 Gregory Guido. The trucks backed up to the edge of the
5 cliff and just dumped the material all over.

6 MR. CLIVER: So it came from out of state,
7 it came from the Bronx, New York, and you yourself
8 observed that; isn't that right?

9 MR. BREDEHOFT: Yes, sir.

10 MR. CLIVER: How did Guido arrange for
11 this soil and debris to come from the Bronx to this
12 beach in Old Bridge?

13 MR. BREDEHOFT: The main contractor of the
14 yard had several subcontractors to different areas.
15 One particular subcontractor was responsible for
16 transportation and proper disposal of the material.
17 That particular broker actually sought the help of a
18 gentleman by the name of Frank Gillette who's a truck
19 owner and dirt broker in New Jersey. Frank Gillette,
20 his services were to find disposal sites in New Jersey
21 and the surrounding area for this material. Frank
22 Gillette was able to communicate with Gregory Guido and
23 arrange for some of this material to be dumped at the
24 site. So Gregory Guido acted as the dirt broker on
25 site. Frank Gillette acted as the subcontractor for

1 the subcontractor in charge who's responsible for the
2 transportation of the proper disposal of this material.

3 MR. CLIVER: Okay. Now, did Gillette
4 identify sites to the subcontractor and the main
5 contractor where he purported he would take this
6 material?

7 MR. BREDEHOFT: Yes. The contractor
8 required the subcontractor, who's in charge of
9 transportation and disposal, to provide letters of
10 acceptance so that the main contractor knew that the
11 material's properly disposed of. Frank Gillette, in
12 finding these locations, also created letters, and we
13 have information that Frank gave them to the
14 subcontractor who submitted it with his package to the
15 main contractor.

16 MR. CLIVER: Okay. I want to take a look
17 at Exhibit 112. These are two letters side by side,
18 are these two of the acceptance letters that you
19 described in your testimony?

20 MR. BREDEHOFT: Yes. In communication
21 with the main contractor, he allowed us to go through
22 his file and take copies. These are two copies of
23 letters that the subcontractor submitted to the
24 contractor for acceptance letters for the material from
25 the site.

1 MR. CLIVER: Okay. So let's take these
2 one at a time. The letter on the left labeled MVRC,
3 it's my understanding that is purported to be from the
4 Mount Vernon Recycling Corporation or Center, and the
5 one on the right is from C&T, another local recycling
6 center. Can you talk about your finding as to MVRC
7 letter?

8 MR. BREDEHOFT: The letter on the left,
9 the Mount Vernon Recycling Center, we met and
10 interviewed Joseph Rossini who is the owner of Mount
11 Vernon Recycling. He mentioned that that looked very
12 similar to his letterhead. He said the signature was
13 close to his. He does not remember writing the letter,
14 but he does remember that one truckload of material
15 came from the 237th Street project to his location, and
16 he refused it due to the nature of the material. So,
17 although, he does not remember writing that letter, he
18 knows for a fact no materials from that project came to
19 his site.

20 MR. CLIVER: Okay. And what about the
21 letter on the right from C&T, what did your
22 investigation reveal as to that?

23 MR. BREDEHOFT: This was C&T Contractors.
24 The owner/operator of that company is Ronald Tedesco.
25 We met with Mr. Ronald Tedesco and showed him this

1 letterhead and asked him to identify them. He said
2 absolutely not, that is not his letterhead, that is not
3 his letter, that is not his signature. He never wrote
4 this letter whatsoever, nor, does he have any knowledge
5 of any material from the 237th Street project in the
6 Bronx.

7 MR. CLIVER: So he told you it was a fake?

8 MR. BREDEHOFT: Absolutely.

9 MR. CLIVER: Is there anything else odd?

10 I see we have labeled on the slide here there is an
11 identical typo in both letters?

12 MR. BREDEHOFT: The font in the base of
13 the letter and also in the letterhead is the same.
14 Also there is a misspelling, the one word "except". It
15 says a-c-c-e-p-t, they have it, e-x-c-e-p-t, the same
16 sentence, the same misspelling in both letters.

17 MR. CLIVER: It appears in both and
18 circled here on the exhibit for identification
19 purposes.

20 Agent Bredehoft, do you have an opinion as
21 to the nature of these letters?

22 MR. BREDEHOFT: Yes, either both of these
23 letters are false and created, or, the one on the left
24 from Mount Vernon Recycling Center was used as a
25 template for the creation of the false letter on the

1 right from C&T.

2 MR. CLIVER: And just to be clear, neither
3 of these sites ever accepted any soil from the Bronx
4 project; isn't that right?

5 MR. BREDEHOFT: There's no doubt
6 whatsoever from these people that they never accepted
7 material.

8 MR. CLIVER: So if the soil never reached
9 MVRC or C&T, where did it end up?

10 MR. BREDEHOFT: As I mentioned earlier,
11 the subcontractor contracted with Frank Gillette to
12 find locations. In New Jersey Frank Gillette, we know
13 of two locations he found, one was the Cliffwood Beach
14 section of Old Bridge, the second was the MCUA,
15 Middlesex County Utility Authority, Edgeboro landfill.

16 MR. CLIVER: So, wait, Middlesex County
17 Utility Authority is also involved here, how did they
18 end up receiving some of this soil?

19 MR. BREDEHOFT: The Edgeboro landfill, the
20 MCUA, like most landfills, will require covered
21 material that they have to use each day. They
22 contracted out with different contractors for the
23 supply of this material, this covered material. It
24 seems that the MCUA has a program where they contract
25 with local contractors to deliver the soil. Okay. In

1 that, they have to examine the analyticals for it,
2 found where the material is coming from. They have an
3 approximate amount that's coming in, and tickets are
4 created for them to deliver this material. In this
5 particular case here, Frank Gillette, okay conspired
6 with one of the contractors who had prior approval. He
7 obtained an admittance ticket to the MCUA. He then
8 used these admittance tickets for the material from the
9 Bronx, gave them to the truckers. And in one case it
10 appears they actually duplicated the additional ones so
11 even the contractor who had the original approval was
12 unaware of the total amount that came in.

13 MR. CLIVER: So he brought soil in from
14 the Bronx under the guise of previous analyticals of a
15 different site that the soil wasn't involved in at all?

16 MR. BREDEHOFT: Correct.

17 MR. CLIVER: And it's my understanding, as
18 well, that after being alerted to these problems, that
19 the Middlesex County Utility Authority has made some
20 changes as to the way they admit soil at this point?

21 MR. BREDEHOFT: Yes. When we first met
22 with them, they explained it was a concern to them. We
23 went back a couple weeks ago and met with them again.
24 And they changed their entire procedures as far as the
25 approval, the acceptance of material, they have

1 serialized ticketing, in fact, they increased the price
2 from \$20 a truckload to \$10 a ton which is,
3 approximately, 250 a truck load.

4 MR. CLIVER: So they addressed this issue,
5 it sounds like?

6 MR. BREDEHOFT: In many areas, yes, sir.

7 MR. CLIVER: Now, back to the scheme here.
8 We talked about a main contractor and subcontractor as
9 well, do we have any evidence that either of those
10 entities knew that this soil was eventually ending up
11 at Cliffwood Beach and also at MCUA?

12 MR. BREDEHOFT: We have no knowledge of
13 the main contractor or evidence that he was aware of
14 that. In fact, it appeared from examination of his
15 records that he was unaware there was a duplication of
16 his letters of acceptance. However, we know for a fact
17 from taking interviews from different truckers that
18 both Frank Gillette and the subcontractors had direct
19 contact with the trucking and trucking companies and
20 gave them directions to Old Bridge which was the
21 Cliffwood Beach section.

22 MR. CLIVER: Let me break that down
23 quickly. The acceptance letters we looked at earlier,
24 they went to the original contractor and appeared to,
25 at least, have given them the knowledge that they were

1 going to acceptable places, correct.

2 MR. BREDEHOFT: Yes, sir.

3 MR. CLIVER: But it's our understanding
4 during interviews with truckers that both the
5 subcontractor and Gillette were ordering them to go to
6 a place in Old Bridge that they understood to be this
7 beach?

8 MR. BREDEHOFT: Yes.

9 MR. CLIVER: Okay. Did SCI ever
10 eventually obtain laboratory reports as to the nature
11 of the debris coming from the Bronx?

12 MR. BREDEHOFT: Yes. The main contractor
13 was very cooperative when we explained the situation.
14 He provided us with laboratory reports from a certified
15 lab of the material on site that was supposed to be
16 disposed of. When we received these, we immediately
17 sent them over to the New Jersey DEP for evaluation of
18 the material. There were two things, one, because of
19 the nature of the material and having that concrete,
20 rebar, and everything else, demolition material it was
21 classified as solid waste. Second thing was, the
22 chemical nature of the soil that was in there had many
23 contaminants in it and it would absolutely make it,
24 render it, and could not be used in a residential area.

25 MR. CLIVER: Not only because it was

1 debris in it, the dirt itself was contaminated as well?

2 MR. BREDEHOFT: Correct.

3 MR. CLIVER: And what type of contaminants
4 did the laboratory report reveal?

5 MR. BREDEHOFT: There were several but one
6 main one was called Benzo[a]pyrene this is a known
7 carcinogen under the PAH classification.

8 MR. CLIVER: PAH, we heard about that
9 earlier, it's a known carcinogen; isn't that right?

10 MR. BREDEHOFT: Yes, it's a cancer-causing
11 agent.

12 MR. CLIVER: How does DEP classify that?
13 Is it because of the nature of Benzo[a]pyrene, is it
14 proper to be dumped in residential areas or along
15 waterways at this level?

16 MR. BREDEHOFT: Because they have strict
17 guidelines as far as the amount, anything over the
18 amount of residential and nonresidential is
19 contaminated, considered solid waste, and because it's
20 a very low number, it's very -- it's highly unlikely
21 that it could definitely be used in a residential area.

22 MR. CLIVER: Are you aware of any further
23 environmental hazards determined by your conversations
24 with DEP that are a result of this dumping?

25 MR. BREDEHOFT: Besides the nature of the

1 material that's there, it would not be in the
2 foundation of the area, the chemical nature of the
3 contaminants can both be airborne in nature as well as
4 you can have a runoff into the bay. Because the close
5 proximity to the bay, because if we have any rain like
6 this, it could actually erode out of the material, have
7 runoff and go into the water way. Besides that,
8 without proper cover, the chemical can become airborne,
9 it could go into the immediate area into the private
10 residential homes and neighborhood.

11 MR. CLIVER: So it's impossible to know
12 for sure where some of it may have ended up thanks to
13 normal weather patterns?

14 MR. BREDEHOFT: Correct.

15 MR. CLIVER: Let's talk a little bit about
16 the individuals involved in this. We are going to talk
17 about Exhibit 113 here. Can you talk a little bit
18 about what we know about Frank Gillette?

19 MR. BREDEHOFT: Frank Gillette is an
20 active dirt broker in New Jersey with a criminal
21 history and connection to organized crime. Gillette
22 recently completed four years probation after pleading
23 guilty to a third degree crime involving the passing of
24 bad checks in Essex County. In addition, he has a
25 previous Petit larceny conviction in New York. He has

1 run several trucking and dirt brokering businesses over
2 the years, but never in his own name. In each of the
3 cases, Gillette has allowed others to be the front
4 ownership of the business while he does the grunt work.
5 Before a recent falling out, Gillette used his
6 connections with a captain in the Bonanno to fund
7 several of these operations.

8 MR. CLIVER: So what was Gillette's
9 connection to this Bonanno figure?

10 MR. BREDEHOFT: Besides the financial
11 connection, this Bonanno captain who has been released
12 from a federal prison was under a supervised release
13 program. One essential element of the release program
14 was that he has gainful employment. Frank Gillette
15 directly told the U.S. Probation Department that this
16 Bonanno captain was working for him as well as the
17 captain himself, and was later determined this was a no
18 show job and one of the companies controlled by Frank
19 Gillette.

20 MR. CLIVER: So he had a no show job that
21 Frank Gillette gave him, did they have any financial
22 relationship as well?

23 MR. BREDEHOFT: Yes. We have seen going
24 through the bank records of the company that was under
25 the control of the Bonanno captain, as well as

1 companies that were under the control of Gillette. We
2 saw checks going back and forth. We saw checks going
3 from companies that Gillette rolled over into the
4 checking account of the Bonanno captain and his
5 company, and there was also checks being made out to
6 the name of the entities that were under the control of
7 Gillette.

8 MR. CLIVER: So payments and receiving
9 payments between the two of them back and forth?

10 MR. BREDEHOFT: Yes, sir.

11 MR. CLIVER: And what about this Greg
12 Guido, the individual on the site at the beach, what do
13 we know about him? We are talking about Exhibit 114.

14 A Greg Guido was convicted in federal court having
15 to do with interstate theft and racketeering. He did a
16 stint in federal prison and then was released. During
17 the course of the investigation we found out that he
18 also had several outstanding warrants on him, one for
19 narcotics, failure to appear in municipal court, as
20 well as an interference with administration of the law.
21 During the course of that, the SCI agents through
22 surveillance were able to locate him, notify
23 authorities, and he was apprehended. Since that time
24 he was released after that period of time and then he
25 had additional warrants. Just recently we were able to

1 identify his location. We reported again to the local
2 authorities, and, again, he was arrested and taken into
3 custody.

4 MR. CLIVER: So twice you and other local
5 police officers were locating him on warrants and were
6 able to have him arrested?

7 MR. BREDEHOFT: Yes, sir.

8 MR. CLIVER: So what's the motivation
9 here? Why are these individuals involved in the
10 disposition of dirt, generally, and, more specifically,
11 why did they do it at Cliffwood Beach?

12 MR. BREDEHOFT: Most of these cases,
13 especially with organized crime, it's always a
14 financial gain to them. In this particular case here,
15 going through the financial records of the
16 subcontractor who is responsible for the transportation
17 of private disposal of this material, we saw that
18 contractor write out more than \$320,000 in checks to
19 companies under the control of Frank Gillette. Also,
20 in going through different records from the companies
21 under control of Frank Gillette, we saw a \$25,000 check
22 going from Gillette to that Bonanno captain in New
23 York. In a short time, these people because of the
24 little or no cost involved in dumping this material has
25 reaped great profit at the cost of citizens.

1 MR. CLIVER: So there's a real financial
2 incentive to do this improper dumping, what would the
3 cost have been to dispose of this material properly?

4 MR. BREDEHOFT: If this had been done
5 properly, either through a facility that can treat it
6 because of the PAH's or a landfill that could take the
7 demolition material, it would cost close to a half
8 million dollars.

9 MR. CLIVER: And, as far as we know, Greg
10 Guido paid 200 bucks to drop it there.

11 MR. BREDEHOFT: Greg Guido was paid \$200
12 for clean fill, he never paid one penny to any of those
13 people whatsoever.

14 MR. CLIVER: Again, thanks for correcting
15 me there. Let's talk about the long-term
16 ramifications, what have we learned about what's going
17 to happen at the Cliffwood Beach site and the impact
18 there?

19 MR. BREDEHOFT: As we had mentioned
20 earlier, we have a close working relationship with the
21 New Jersey DEP. Because of the nature of the
22 contaminated material, DEP was involved in early stages
23 of this part of this investigation. They have had
24 contact with the Township of Old Bridge and require
25 them to go out to an engineering firm to come up with

1 remediation plans that would both protect the health of
2 the citizens as well as accommodate what the state
3 needed and since required.

4 It is my understanding right now the
5 engineering firm they hired cost in excess of \$100,000
6 to come up with different remediation plans to curtail
7 this. The plan that appears to be today is a capping
8 where a cap will be put over the material to stop the
9 airborne nature. There will be all sorts of material
10 to stop erosion, and they will put test wells in, and
11 for the next 30 years test this material with the test
12 wells to make sure there is no leakage or runoff into
13 the water. The cost of this cheapest plan for
14 remediation will be an additional 200 to \$300,000.
15 Overall cost will be between 300 and \$400,000 to the
16 taxpayers of Old Bridge.

17 MR. CLIVER: So the capping, there will be
18 an organic cap to it, but, essentially, this stuff is
19 going to remain on the beach?

20 MR. BREDEHOFT: Correct.

21 MR. CLIVER: And of those that dumped the
22 soil there, have there been any administrative actions
23 taken against them.

24 MR. BREDEHOFT: DEP is still working on
25 their investigation, but, initially, right now, they

1 have done a notice of violation to Gregory Guido with a
2 fine proposed of \$50,000. This right now is an
3 administrative action. To my knowledge right now no
4 others have been find, however, their investigations
5 continue.

6 MR. CLIVER: Okay. Agent Bredehft, I
7 have no further questions. I'll open it up to the
8 Commission. Are there any questions for Agent
9 Bredehft?

10 COMMISSIONER LEANZA: I'd like to get some
11 clarification on your testimony. As I understand it,
12 you said the contractor who was initially responsible
13 for disposing of this waste had analytics in his
14 possession that showed that it was construction debris,
15 one; number two, that it contained hazard waste. Now,
16 he just relied upon those two infantile letters and
17 he's off the hook?

18 MR. BREDEHOFT: Technically, the
19 contractor who had this material went to a known
20 established trucking company who has done this in the
21 past, and as far as his responsibility, he had his
22 letters of acceptance. If he checked to see, did these
23 companies exist, he would see that the companies exist,
24 so I guess he had to rely on the material that was
25 given to him.

1 COMMISSIONER LEANZA: There is no
2 requirements under law that there is chain of custody
3 to make sure it goes to a place that's qualified to
4 dispose of it? Because I see the letterhead says it
5 was recycling centers, and if there were hazardous
6 waste --

7 MR. BREDEHOFT: It actually wasn't
8 hazardous waste, it wasn't contaminated waste, it was
9 contaminated material.

10 COMMISSIONER LEANZA: Contaminated with
11 hazardous substances, if there is a distinction, I
12 don't know.

13 MR. BREDEHOFT: Certain recycling centers
14 can take certain contaminated material. As an example,
15 in New Jersey, we have several sites that can handle
16 materials with PAH's because they can thermal treat it.
17 These two particular sites did not have that authority,
18 but, no, I don't believe there is a requirement for the
19 main contractor to actually go out and explore that,
20 they relied on the letters.

21 MR. CLIVER: Agent Bredehoft, just to be
22 clear, you can't speak to what some outside agency
23 might do to investigating the contractors or
24 subcontractors in this case? It could very well be
25 that there is some responsibility that you're not aware

1 of that contractor may become responsible for; isn't
2 that fair to say?

3 MR. BREDEHOFT: That's correct.

4 COMMISSIONER LEANZA: One follow-up
5 question, a lot of us are going to enjoy a beautiful
6 Memorial Day weekend down the shore, and we are all
7 aware of some of the restoration programs that the
8 federal government is doing, are they going to get
9 involved in restoring some of this shoreline on the
10 Raritan Bay, some of these wastes.

11 MR. BREDEHOFT: No. In fact, because this
12 was Super Storm Sandy, both the individual homeowners
13 as well as the Township of Old Bridge made an
14 application to FEMA, as well as the state, for
15 assistance because of the damage caused by Sandy.
16 However, the determination was made, that the damage in
17 question that has to be remediated was not caused by
18 Sandy, it was caused by the illegal dumping. So,
19 therefore, FEMA and the state denied any assistance,
20 financial assistance, in this matter. So the total
21 cost of this, the engineering study and the remediation
22 will be born by the taxpayers of Old Bridge.

23 COMMISSIONER LEANZA: Thank you.

24 MR. CLIVER: Are there any other
25 questions?

1 COMMISSIONER BURZICHELLI: You testified
2 that it would cost the citizens of Old Bridge,
3 approximately, 200 to \$300,000 to undergo the
4 remediation project, correct?

5 MR. BREDEHOFT: 200 to 300 for the
6 remediation, they have already spent a \$100,000 for the
7 study.

8 COMMISSIONER BURZICHELLI: That's just for
9 the cap for dirty dirt along the beach; is that
10 correct?

11 MR. BREDEHOFT: Correct, just the cap. If
12 it was the total removal and foundation, it would be in
13 area of almost 800,000 to a million.

14 COMMISSIONER BURZICHELLI: That's what I
15 was trying to get at, so in terms of a long-term cure,
16 you mentioned that this cap, if we had another instance
17 such as Sandy where the water rises to a comparable
18 level, will that dirt maintain its integrity or is it
19 possible that would wash out?

20 MR. BREDEHOFT: Although I'm not an
21 engineer, it's very possible what you said. That's one
22 of the reasons why besides just doing this remediation,
23 also test wells will be put there, this area will have
24 to be monitored in all areas, especially like you said
25 erosion, for the next 30 years.

1 COMMISSIONER BURZICHELLI: And the cost
2 you testified to, the approximation of 200 to \$300,000,
3 would that include the 30 year monitoring of that site?

4 MR. BREDEHOFT: Only the initial portion,
5 they'll be continuing expenses each year for engineers
6 to come out and do the testing.

7 COMMISSIONER BURZICHELLI: Thank you very
8 much.

9 MR. CLIVER: If there is nothing further,
10 I would ask that the Commission adjourns for a
11 15-minute recess.

12 COMMISSIONER SCANCARELLA: 15 minutes.

13 MR. CLIVER: Thank you.

14 (At which time, a recess was taken.)

15 MR. SEGLEM: I think we are ready to get
16 started again. Counsel, can you call the next witness.

17 MR. CLIVER: Thank you. I'll call
18 Christopher Marion from Old Bridge Township to testify.

19 CHRISTOPHER MARION, after having been
20 first duly sworn, was examined and testified as
21 follows:

22 MR. CLIVER: Mr. Marion, thank you for
23 being here today. Can you discuss your employment with
24 Old Bridge Township and your employment background
25 generally?

1 MR. MARION: My name is Christopher
2 Marion. I currently serve as the township business
3 administrator for the Township of Old Bridge in
4 Middlesex County. In that role I'm responsible for
5 budgeting, purchasing, personnel and overseeing the
6 day-to-day operation of the township government under
7 the direction of the mayor. My educational background
8 is background in Political Science from Villanova
9 University and Ph from University of Delaware, and MBA
10 from St. Joseph's University.

11 MR. CLIVER: Were you employed as the
12 township administrator for Old Bridge Township during
13 the time of Super Storm Sandy in the area of October of
14 2012?

15 MR. MARION: Yes, sir.

16 MR. CLIVER: Can you describe for the
17 Commission the general impact that Super Storm Sandy
18 had on the Township of Old Bridge.

19 MR. MARION: Sure. Super Storm Sandy had
20 a very serious impact on the Township of Old Bridge.
21 The coastal area of the township experienced a storm
22 surge resulting in severe flooding and significant
23 water damage in the sections of Cliffwood Beach and
24 Laurence Harbor. In addition to that flooding, most
25 areas of Old Bridge also experienced high winds and

1 heavy rain resulting in an unprecedented number of
2 uprooted trees and other debris, the blocked roadways
3 and damaged homes. Finally, the township wide loss of
4 electric power for an extend period of time displaced a
5 large number of town residents and residents from
6 neighboring communities causing a multitude of health
7 and security issues and hampering short-term recovery
8 efforts.

9 MR. CLIVER: So township wide, you had
10 different issues in all corners of the township, it
11 sounds like?

12 MR. MARION: Yes.

13 MR. CLIVER: And let's talk a little bit
14 about some of the recovery efforts that were undertaken
15 by the township, what were those efforts?

16 MR. MARION: Well, during the days and
17 weeks and months after Super Storm Sandy, township
18 employees and contractors engaged in large scale
19 cleanup operations throughout our town. A temporary
20 debris management area was set up at the County on
21 Police Substation, Laurence Harbor to ensure proper
22 collection and separation of construction and
23 vegetative debris. Township employees, contractors,
24 and other town agencies cleared roadways and inspected
25 businesses and homes, pumped out basements, and worked

1 with local organizations and volunteers to provide
2 basic care and supplies to displaced residents.

3 Township officials also met regularly with
4 other local, county, state and federal officials and
5 FEMA, insurance company representatives, utilities to
6 perform damage assessments, document explored related
7 costs, file claims and develop and execute short and
8 long range plans to fully restore municipal operations
9 and services for our public.

10 MR. CLIVER: And let's talk specifically
11 about, as you heard earlier testimony, about the Furman
12 Boulevard area of Cliffwood Beach in Old Bridge
13 Township, what was the impact of the storm there?

14 MR. MARION: As stated earlier, Cliffwood
15 Beach and Laurence Harbor sections of the township
16 experienced severe flooding and water damage to
17 facilities, homes, and infrastructure. The end of
18 Furman Boulevard and, also, Seaglade Circle, Cliffwood
19 Beach, was also subject to severe beach erosion on the
20 coastal bluff and other related damage.

21 MR. CLIVER: How and when did the township
22 find out about this specific storm related damage in
23 the area of Furman Boulevard of Cliffwood Beach.

24 MR. MARION: Well, in addition to
25 receiving residents complaints during the weeks and

1 months after the storm, township officials were also
2 working with FEMA representatives to perform a town
3 wide emergency assessment of storm-related damages in
4 an attempt to try to identify those areas in town that
5 require emergency repairs or longer term solutions.

6 In January of 2013, one of the township's
7 consulting engineers was asked to assess the area of
8 Furman Boulevard and determine what could be done about
9 the erosion issue.

10 MR. CLIVER: How and when did the town
11 become aware of the material at that Furman Boulevard
12 Cliffwood Beach site as, again, demonstrated here on
13 our Exhibit 111? How did the town become aware that it
14 might be illegally and hazardously dumped there.

15 MR. MARION: During the site visit in late
16 January 2013, one of our consulting engineers noted and
17 reported to the supervisor about what appeared to be
18 the ongoing placement of loose fill material containing
19 construction debris on both the private and known town
20 properties. The engineer also indicated the material
21 was unsuitable for long-term stabilization and located
22 in an area that is within the New Jersey coastal zone
23 and regulated by the New Jersey Department of
24 Environment Protection.

25 In February and March 2013 our township

1 administration was notified by the police department
2 that the Furman Boulevard site was also the subject of
3 a state investigation into illegal dumping of
4 materials.

5 MR. CLIVER: Okay. And when did the
6 township finally formally meet with the Department of
7 Environmental Protection regarding the Furman Boulevard
8 site?

9 MR. MARION: The township didn't meet with
10 the NJDEP until December of 2013 where township
11 officials met on site with representatives from the
12 NJDEP Bureau of Solid Waste Compliance and Enforcement.

13 MR. CLIVER: What did that result in?
14 What was the agreement or the directive from NJDEP and
15 the Solid Waste Compliance and Enforcement Bureau.

16 MR. MARION: Essentially, the onsite
17 meeting was the start of the state required site
18 remediation process.

19 MR. CLIVER: At that time did NJDEP give
20 you specific requirements or recommendations as to
21 remediating the Cliffwood Beach site?

22 MR. MARION: To comply with the site
23 remediation format and related regulations, the
24 township had to hire a consulting engineering firm to
25 do an initial site investigation report. We had to

1 retain a license site remediation professional, conduct
2 remedial investigation, and develop a remedial action
3 work plan. Over the next several months a
4 representative from the New Jersey Department of
5 Environmental Protection worked with our engineering
6 department to develop a request for proposals that
7 could be sent out to qualified firms to determine how
8 much impacted material was actually dumped on site. A
9 formal notification letter regarding the reported, what
10 they said was a release of hazardous substances at the
11 property in question was actually not issued by the DEP
12 until July of 2014 which was several months after the
13 process was under way.

14 MR. CLIVER: That was because you were
15 working hand in hand with them earlier on in the
16 process?

17 MR. MARION: That's correct.

18 MR. CLIVER: Let's talk about the remedial
19 options. What type of options did the consulting firm
20 that you hired give you and what did you ultimately do?

21 MR. MARION: Well, the consulting
22 engineering firm retained by our township presented two
23 potential options to the township to consider. The
24 first one was called cap and deed notice and the second
25 option that we looked at was fill removal, disposal and

1 restoration. The cap and deed notice was estimated to
2 cost, approximately, \$130,000, the fill removal option
3 was estimated to cost \$450,675 which didn't include any
4 cost associated with additional shoring support or
5 other requirements.

6 MR. CLIVER: And has the township decided
7 on which plan they will go forward with?

8 MR. MARION: Yes. The township decided to
9 use the cap and deed notice option. In addition to
10 being a less costly alternative, the township felt that
11 the capping option would also be less disruptive to the
12 residents in the surrounding area in terms of project
13 duration, required construction activities and truck
14 traffic.

15 MR. CLIVER: In other words, it's a less
16 costly option for the township, but it's also --

17 MR. MARION: Less disruptive as well.

18 MR. CLIVER: Much less disruption to the
19 homeowners in the area, both immediately at the beach
20 but also, it's a very large residential area there?

21 MR. MARION: It is, correct.

22 MR. CLIVER: What about that cost? How is
23 the township going to pay for this?

24 MR. MARION: All the cost remediation have
25 been or will be borne by the taxpayers of Old Bridge

1 and paid through our annual municipal operating capital
2 budgets. The total project cost of remediation is
3 estimated to be \$250,000 which includes all consulting
4 and construction costs with contingencies and expected
5 that the project would be completed this year.

6 MR. CLIVER: So, ultimately, it's your
7 taxpayers that are paying for this remediation?

8 MR. MARION: Unfortunately, that is
9 correct.

10 MR. CLIVER: And the decision that you
11 made, while environmentally approved by the NJDEP, it
12 does result in this stuff remaining on the beach; isn't
13 that fair to say?

14 MR. MARION: That is fair to say. I think
15 it was mentioned before that the monitoring costs,
16 there will be costs involved going forward. At this
17 point that was the option that the township decided to
18 move forward with in conjunction with the NJDEP who
19 have pretty stringent requirements throughout the
20 process.

21 MR. CLIVER: Now, had the township had a
22 better awareness of this dumping as it was going on,
23 would the township have allowed it to continue?

24 MR. MARION: No.

25 MR. CLIVER: And let's say in a

1 hypothetical that this soil was 100% clean, that it was
2 clean fill, would they hypothetically allowed it to
3 have happen?

4 MR. MARION: Hypothetically no. The type
5 of project would have required prior approvals from the
6 Department of Environmental Protection and potentially
7 other state and federal agencies.

8 MR. CLIVER: So even without all the
9 construction debris, there would have been other
10 permitting needs by the township and other agencies as
11 well?

12 MR. MARION: Potentially, yeah.

13 MR. CLIVER: Now, to your knowledge, did
14 anyone ever seek official township approval for this
15 dumping?

16 MR. MARION: Not to my knowledge.

17 MR. CLIVER: I use that phrase, "clearer
18 idea", why did it take the township a few months to get
19 a clearer idea of the dumping that was going on there
20 and the erosion that had happened?

21 MR. MARION: As stated earlier, the
22 township was inundated with residents calls for
23 assistance working on other higher priorities, issues
24 and projects in those days and weeks and months after
25 the storms. While the beach erosion problems occurred

1 on Furman Boulevard and Seaglade Circle were serious,
2 we were more focused on the section in Laurence, there
3 were a number of properties destroyed and residents
4 were displaced by the homes. So it was a lot of
5 activity, a lot of issues facing us, and that was
6 important, but not one of the top priorities,
7 especially people not in the houses.

8 MR. CLIVER: So while we had erosion at
9 Cliffwood Beach that was severe and abutted peoples'
10 properties, you were also dealing with homes that were
11 completely uprooted and destroyed and people that had
12 no where to live during that time; isn't that fair?

13 MR. MARION: That's correct.

14 MR. CLIVER: And you were triaging all of
15 that, essentially.

16 MR. MARION: That's correct.

17 MR. CLIVER: I don't have any further
18 questions for the witness. Are there any questions
19 from the Commission? And after you're finished I would
20 like to give Mr. Marion an opportunity to make a brief
21 statement.

22 COMMISSIONER BURZICHELLI: Thank you for
23 your testimony today. I'm trying to get a sense of the
24 extent of damage along the coastline of Old Bridge
25 Township. Were there other locations similarly

1 impacted by the storm in terms of the bulkhead of the
2 beach?

3 MR. MARION: We actually had erosion of
4 one of our roadways, Shoreland Circle, that was a top
5 priority, because it seemed to be every day we'd go out
6 and see erosion was going closer to the roadway, that
7 was one of the top priorities. And then down in the
8 Laurence Harbor section of the town, we had about, I'm
9 going to say, about 40 homes impacted by the storm. So
10 there was a lot of flooding, short term flooding
11 issues, that we had to clean up, and that place never
12 drained out until after.

13 COMMISSIONER BURZICHELLI: I assume that
14 the township undertook some type of repairs of those
15 situations, in terms of funding those repairs, was that
16 borne by the taxpayers of Old Bridge, or did the State
17 of New Jersey and the federal government jump in and
18 help you guys.

19 MR. MARION: In some cases we received
20 reimbursement from the federal government and FEMA, I
21 would say we had to initially, because of the process
22 the federal government takes, we had to do an emergency
23 appropriations, so emergency funding was set in place
24 and we ended up going forward and paying for everything
25 from the debris removal to the short-term repairs of

1 those structures.

2 COMMISSIONER BURZICHELLI: Just for my
3 understanding, and the understanding of the Commission,
4 could you put in context the size of the budget for Old
5 Bridge Township, just so I can understand what \$250,000
6 means to this town.

7 MR. MARION: Our total budget is \$52
8 million, but, again, it's capital cost and expense
9 that's going to pay over time. So our operating
10 budget, as you know, we are limited by caps and every
11 year operating costs, especially with financial
12 difficulties we faced after first taking office, it's
13 significant, it's not a drop in the bucket, especially
14 when trying to do emergency appropriations for a number
15 of processes.

16 COMMISSIONER BURZICHELLI: Thank you.

17 MR. CLIVER: Thank you, Mr. Marion, you're
18 excused.

19 COMMISSIONER SCANCARELLA: A statement.

20 MR. CLIVER: Before you make your
21 statement of course.

22 MR. MARION: I'd just like to take the
23 opportunity to thank the State Commission of
24 Investigation, the commissioners, the agents and
25 counsel for allowing the Township of Old Bridge to

1 participate in today's proceedings. This is a very
2 important issue for all New Jersey municipalities.
3 Illegal dumping is a significant impact on the health
4 and safety and welfare of our residents, as we have
5 seen from the environment component. We also have a
6 significant economic impact which is especially
7 difficult for cities and towns given our budget caps
8 and other financial constraints. Thank you very much
9 for having me.

10 MR. CLIVER: Thank you. At this time,
11 commissioners, I'd like to call Frank Gillette to
12 testify.

13 FRANK GILLETTE, after having been first
14 duly sworn, was examined and testified as follows:

15 MR. CLIVER: As I explained to you before,
16 just use the red button to turn the mics on and off.

17 Counsel, could you please enter your
18 appearance for the record.

19 MR. KOWNACKI: Good morning, Edward J.
20 Kownacki appearing with Frank Gillette.

21 MR. CLIVER: Mr. Gillette, I'm reminding
22 you at this time that the Fifth Amendment affords you
23 the right to refuse to answer any question that you
24 believe may intend to incriminate you in any way. It
25 is my understanding after discussing this issue with

1 your attorney, that you intend to avail yourself of
2 your rights under the Fifth Amendment. Are you
3 satisfied with Mr. Kownacki's representation of you
4 thus far?

5 MR. GILLETTE: Yes.

6 MR. CLIVER: And if you have any questions
7 for your attorney during this questioning, you need to
8 ask for a moment to confer with him, and I'll allow you
9 that break. Do you understand?

10 MR. GILLETTE: Yes.

11 MR. CLIVER: If you do, in fact, intend to
12 invoke your rights under the Fifth Amendment, please
13 wait for me to complete my question and then state that
14 you are invoking your Fifth Amendment right. Do you
15 understand that?

16 MR. GILLETTE: Yes.

17 MR. CLIVER: Mr. Gillette, how did you
18 learn of the Cliffwood Beach site in Old Bridge, New
19 Jersey, and how did you decide to allow this material
20 to end up there?

21 MR. GILLETTE: I invoke my Fifth Amendment
22 right.

23 MR. CLIVER: How did you arrange with Greg
24 Guido to dump the soil and debris there after Super
25 Storm Sandy?

1 MR. GILLETTE: I invoke my Fifth Amendment
2 right.

3 MR. CLIVER: How much did you pay
4 Mr. Guido to allow the dumping to happen there.

5 MR. GILLETTE: I invoke my Fifth Amendment
6 right.

7 MR. CLIVER: How many truckloads of dirt
8 did you send to Cliffwood Beach and to Middlesex County
9 Utility Authority from that site in the Bronx?

10 MR. GILLETTE: I invoke my Fifth Amendment
11 right.

12 MR. CLIVER: What was your ownership stake
13 or relationship with Bradley Sirkin and Jersey
14 Recycling Services?

15 MR. GILLETTE: I invoke my Fifth Amendment
16 right.

17 MR. CLIVER: How much top soil would you
18 say was resold to the public at Jersey Recycling
19 Services?

20 MR. GILLETTE: I invoke my Fifth Amendment
21 right.

22 MR. CLIVER: Commissioners, I have no
23 further questions for the witness. Thank you,
24 Mr. Gillette.

25 MR. GILLETTE: Thank you.

1 MR. CLIVER: In the schedule we have a
2 break written in at this point, but seeing that we are
3 a bit ahead of schedule, I would ask that we forgo the
4 recess and continue on with the testimony.

5 COMMISSIONER SCANCARELLA: The next
6 witness?

7 MR. CLIVER: The next witness is ready.
8 At this time I would call Agent Mike Dancisin from the
9 SCI to testify.

10 MICHAEL DANCISIN, after having been first
11 duly sworn, was examined and testified as follows:

12 MR. CLIVER: Could you state your name and
13 your position with the SCI for the record.

14 MR. DANCISIN: Michel J. Dancisin, I'm a
15 senior special agent with the State Commission of
16 Investigation.

17 MR. CLIVER: And, Agent Dancisin, can you
18 talk about your experience working in law enforcement,
19 specifically, and the investigation of organized crime
20 and systemic abuse?

21 MR. DANCISIN: I've been a special agent
22 with the Commission for over 20 years investigating
23 fraud and abuse and organized crime. Prior to that I
24 was a detective with the New Jersey State Police
25 primarily investigating organized crime.

1 MR. CLIVER: Now, the previous testimony
2 just alluded to, the Jersey Recycling Services Center,
3 we have not touched on yet in this hearing, can you
4 please describe for the council the recycling center
5 known as Jersey Recycling Services located in Palmyra,
6 Burlington County, New Jersey.

7 MR. DANCISIN: Yes. Jersey Recycling
8 Services, or JRS, is located at 213 Route 73 South,
9 Palmyra, New Jersey. During its operation of 2012 and
10 2013 it was operated by Bradley Sirkin of Boca Raton,
11 Florida. This location is a NJDEP remediation site
12 with exempt approval for recycling leaves, branches and
13 grass clippings. It covers more than 100 acres and
14 abuts the Pennsauken Creek.

15 MR. CLIVER: And before Sirkin controlled
16 this site, who opened and operated it?

17 MR. DANCISIN: Prior to Sirkin, the site
18 was owned and operated by Fillit Corporation which, in
19 turn, was owned by Angelo Campo, now deceased. On
20 April 27, 2012 JRS took control of this site.

21 MR. CLIVER: You say that the site at
22 Jersey Recycling had DEP exempt approval for some
23 recycling operations, what type of operations were
24 known by the DEP?

25 MR. DANCISIN: This exemption was for the

1 facility to accept a maximum of 20,000 cubic yards
2 annually of material including leaves and various forms
3 of vegetation, all of which could be processed and sold
4 as household mulch to the general public.

5 MR. CLIVER: How did this investigation
6 lead to looking into Jersey Recycling Services?

7 MR. DANCISIN: Through a company
8 controlled by a New York based Bonanno crime family
9 capo connected to Frank Gillette. We analyzed the
10 checking account held by that company and identified a
11 \$50,000 payment from that company to JRS.

12 MR. CLIVER: I want to take a look and
13 draw your attention to Exhibit 115 here, Agent, is that
14 the check that you are discussing?

15 MR. DANCISIN: Yes, sir, it is.

16 MR. CLIVER: And were you able to find a
17 coordinating payment in Jersey Recycling Services books
18 or files?

19 MR. DANCISIN: We were. A review of
20 Jersey Recycling Services books revealed an entry for
21 \$50,000 payment which JRS identified as a shareholder
22 loan. There was several other shareholder loans from
23 the corporate entities in Florida, all of which were
24 paid off, however, this loan from the Bonanno capo was
25 never repaid by Jersey Recycling Services.

1 MR. CLIVER: So let's talk a little bit
2 about the operations of Jersey Recycling. What did the
3 investigation find as to what was actually going on
4 now?

5 MR. DANCISIN: In the, approximately, 1½
6 years that JRS was in operation, companies delivered
7 more than 380,000 cubic yards of construction material
8 and soil to Jersey Recycling.

9 MR. CLIVER: You just testified that they
10 were only approved for 20,000 cubic yards of
11 landscaping materials; isn't that right?

12 MR. DANCISIN: Yes, sir, it is.

13 MR. CLIVER: They accepted around 19 times
14 more than what they were exempt for?

15 MR. DANCISIN: That's correct.

16 MR. CLIVER: What sort of projects was
17 Jersey Recycling accepting material from?

18 MR. DANCISIN: All kinds. We tracked
19 dozens of trucks coming from a highway construction
20 project in Philadelphia. There was debris delivered to
21 a school project in Camden New Jersey and another
22 construction project in New Brunswick.

23 MR. CLIVER: What does the site look like
24 now?

25 MR. DANCISIN: Well, while Sirkin was

1 there, it was no small operation. Upon entering the
2 site and passing a small construction trailer, we can
3 see acres and acres of debris, some piled quite high,
4 rebar, crushed and whole brick, concrete aggregate and
5 soil every where. The piles of construction debris and
6 dirt are also right next to the purported mulch that
7 was to be sold. As a result of this, the elevation of
8 location was raised approximately 10 to 15 feet.

9 MR. CLIVER: So under the photos that we
10 have here, we're taking a look at Exhibit 116, this
11 yellow square here, Agent, that is, essentially, the
12 area of the Jersey Recycling site, excuse me, before
13 Sirkin took it over?

14 MR. DANCISIN: Yes, sir.

15 MR. CLIVER: And just for some points of
16 reference, this here, this is the Pennsauken Creek as
17 you testified?

18 MR. DANCISIN: That is correct.

19 MR. CLIVER: And right in here, that's
20 Route 73?

21 MR. DANCISIN: Right.

22 MR. CLIVER: And this parking lot
23 appearance area above the square, now that's the former
24 drive-in movie theater that now operates as a weekend
25 flea market; isn't that right?

1 MR. DANCISIN: That's correct.

2 MR. CLIVER: And it's clear in another
3 photo, but I'll point it out here, up here in the top
4 left corner of the photo, there is a dark spot, that's
5 the Delaware River, right?

6 MR. DANCISIN: Yes, it is.

7 MR. CLIVER: Let's move on to Exhibit 117,
8 Agent, these are photos taken by DEP after they were
9 alerted to the site's issues?

10 MR. DANCISIN: That's correct.

11 MR. CLIVER: What we have here are
12 construction debris, reddish soil that might be brick,
13 but is certainly different from the vegetation here
14 before it, and we also have more construction debris in
15 the foreground?

16 MR. DANCISIN: Yes, sir.

17 MR. CLIVER: Let's move on to Exhibit 118,
18 this is a photo that was taken by DEP on a later
19 inspection; isn't that right?

20 MR. DANCISIN: Yes.

21 MR. CLIVER: Again, after Sirkin was under
22 control of the site?

23 MR. DANCISIN: That's correct.

24 MR. CLIVER: What it shows here is a pile
25 of debris on the site, and we have a red arrow pointing

1 to what appears to be runoff coming off of that debris
2 that was left there?

3 MR. DANCISIN: Yes, sir.

4 MR. CLIVER: Let's move on one more to
5 Exhibit 119, again, this is from that second inspection
6 that DEP had at the site?

7 MR. DANCISIN: That's correct.

8 MR. CLIVER: What we see here is the
9 waterway in the photo, that's the Pennsauken Creek?

10 MR. DANCISIN: Yes, it is.

11 MR. CLIVER: And we have at the right end
12 of the photo, there is debris and what appears to be
13 runoff from that debris, as well, heading right towards
14 the creek; isn't that fair to say?

15 MR. DANCISIN: Correct.

16 MR. CLIVER: Now, you have testified that
17 Jersey Recycling was a mulching operation, did Jersey
18 Recycling actually resell mulch to peoples' homes?

19 MR. DANCISIN: Most definitely. An
20 employee at JRS gave us detailed information as to how
21 that process worked.

22 MR. CLIVER: And what else did you learn
23 about the operation there?

24 MR. DANCISIN: Employees there handle
25 construction debris and did recycling jobs that they

1 never handled before. They blended material that was
2 made top soil for resale.

3 MR. CLIVER: Did these employees on site
4 and who you spoke with seem to have an understanding as
5 to what Jersey Recycling could or couldn't accept onto
6 the property?

7 MR. DANCISIN: JRS employees took dirt,
8 rock, grass, wood, said they couldn't take anything
9 hazardous, however, when pressed as to the different
10 categories of hazardous waste, the employees thought
11 JRS could accept debris that was approved for
12 residential use, nonresidential use, and solid waste,
13 just not hazardous waste. Of course, JRS was only
14 approved to accept those mulch products and had no
15 approval to accept nonresidential or solid waste.

16 MR. CLIVER: So we know that Jersey
17 Recycling sold topsoil for homes in the area?

18 MR. DANCISIN: Yes, employees admitted
19 selling topsoil to landscapers who, in turn, would
20 resell it to the general public. We also spoke with
21 landscapers and soil suppliers in the area who told us
22 they bought mulch from Jersey Recycling.

23 MR. CLIVER: And was any of the soil of
24 that 380,000 cubic yards accepted, was any of that
25 contaminated?

1 MR. DANCISIN: Yes, it was. We were able
2 to identify two sites that generated soil that was sent
3 to Jersey Recycling that was not suitable for placement
4 there.

5 MR. CLIVER: Agent, I'm going to ask you
6 to move over one seat and turn that mic and try the
7 other one, we are getting a little feedback. Turn your
8 mic off there and take the next seat to your left.

9 Let's talk about some of that contaminated
10 dirt that came to Jersey Recycling, Agent, were you
11 able to identify the sites that they were originated
12 from?

13 MR. DANCISIN: Yes, we were. We had
14 evidence that Jersey Recycling accepted debris from the
15 project at the Camden County Community Charter School
16 in Camden, New Jersey and the project at 55 Morrell
17 Street in New Brunswick, both of which contained
18 various contaminants.

19 MR. CLIVER: Let's start with that Camden
20 school, what did the investigation find there?

21 MR. DANCISIN: We learned from an
22 environment consultant who was working for a site that
23 could accept contaminated waste about this project.
24 The consultant told us that she received laboratory
25 reports concerning sampling of soil that needed to be

1 removed from the school construction project, and that
2 all had high levels of Polycyclic aromatic hydrocarbon,
3 or PAH, a known cancer-causing agent. These PAH levels
4 exceeded NJDEP's acceptable levels of use for
5 residential or nonresidential fill, and that they would
6 be deemed solid waste if not recycled properly.

7 MR. CLIVER: So if they were contaminated,
8 what did the consultant propose to do with that soil
9 from the school?

10 MR. DANCISIN: We were told that a price
11 structure was communicated to the company looking to
12 remove the soil from Camden, recommending that it be
13 disposed of at the Bellmawr Waterfront Development
14 site, an approved accepting site for such impacted
15 material. The soil from the charter school never went
16 to the Bellmawr development site.

17 MR. CLIVER: That Bellmawr site, that's in
18 Camden County, New Jersey?

19 MR. DANCISIN: That's correct.

20 MR. CLIVER: So if it didn't end up in
21 Bellmawr, where did it go?

22 MR. DANCISIN: A different contractor
23 ended up hauling the soil at a much lower rate to
24 Jersey Recycling Services.

25 MR. CLIVER: We are looking at Exhibit 120

1 and it's an SCI created breakdown of two different
2 routes. Agent, on the left it shows the original
3 proposal that it would take it to the Bellmawr
4 Waterfront Development site which was approved for it,
5 for, approximately, \$25.85 a ton. And on the right, it
6 shows the simplified plan to get it to Jersey Recycling
7 at 14.50 a ton. Does that accurately depict the
8 difference in price per ton?

9 MR. DANCISIN: Yes, sir, it is.

10 MR. CLIVER: And how did it end up going
11 to Jersey Recycling at that lower rate?

12 MR. DANCISIN: The contractor told us that
13 he gave the same lab reports to Jersey Recycling's
14 Licensed Site Remediation Professional, or LSRP, or
15 approved them. After that approval, the contractor
16 arranged for the soil to be sent to Jersey Recycling.

17 MR. CLIVER: So it was brought to Jersey
18 Recycling even though the original consultant and NJDEP
19 said it was -- NJDEP later told you -- that it was
20 inappropriate for nonresidential use?

21 MR. DANCISIN: Yes.

22 MR. CLIVER: So it was all taken to Jersey
23 Recycling?

24 MR. DANCISIN: It was all taken to Jersey
25 Recycling.

1 MR. CLIVER: You mentioned a Licensed Site
2 Remediation Professional, can you describe for the
3 Commission what a Licensed Site Remediation
4 Professional is?

5 MR. DANCISIN: Yes, an LSRP, as commonly
6 known, is hired by the site that is a state remediation
7 to provide guidance and to ensure that proper steps are
8 being carried out so clean up is properly and legally
9 handled. They check the site's intake and outflow to
10 be sure that proper materials are being accepted and
11 work with the site to be sure that all NJDEP guidelines
12 for that site are being followed.

13 MR. CLIVER: And what did you discover
14 about this purported LSRP employed by Jersey Recycling?

15 MR. DANCISIN: It wasn't an LSRP at all.
16 While this person once held a temporary license, he
17 failed the permanent test and was no longer an LSRP
18 during the time he worked with Jersey Recycling.

19 MR. CLIVER: If he wasn't qualified to act
20 in this way, what was he doing for Jersey Recycling.

21 MR. DANCISIN: This scientist worked at
22 Sirkin and JRS after Sirkin approached his company for
23 help in purchasing the site. The company consulted for
24 JRS started well before Sirkin took over the site and
25 throughout Sirkin's ownership there.

1 MR. CLIVER: Let's talk about New
2 Brunswick site that you mentioned, how did SCI become
3 aware of that?

4 MR. DANCISIN: We learned of this site
5 after an environmental consulting company that was
6 hired by the construction company in charge of the
7 project for environmental consulting included the
8 testing and proper disposal of material at 55 Morrell
9 Street in New Brunswick.

10 MR. CLIVER: That was a residential
11 project new build there?

12 MR. DANCISIN: Yes, sir.

13 MR. CLIVER: Okay. What did this
14 consultant do with the contract at Morrell Street?

15 MR. DANCISIN: He had the debris tested by
16 a laboratory. The results of which showed the material
17 contained contaminants that were classifying the
18 material as nonresidential.

19 MR. CLIVER: Again, because it was
20 contaminated with PAH similar to the Camden school?

21 MR. DANCISIN: Yes, that's correct.

22 MR. CLIVER: What did that consultant
23 propose to do with the material after learning that it
24 was contaminated?

25 MR. DANCISIN: He then advised the

1 principal of the project of the results and the
2 location that could properly handle the material, and
3 then set out to talk about pricing.

4 MR. CLIVER: Did the consultant complete
5 the job? Did it end up at that site that he
6 recommended?

7 MR. DANCISIN: No, it did not. He told us
8 he was seriously underbid by another company and he was
9 not able to complete the job at all.

10 MR. CLIVER: And what did we learn about
11 this other company's work? What did they do?

12 MR. DANCISIN: They eventually transported
13 the material to the JRS site where contaminated
14 material was dumped. We found a very complicated
15 system that ultimately delivered this soil to Jersey
16 Recycling.

17 MR. CLIVER: Can you briefly describe that
18 system for the Commission? How did it work?

19 MR. DANCISIN: A second hauling company
20 brought in the debris. That company repeatedly
21 requested that Sirkin confirm that the New Brunswick
22 soil was allowed to be transported and deposited at
23 JRS. In a notarized letter dated September 5, 2013
24 Sirkin affirms that soil from this project meets NJDEP
25 residential reuse standards.

1 MR. CLIVER: We are looking on the screen
2 at Exhibit 121, is that the cover letter you just
3 described?

4 MR. DANCISIN: Yes, sir, it is.

5 MR. CLIVER: Within this circle here, it
6 describes that all material from the job meets the
7 standards under NJDEP restrictions, essentially, what
8 you just said, meets those requirements?

9 MR. DANCISIN: That is correct.

10 MR. CLIVER: And, also, it's worth
11 pointing out, again, that the word accepted is
12 misspelled within there as, e-x-c-e-p-t-e-d, not the
13 proper a-c-c spelling?

14 MR. DANCISIN: Yes.

15 MR. CLIVER: And was there anything more
16 included with that letter?

17 MR. DANCISIN: Yes, included with the
18 letter is a second letter on the purported LSRP's
19 letter that's dated August 28, 2013 stating that the
20 soil analysis is adequate. This letter is clearly
21 doctored and is, in fact, a copy of a pasted e-mail
22 from a different date in August.

23 MR. CLIVER: So we are looking at Exhibit
24 122 on our display, Agent, on the left this the
25 original e-mail that you are talking about that is a

1 copy and pasting?

2 MR. DANCISIN: That is correct.

3 MR. CLIVER: And on the right, a letter
4 dated August 8th that you described from that scientist
5 purported.

6 MR. DANCISIN: Yes.

7 MR. CLIVER: So within the letter here,
8 you got the same exact text font and substance in the
9 e-mail to the left as it appears on the exhibit to the
10 right; isn't that fair?

11 MR. DANCISIN: Yes.

12 MR. CLIVER: And, most significantly, at
13 the bottom of this e-mail and at the bottom of the
14 letter it reads, please consider the environment before
15 printing this e-mail?

16 MR. DANCISIN: That is correct.

17 MR. CLIVER: So Sirkin, again, points to
18 this scientist analysis of debris which is completely
19 at odds with the original holder of the letter.

20 MR. DANCISIN: That is correct. Both here
21 and in the Camden school example, the lab consultant
22 deemed the soil to be clean and appropriate that others
23 in the industry told us that would not be allowed at
24 the JRS site.

25 MR. CLIVER: And, like you said, this

1 Morrell Street project material ends up as Jersey
2 Recycling.

3 MR. DANCISIN: That is correct, this soil
4 was delivered to the site and dumped there.

5 MR. CLIVER: Let's talk about Jersey
6 Recycling and this scientist. In both cases Sirkin's
7 chosen consultant was wrong about the quality of the
8 soil?

9 MR. DANCISIN: Yes. The two original
10 consultants and NJDEP all disagreed with Sirkin's
11 consultant and said the level of contaminants could
12 never be approved to be dumped at Jersey Recycling?

13 MR. CLIVER: What did you learn about this
14 consultant's job with Jersey Recycling?

15 MR. DANCISIN: First and, more
16 importantly, he ended his position at LSRP with JRS
17 very early in the business relationship. The
18 consultant determined that the site did not legally
19 require an LSRP, and that after he no longer
20 represented JRS as an LSRP, he also told us that after
21 that, Sirkin continued to refer to him as an LSRP and
22 he had to correct him.

23 MR. CLIVER: So Sirkin held this
24 consultant out to be an LSRP even when he wasn't
25 licensed to be one?

1 MR. DANCISIN: Yes. At that time, he was
2 most certainly not working as an LSRP for Jersey
3 Recycling, and he was telling Sirkin not to portray him
4 as such.

5 MR. CLIVER: Did this consultant, this
6 purported Licensed Site Remediation Professional, did
7 he review the Camden school project?

8 MR. DANCISIN: He did. He approved the
9 Camden soil delivery to Jersey Recycling through
10 e-mails. This approval was given despite the fact that
11 in an e-mail communication between the consultant and
12 Sirkin for the bottom of the e-mail to be reviewed, one
13 of the original handlers had written, none of the
14 samples met any residential standards in New Jersey.

15 MR. CLIVER: He told the Commission that
16 he didn't see that line within the e-mail; is that
17 correct?

18 MR. DANCISIN: That's correct.

19 MR. CLIVER: And did the consultant
20 understand one question whether PAH's could be accepted
21 by Jersey Recycling and, specifically, benzo(a)pyrene?

22 MR. DANCISIN: When asked, the consultant
23 said that JRS would not be able to accept PAH's but
24 could not tell us whether or not benzo(a)pyrene was a
25 PAH.

1 MR. CLIVER: Now, Agent, is benzo(a)pyrene
2 a PAH?

3 MR. DANCISIN: Yes, it is, it's a known
4 cancer-causing agent.

5 MR. CLIVER: Did this consultant also
6 review the Morrell Street project as well?

7 MR. DANCISIN: He did, and he reviewed the
8 analytical reports from that project, as well, and told
9 Sirkin the soil was acceptable to take to Jersey
10 Recycling. As we learned from both the original
11 consultant and, later, NJDEP the soil was not
12 appropriate to accept at JRS.

13 MR. CLIVER: And did this consultant know
14 about that doctored letter that Sirkin sent out to
15 contractors concerning the project?

16 MR. DANCISIN: Not until we showed it.
17 After reviewing, it he confirmed that the letter was
18 not written by him and that it appeared to be a cut and
19 paste of an e-mail he had sent to Sirkin. He told the
20 SCI he had no knowledge that Sirkin then sent that
21 letter out to a vendor to assure them that the soil was
22 acceptable.

23 MR. CLIVER: Let's talk about this owner,
24 Mr. Sirkin. We are going to refer to Exhibit 123 here,
25 what have you learned?

1 MR. DANCISIN: Sirkin resides in Boca
2 Raton, Florida. And while working at Jersey Recycling
3 Services was operating, he kept a residence and
4 automobile in Staten Island. While was running JRS he
5 would come to Staten Island every week and make
6 periodic stops at JRS. In the 1990's Sirkin was
7 convicted federally for racketeering and did a federal
8 prison sentence. He has a family member who was a
9 soldier in the Lucchese crime family of New York. In
10 Florida, Sirkin has a relationship with a former high
11 ranking member of a Philadelphia mob.

12 MR. CLIVER: What's Sirkin relation with
13 the Philadelphia mobster?

14 MR. DANCISIN: After that individual was
15 released from prison in 2012, Sirkin was a constant
16 companion of his in Florida. He drove him everywhere
17 and frequented high end business establishments.

18 MR. CLIVER: Was Sirkin the sole owner at
19 Jersey Recycling?

20 MR. DANCISIN: He's purported to be,
21 however, the Bonanno capo connected to Frank Gillette
22 has been identified by numerous witnesses as having
23 been introduced by Sirkin as the principal in the
24 business. Sirkin was introduced to Jersey Recycling
25 site when he helped the capo find a location to dump

1 road millings.

2 MR. CLIVER: Was there a financial
3 relationship between this captain and Jersey Recycling?

4 MR. DANCISIN: Captain which JRS
5 identified as shareholder loan that loan was never
6 repaid.

7 MR. CLIVER: What about these employees at
8 Jersey Recycling, I know that some told you that they
9 blended top toil soil for resale did he have any
10 experience in this.

11 MR. DANCISIN: No none at all. When we
12 talked to those in the industry we learned that this
13 blending is a skill that takes years of education and
14 practice to learn.

15 MR. CLIVER: So it's unlikely that they
16 had been able to blend contaminated soil effectively
17 right.

18 MR. DANCISIN: That's correct. Those same
19 industry folks told us they are hesitant to blend
20 contaminated soil because it's difficult to be certain
21 that you have uniformly blended it to a point to make
22 it safe. It's difficult to believe that JRS employees
23 were able to develop the skill without many years of
24 professional training.

25 MR. CLIVER: I want to be very clear about

1 this, our investigation showed that Jersey Recycling
2 brought in contaminated soil and debris from
3 construction sites, correct?

4 MR. DANCISIN: Yes.

5 MR. CLIVER: And the SCI also confirmed
6 that Jersey Recycling, as part of their business,
7 resold topsoil?

8 MR. DANCISIN: Yes, we did.

9 MR. CLIVER: But there is no definitive
10 cold evidence that the contaminated soil that was
11 brought in from those sites was mixed with the topsoil?

12 MR. DANCISIN: That is correct. The two
13 piles were kept in the same yard and in close proximity
14 to each other. Jersey Recycling employees informed us
15 that they had a mixing operation but we cannot say
16 definitively that the topsoil contained contaminants.

17 MR. CLIVER: Is it fair to say that most
18 of the resale operations happen before we arrived on
19 the scene, so we weren't able to track down where maybe
20 some of them had gone?

21 MR. DANCISIN: That is correct.

22 MR. CLIVER: What about Frank Gillette?
23 What connection does he have to the Jersey Recycling
24 site?

25 MR. DANCISIN: We know that Gillette wrote

1 a check for payment to JRS for the purchase of top
2 soil. Further investigation had shown Gillette and
3 this Bonanno capo had reported to be partners in the
4 JRS operation with Sirkin, and met with potential
5 customers as owners and, of course, Gillette had a
6 direct connection to the Bonanno capo's shell business.

7 MR. CLIVER: You just testified, again, to
8 the topsoil point, Gillette was someone we know we
9 received information, with receiving payment for sold
10 topsoil from Jersey Recycling, right?

11 MR. DANCISIN: That's correct.

12 MR. CLIVER: What about now? What does
13 the Jersey Recycling site look like today?

14 MR. DANCISIN: After the Commission
15 discovered this site, we alerted the NJDEP and
16 accompanied their inspectors onto the site. In 2013
17 after observing brick, rebar, concrete, pipe and other
18 construction debris mixed with dirt, NJDEP immediately
19 ordered the site shut down.

20 MR. CLIVER: Now, we are looking at
21 Exhibit 125, it's created -- or altered by the
22 Commissioner here, and this is an overhead view of the
23 site from 2015.

24 MR. DANCISIN: Correct.

25 MR. CLIVER: You can see, while it is a

1 brighter photo, a large brown area where debris appears
2 to be located?

3 MR. DANCISIN: Yes.

4 MR. CLIVER: And, again, for purpose here
5 at the bottom the snaking, that is the Pennsauken
6 Creek?

7 MR. DANCISIN: That is correct.

8 MR. CLIVER: And this parking lot area
9 right above the yellow square, that's the former
10 drive-in movie theater that is now a flea market?

11 MR. DANCISIN: Correct.

12 MR. CLIVER: And Route 73 right here, and
13 up here in the left-hand corner, it's a little clearer,
14 there's a blue spot, that's the bank of the Delaware
15 River.

16 MR. DANCISIN: That's correct.

17 MR. CLIVER: In fact, this wooded area
18 just north of the site in the photo, that's the Palmyra
19 Cove Park; isn't that right?

20 MR. DANCISIN: Yes, it is.

21 MR. CLIVER: Okay. So what did NJDEP do
22 next after they shut the place down?

23 MR. DANCISIN: There is presently
24 administrative litigation being pursued against Sirkin,
25 JRS, Angelo Campo's estate and the Fillit company.

1 MR. CLIVER: And the site sits abandoned?

2 MR. DANCISIN: More or less. We received
3 some information that there are individuals interested
4 in purchasing the site. The cleanup is such there will
5 be many remediation hurdles that want to use it in any
6 way.

7 MR. CLIVER: What happened to Sirkin?

8 MR. DANCISIN: Right around the time the
9 NJDEP notice of violations and administrative actions,
10 he left for Florida.

11 MR. CLIVER: Has he been back?

12 MR. DANCISIN: We've received no
13 information about him since his return to Florida in
14 2014. We even issued him two subpoenas to come here
15 testify, and he's responded by a notarized letter both
16 times indicating his intention to invoke his Fifth
17 Amendment right.

18 MR. CLIVER: Looking at Exhibit 125,
19 Agent, are these the two notarized letters, the letter
20 on the left being May of 2015, the letter on the right
21 being May of 2016, both invoking the Fifth Amendment
22 right to remain silent?

23 MR. DANCISIN: Yes, sir, they are.

24 MR. CLIVER: Commissioners, I have no
25 further questions for agent Dancisin. Are there any

1 questions from the Commission?

2 COMMISSIONER SCANCARELLA: I think you may
3 have referred to a photo, a prior one as being 125, I
4 think just, for the record, it's 124.

5 MR. CLIVER: Thank you.

6 COMMISSIONER SCANCARELLA: And one other
7 item of clarification, the distinction between, for
8 whatever it is worth, the distinction between accept
9 and except has been more than once referred to as
10 misspelling, I think it is more than that, it's a
11 misuse, a misapplication of the word, accept, so accept
12 something; and except, exception from, so just for
13 purposes of the record. Thank you.

14 COMMISSIONER BURZICHELLI: Good afternoon.
15 I don't know if you can answer this. I'm just curious
16 about if we have any idea of the cost to remediate that
17 site? If the company backs away from it and the
18 individuals who own it back away from it, how much
19 would it cost the state or municipality or county, in
20 fact, to clean that area up?

21 MR. DANCISIN: We are guesstimating that
22 it's going to be several millions of dollars.

23 MR. CLIVER: Agent, just to follow up, you
24 don't have any direct knowledge of that, that's from
25 information you've received from folks that have been

1 inquired about purchasing the site and they just
2 understand that there is serious remediation issues as
3 a result of this and, quite frankly, other issues that
4 happened even before Sirkin held the place; isn't that
5 fair?

6 MR. DANCISIN: That's correct.

7 COMMISSIONER BURZICHELLI: One other
8 question. We have any sense of how much dirty dirt
9 went into the stream of commerce to the residential
10 areas or schools, et cetera, from that site? Any
11 sense?

12 MR. DANCISIN: No, sir, we don't.

13 COMMISSIONER BURZICHELLI: Thank you.

14 MR. CLIVER: Are there any other
15 questions?

16 COMMISSIONER LEANZA: Do we know that any
17 such dirt went out, I assume, through landscapers that
18 wound up in peoples' flower beds? Any way to trace it?

19 MR. DANCISIN: That was, basically, prior
20 to our arrival there.

21 COMMISSIONER LEANZA: Thank you.

22 MR. CLIVER: Let me just ask another
23 follow-up as to that. Agent, you can't testify
24 definitively that soil from, say, the Camden County
25 school was mixed with mulch that was resold by Jersey

1 Recycling, right?

2 MR. DANCISIN: That's correct.

3 MR. CLIVER: You also can't say
4 definitively that it wasn't mixed, in fact, you have
5 testimony from employees on the site that they had a
6 mixing operation, right?

7 MR. DANCISIN: That's absolutely correct.

8 MR. CLIVER: Just the fact that we don't
9 know whom mulch was sold to, it was impossible to be
10 able to test mulch that was resold by Jersey Recycling
11 after it left the yard?

12 MR. DANCISIN: That is right.

13 MR. CLIVER: Okay. Are there any other
14 questions. Okay. Just one follow up I have. Would
15 Sirkin have qualified for an A901 license if he wanted
16 to be a solid waste hauler?

17 MR. DANCISIN: Based on the ties to
18 organized crime, he would most likely have failed the
19 background check and be precluded from obtaining any
20 A901 license.

21 MR. CLIVER: Thank you, agent.

22 At this time on behalf of the Commission,
23 I would call Mr. Gary Sondermeyer to the witness stand.

24 GARY SONDERMEYER, after having been first
25 duly sworn, was examined and testified as follows:

1 MR. CLIVER: Thank you for being here.
2 Could you state your name and employment for the
3 record?

4 MR. SONDERMEYER: Gary Sondermeyer, vice
5 president of operations at Bayshore Recycling Corp.

6 MR. CLIVER: And before you became vice
7 president of Bayshore Recycling, what is your
8 background? What are some of your employment and
9 professional background?

10 MR. SONDERMEYER: Before joining Bayshore,
11 I spent 30 years at the Department of Environmental
12 Protection. For 17 years in the Division of Solid and
13 Hazardous Waste, including serving as the director of
14 that program. I then moved on to be Assistant
15 Commissioner for Environment Regulation, and I oversaw
16 the DEP solid and hazardous waste program, radiation
17 protection and air permitting, water permitting,
18 nuclear engineering and pollution prevention. After
19 that I spent 10 years as the agency's chief of staff
20 under all or portions of the terms of the last six New
21 Jersey governors and five DEP commissioners, and in
22 that capacity, essentially, had day-to-day management
23 responsibilities across all aspects of the agency. We
24 have about 3,500 employees at any given point in time,
25 for round numbers. And in 2010, I retired from DEP,

1 and have spent the last six years with Bayshore
2 Recycling.

3 MR. CLIVER: So you have a significant
4 understanding of some of the issues that we have
5 discussed in the hearing thus far, both in your former
6 governmental experience and also in your current
7 private sector business?

8 MR. SONDERMEYER: Yes, I do.

9 MR. CLIVER: Just for the record, you have
10 been present for the duration of the hearing and
11 listening to the testimony as it's been given.

12 MR. SONDERMEYER: I have, yes.

13 MR. CLIVER: Okay. Mr. Sondermeyer, what
14 type of facility is Bayshore Recycling in? And what
15 type in volume of material is typically processed or
16 recycled there?

17 MR. SONDERMEYER: Bayshore is the largest
18 recycling company in the State of New Jersey. We run
19 seven different but related recycling operations. We
20 run a Class B recycling facility for acceptance of
21 concrete, asphalt, brick, and block which, essentially,
22 is recycling building roads, parking lots, and bridges
23 that's 2,500 tons per day. We also operate a low
24 temperature thermal desorption unit for our
25 nonhazardous petroleum contaminated soil, I

1 affectionately refer to it as a dirty dirt cooker, that
2 capacity is 4,500 tons per day. The Class B operation
3 and the soil operation, which is part of the Class B
4 operation, are under the same DEP approval which is the
5 same Class B approval. So in round it was 7,000 tons
6 per day. We operate a thousand tons per day recovery
7 facility where we, essentially, through mechanized
8 materials recovery recycle houses and other
9 construction and demolition debris to pull off
10 commodities and then put them back into the economic
11 mainstream for beneficial uses. We operate a thousand
12 tons per day Class A recycling facility which is a
13 fully mechanized system, basically, takes all the
14 material that we put out at the curb once per week, and
15 takes it back apart, and sends those commodities out to
16 recycling markets. We can operate and process dredge
17 material. We have both a permanent pier that started
18 work barge configuration to be able to process dredge
19 material. We take consumer electronics as part of our
20 material recovery operation. And we run a metal
21 recycling operation, as well. So taken together, if
22 you add up all the capacities, we can accept over
23 10,000 tons per day of material.

24 MR. CLIVER: Let's focus briefly on the
25 Class B portion of your business, that Class B

1 recycling, the types of debris and refuse that we have
2 seen in the earlier testimony, that would typically
3 fall under a Class B operation if it were to be
4 recycled; is that fair to say?

5 MR. SONDERMEYER: Yes, it would.

6 MR. CLIVER: And when you at Bayshore
7 Recycling resell aggregate and recycled materials in
8 the Class B world, what type of projects or materials
9 do you resell and to whom do you resell it to?

10 MR. SONDERMEYER: What we basically do is,
11 I'll just explain, we'll taking commingled road,
12 parking lot, bridge, building material, concrete,
13 asphalt, brick and block, we separate that material
14 back out on site consistent with our approval, and we
15 run that material through a large crusher which,
16 basically, is a manufacturing activity to create
17 aggregate materials which will be of different sizes
18 and different grades, and we will sell that product to
19 road-based construction, for parking lots, for tracking
20 pads, for stabilization areas, for construction of
21 buildings at Brownfield sites. We market our material
22 to commercial, institutional, and industrial users who
23 will buy that product as aggregate consistent with the
24 Department of Transportation and other specifications
25 for use.

1 MR. CLIVER: Now, you didn't list homes or
2 topsoil in that list of resale, does Bayshore not do
3 that and why not?

4 MR. SONDERMEYER: No. We really don't do
5 that. We are a very large operation. If you could see
6 it, it would tell the story, 2,500 tons a day is a
7 tremendous amount of material that we can process and
8 sell to large jobs, generally, like road-based
9 construction activities, and we don't really want to
10 market any of our materials to the residential sectors,
11 that's not really what we do for many, many reasons.
12 We are in the business to market to commercial,
13 industrial, institutional customers and clients and for
14 use of materials often at Brownfields and landfill
15 sites. We don't touch the residential world.

16 MR. CLIVER: You said that for a lot of
17 Class B recycling you use low temperature heat
18 treatment for PAH's that have been discussed earlier
19 today, why do you use that method and why not blending?

20 MR. SONDERMEYER: We basically are
21 treating primarily petroleum contaminated soil. The
22 low temperature thermal desorption technology works
23 exceedingly well, every aspect of that operation is
24 reviewed and approved by the DEP. It's quite a
25 simplistic operation that is rotary kiln, and it does

1 liberate petroleum hydrocarbon. We have an approved
2 air pollution control system following that. And,
3 essentially, after treatment, the soil is sterile,
4 there's really nothing of any value left in it, there's
5 no organic content. And then following treatment, we
6 will use that material beneficially, that beneficial
7 use of sites and projects for landfill cover,
8 Brownfields site use, and so forth. Once again, never
9 would we distribute material, even after thermal
10 treatment, even after it's rendered sterile to
11 residential customers, it's just not a place we want to
12 be from a business standpoint, from a liability
13 standpoint. And everything that we do is a function of
14 our DEP approvals and permits and we would not, in any
15 way, think about jeopardizing that.

16 MR. CLIVER: And the blending process, my
17 understanding, it would be difficult for you to have
18 control over the uniformity of that blend, one portion
19 of it may not be as contaminated as another portion,
20 even if you did it at a very professional method,
21 right?

22 MR. SONDERMEYER: You're raising a very
23 practical question and issue. In the morning if we
24 were to make a protein shake, and you put it in the
25 blender, and it blends it up and you get a really good

1 mix, and a really good distribution. Picture trying to
2 do that with extraordinarily piles of soil, materials,
3 that gets very, very difficult to do. And the only way
4 you can do that, really, with integrity is with
5 testing, testing incoming material, testing it after
6 you blend it to make sure whatever material you have
7 for distribution would be acceptable for, again, I
8 would stress only nonresidential uses, not residential
9 uses. So we don't really want to be in that side of
10 the business of, you know, blending for residential
11 use. If anything, as I said, we would only send
12 materials to industrial sites, Brownfield sites and
13 landfills.

14 MR. CLIVER: How often is Bayshore
15 operation inspected by DEP, and are they surprise
16 inspections?

17 MR. SONDERMEYER: We are inspected all the
18 time and for most of my tenure at Bayshore, we would be
19 inspected about twice per week. As I'm sure
20 commissioners know and, counselor, the DEP has somewhat
21 of a contract service, if you will, through the County
22 Environmental Health Act, where county entities take up
23 some of the enforcement, monitoring, and inspections
24 responsibilities for DEP, and for most of my tenure we
25 were being inspected by the DEP inspector and then a

1 couple weeks later would be inspected by a county
2 inspector through Middlesex County where we are located
3 in Woodbridge Township.

4 DEP is experiencing real attrition of
5 resources, and at this point it's probably more likely
6 that we are inspected once per month and, largely, that
7 is by the County for Middlesex County.

8 MR. CLIVER: You heard testimony about
9 dirt brokers and dirt brokering industry, does your
10 company do a lot of business with a large pool of dirt
11 brokers?

12 MR. SONDERMEYER: We do not. We do
13 business with a very small handful of, as you would
14 say, dirt broker and the only folks that we worked with
15 for a considerable amount of time in our soil business,
16 the largest customers we have are utilities, very large
17 utilities in the state and in the region, and very
18 large environment contracting companies which would
19 bring business to us. Only a handful of brokers,
20 because in most cases we have to have, again, to run a
21 properly compliant facility, we have very detailed
22 procedures to be able to bring material to Bayshore,
23 which I'd be very happy to outline for you, if you
24 like. Often when we explain those procedures to folks
25 I would call brokers we don't get any return phone

1 calls.

2 MR. CLIVER: You are doing a lot of
3 background homework on the soil that you plan on
4 accepting into your site and brokers that you don't
5 typically do business with, are often turned off by
6 that type of background that you are doing?

7 MR. SONDERMEYER: That's correct to even
8 get started, we call it our pre-qualification phase
9 where anyone who wants to bring material to us, has to
10 go through and meet a rigid protocol that we send to
11 them, which includes a full generator profile, where is
12 this material coming from, what's the history of that
13 site, what kind of material was generated there, what's
14 the current status of operations at the site, how much
15 material are we talking about, analytical testing to
16 give us a preliminary sense of what's in this material,
17 what's the moisture content, what's the sampling
18 protocol that have been used, you get the point, very
19 rigorous protocols, and once they look at that
20 paperwork and understand they are going to have to go
21 through a very detailed process to be able to bring
22 material to us, they often don't call us back.

23 MR. CLIVER: In your experience in the
24 industry on both sides of the fence, have you seen
25 brokers that are working in an unscrupulous manner?

1 MR. SONDERMEYER: Absolutely.

2 MR. CLIVER: What type of experience do
3 you have with that, and talk about from your
4 perspective why it is?

5 MR. SONDERMEYER: There are a universe of
6 folks out there that are opportunists that find sites
7 and they find projects and they are, literally, a
8 middle person entity to move material. So they
9 generally work with subcontracting firms, so you'll
10 have a generator, they'll be a subcontractor that will
11 do the work for the generator who may subcontract out
12 to one or two other entities, and these brokers work
13 usually work with a subcontracting entity further down
14 in that chain, further down in that line, they'll
15 locate places where they can move materials, similar to
16 the examples that you really highlighted very clearly
17 today, and material will be brought to a completely
18 unregulated site at, generally, a fraction of the cost.

19 MR. CLIVER: So, for example, the
20 Cliffwood Beach, Old Bridge example, by dumping there
21 and by not paying a dumping fee, these brokers really
22 had an opportunity to subvert the normal costs in
23 handling this type of material and make some extra
24 money?

25 MR. SONDERMEYER: Absolutely. The

1 original pricing will be at X, you may have \$25 or \$26
2 per ton, and then after sort of going to a different
3 location that's an unauthorized site that isn't subject
4 to the fees, the inspections, all the regulatory
5 compliance stuff that legitimate facilities have to go
6 through, will charge half or less of the going rate.
7 So, yes, the amount of money that's generated which can
8 be very substantial is paid out to everyone.

9 MR. CLIVER: If I'm correct, the more
10 contaminated the soil or debris becomes, the smaller
11 the world of acceptance becomes, and that certainly
12 raises the price where you can take it because the
13 market isn't as large; isn't that fair?

14 MR. SONDERMEYER: That's really fair. You
15 can go down to very, very clean materials, if we talk
16 curb side commodity, that's one element of pricing
17 where we, essentially, have no processing, real
18 facilities for hazardous waste in the state, and
19 everything in between. So, you're right, the
20 opportunities to go to legitimate places is less the
21 more contaminated.

22 MR. CLIVER: You also heard the testimony
23 about Jersey Recycling in Palmyra, and, specifically,
24 that they were operating under an exemption by DEP for
25 a very small amount of mulch products, do you

1 personally or in your position have an opinion about
2 these exemptions and their place in the regulation of
3 recycling here in New Jersey?

4 MR. SONDERMEYER: Yes, in the
5 Administrative Code in the recycling regulations there
6 is an opportunity for, what's referred to as a, limited
7 approval, and, generally, those limited approvals are
8 bounded by time onsite generated materials, 180 days,
9 and part of the DEP when we created those regulations,
10 the logic was to allow for onsite recycling of
11 materials so you didn't force material into the
12 marketplace where it could be used on site. So there
13 was a certain logic to that, unfortunately, it
14 represented a major loophole where folks, who in an
15 unscrupulous manner, you can drive trucks and trucks
16 through it, they will get a limited approval, as in
17 this case, for a small amount of vegetative material, I
18 think in the Palmyra example that you gave, and then
19 bring in what was that 19 times that amount of
20 material. And the problem is, once again, the
21 inspection resources at the DEP, even through the
22 County Environment Health Act, they do a terrific job
23 with what they have, is so limited that these limited
24 approval sites are virtually unbracketed. Is anybody
25 really looking at them? In all probability, no. To

1 get a limited approval doesn't take all that much it's
2 really not a difficult process to get a limited
3 approval, and it's just, unfortunately, opens a door
4 for the type I think you've documented today.

5 MR. CLIVER: Now, Mr. Sondermeyer, if the
6 state were to do more to verify the credentials and
7 backgrounds of these dirt brokers, would you say
8 Bayshore would have more of an opportunity to do
9 business with a wider range of them?

10 MR. SONDERMEYER: Certainly, if you are a
11 legitimate entity whether it's a recycling facility or
12 waste facility in the state, all you want, to use the
13 cliché, is a level playing field. When you have folks
14 who do what many soil brokers unfortunately do, it
15 undercuts legitimate businesses and makes it hard. I
16 think there is a kind of historic misconception of
17 recycling, that it's sort of a mom and apple pie Boy
18 Scout activity. It's a very, very competitive
19 business, and it's got low margins at times, extremely
20 competitive. I look at it more as a commodity
21 exchange, sort of the floor of the New York Stock
22 Exchange instead of Boy Scout with wagon and
23 newspapers. It's a tough business and when you have
24 opportunities where people can cheat, it dramatically
25 hurts our business opportunities.

1 MR. CLIVER: Those low margins are one of
2 those incentives, right, to take something where it
3 doesn't belong?

4 MR. SONDERMEYER: Yes, absolutely.

5 MR. CLIVER: Do you support background
6 checks for those in the recycling industry in New
7 Jersey and why?

8 MR. SONDERMEYER: Yes. Bayshore does
9 support background checks. I rattled through our
10 different facilities. I didn't articulate that the
11 materials are quote/unquote a solid waste facility, so
12 we already had to go through an A901. We also
13 transport materials, so we are A901 compliant. And I
14 think the issue is devil's in the details, again, to
15 use that cliché, an example I would give, I don't give
16 this flippantly, but we have four kids and I managed
17 little league baseball and a softball team for about 14
18 years, and I think going back to year 2000 I had to
19 coach midget softball, background checks are a way of
20 life today, and the key is that background checks would
21 be properly put together so it has integrity, that
22 regulatory officials and law enforcement would want.
23 And at the same time, not be overly burdensome, again,
24 it's tough to be a recycler. If you look at commodity
25 prices right now in the state and country and

1 internationally, they are terrible. It's really hard
2 times. Again, I don't mean to overstate it, we
3 certainly support background checks and some,
4 especially, for soil brokers, why they don't have to do
5 more of a full background check, I don't know. I think
6 that would be perfectly appropriate, particularly, in
7 line with the type of material that they get involved
8 in moving.

9 MR. CLIVER: Okay. Mr. Sondermeyer, I'm
10 going to give you an opportunity to make a statement
11 should you choose to, but before I give you that
12 opportunity, I'll open the floor to the Commission, if
13 there are any questions the commissioners may have.

14 COMMISSIONER BURZICHELLI: Thank you for
15 your testimony here today. It's been very
16 enlightening. You mentioned how you guys receive these
17 materials, and you mention analyticals, does your
18 company analyze the material coming in or do you rely
19 upon the entity bringing it to you to provide an
20 analytical analysis?

21 MR. SONDERMEYER: Great question. Again,
22 we go through various phases before we accept and that
23 pre-qualification phase, the generator has to supply
24 analytical testing to us, and the pre-qualification
25 phase is sort of a screening of whether we can or can

1 not accept the material in line with our Class B
2 approval and our air approval to run low temperature.
3 Once we get through that and get the green light, we do
4 the business part, we figure out the contract and we go
5 into the project approval phase, and that's where get
6 into a very detailed analytical analysis. There are
7 all kinds of protocols from how many samples you take,
8 from where on the site, what laboratories you used,
9 third-party certifying laboratories for analytical
10 testing, the moisture content, we will review all of
11 that before we actually will agree to accept the
12 material. And once we agree to accept the material, we
13 assign a specific project number to that job and then
14 we generate manifests, we actually make our own
15 nonhazardous manifest to track the material from the
16 point of generation through the transporter signing off
17 and the destination facility signing off, both when we
18 get it and after it leaves the beneficiary from
19 Bayshore, so cradle to grave tracking. So a longwinded
20 answer, yes, the generator is responsible for testing,
21 and I think that's a very important point, the
22 generators need to remain on the hook, especially, in
23 the examples that were given today which are so graphic
24 of this whole phenomenon which is reality in business
25 of subcontracting. It goes from this one to this one

1 to this one, who's keeping track of it. The generator
2 needs to be responsible for that material.

3 COMMISSIONER BURZICHELLI: Thank you, sir.

4 MR. CLIVER: Are there any other
5 questions? Mr. Sondermeyer, do you have anything you'd
6 like to add to your testimony?

7 MR. SONDERMEYER: No. I would just like
8 to thank you very much for the opportunity to appear
9 before you today, Commissioners, and from my 30 years
10 with DEP, I'm very familiar already with SCI. I
11 applaud your work. I thank you for allowing Bayshore
12 for a chance to come and speak with you today.

13 MR. CLIVER: Thank you. We will ask for a
14 five minute recess at this time.

15 (At which time, a recess was taken.)

16 MR. SEGLEM: Counsel, call the next
17 witness, please.

18 MR. CLIVER: Thank you. For our last
19 witness today we are going to call Mr. Thomas Farrell,
20 chief compliance enforcement at DEP.

21 THOMAS FARRELL, after having been first
22 duly sworn, was examined and testified as follows:

23 MR. CLIVER: Can you please state your
24 name and employment with the DEP for the record,
25 please.

1 MR. FARRELL: Yes. My name is Thomas
2 Farrell, I'm the chief of the Bureau of Solid Waste
3 Compliance and Enforcement.

4 MR. CLIVER: Mr. Farrell, what are your
5 duties with the Bureau of Solid Waste Compliance and
6 Enforcement, and can you also talk a little bit about
7 your professional background before you rose to chief
8 of that bureau.

9 MR. FARRELL: Sure. So this is my second
10 tour with the DEP. I was with the department from 1985
11 to 1990. Left as a supervisor in the site remediation
12 program and then did environmental consulting for,
13 approximately, 14 years in site remediation work in
14 assessment and remediation. I rejoined the department
15 in 2003 as a trainee and came and worked my way up to
16 chief three and a half years ago.

17 MR. CLIVER: What are some of the duties
18 of the bureau that you head up? What is the work that
19 you folks do?

20 MR. FARRELL: We are responsible for
21 enacting two statutes and the Solid Waste Utilities
22 Act.

23 MR. CLIVER: Okay. Can you give just a
24 brief description of what some of those duties under
25 those statutory designations require?

1 MR. FARRELL: Sure. We are responsible to
2 ensure that any permits or approvals in the solid waste
3 are being complied with.

4 MR. CLIVER: Okay. And can you explain
5 for the Commission, or describe for the Commission,
6 what a Class B Recycler in New Jersey is and what some
7 of their responsibilities are?

8 MR. FARRELL: Yes, the Class B recycler
9 can accept and process materials such as brush and tree
10 parts and our construction and demolition debris such
11 as wood concrete, brick, asphalt. These materials will
12 typically go through a process screening and grinding,
13 will produce what's typically used directly as fill
14 material, foundational material, or they can supplement
15 other materials, for example, as an amendment in the
16 production of topsoil. Contaminated soil also can be
17 considered a Class B material. There are additional
18 controls that are in place for handling such materials.
19 There are county approvals that are needed to get a
20 Class B approval as well as state approvals.

21 MR. CLIVER: Those soils and debris come
22 together usually as a result of demolition processes
23 and stuff like that?

24 MR. FARRELL: That's correct.

25 MR. CLIVER: Are those in the recycling

1 industry and Class B recycling industry subject to A901
2 licensing and background checks that A901 licensing
3 requires?

4 MR. FARRELL: No, such regulations are
5 only required for handling solid or hazardous waste.
6 When New Jersey enacted the recycling regulations, they
7 exempted such activities from A901 regulation provided
8 the DEP approvals were in place. Operators of
9 unapproved recycling facilities are determined to be
10 operating solid waste facilities without a permit and
11 also can be cited for engaging in solid waste business
12 without having an A901 license.

13 MR. CLIVER: So if someone has decided
14 they want to transport or house materials that maybe
15 could be considered solid waste by DEP but declare it
16 as recycling material and it was destined for
17 recycling, are they able to avoid these background
18 checks and A901 licensing?

19 MR. FARRELL: Well, they have to get our
20 approval. The burden of proof is on the recycler.
21 They have to prove there is an end market and they have
22 to prove that it's not solid waste, otherwise, material
23 is assumed to be solid waste. If a person can't
24 demonstrate either the above requirements and they are
25 transporting or storing material, they are considered

1 to be an illegal transporter and/or illegal solid waste
2 facility. Onsite generators of solid waste cannot be
3 stored for a period of more than six months without
4 permit. Any processing of solid waste requires an
5 immediate permit. Any processing of materials to be
6 recycled requires either an exemption from general
7 approval or the actual approval itself. Department
8 would have to have some certainty that the material
9 will be recycled in order for the exemption from an
10 A901 to take place. An approved recycling facility
11 cannot store or process materials for more than a year.

12 MR. CLIVER: So if you declare yourself a
13 recycler, you just can't hold onto the stuff forever,
14 you get a one-year limit on holding onto --

15 MR. FARRELL: That's correct.

16 MR. CLIVER: So if you transport a solid
17 waste and you dump it without intention to recycle it,
18 it would be considered working in the solid waste
19 industry?

20 MR. FARRELL: Yes. In such instance the
21 trucking company would be required to have an A901
22 license. And a company would also need a certificate
23 of public convenience and necessity, and a transporter
24 registration statement. The key employees of the
25 company would have to go through a personal history

1 disclosure to submit for background investigation. The
2 truck transporting solid waste would need to display
3 current solid waste decals.

4 MR. CLIVER: Mr. Farrell, you've been
5 through the duration of the testimony; is that right?

6 MR. FARRELL: That's correct.

7 MR. CLIVER: You heard extensive testimony
8 about Polycyclic aromatic hydrocarbon, or PAH, as we
9 have designated them?

10 MR. FARRELL: That's correct.

11 MR. CLIVER: Can you discuss DEP's soil
12 standards for these PAH's and the designations
13 residential use, nonresidential use, and solid waste?

14 MR. FARRELL: Sure. New Jersey
15 promulgated soil remediation standards, they are
16 generated by applying models and equations similar to
17 those employed by EPA, and various exposure standards.
18 The standards for developing using risk factors from
19 recognized scientific studies, and they address the
20 most sensitive members of our population such as
21 children. Standards account for changes to exposure
22 based on whether the end use of the property is
23 residential or nonresidential. The acceptable
24 contaminate concentration for a given contaminant in a
25 residential setting is typically more stringent than

1 the concentration in a nonresidential setting. For
2 carcinogens such as some of the PAH's, the calculations
3 generate standard that's based on a one in a million
4 risk of contracting cancer. Soil containing
5 contamination over the remediation standards may or may
6 not be considered solid waste, depends on the end use,
7 if they are properly recycled through beneficial use
8 determination through a certificate of authority to
9 operate from our office, or proved to be dispositive of
10 contaminants cited by a Licensed Site Remediation
11 Professional, then those instances you can have
12 contaminated soils recycled.

13 MR. CLIVER: I want to underline one part
14 of your testimony. These standards are set up to
15 protect the most vulnerable of our society, right, like
16 children or those who maybe would be more susceptible
17 to developing cancer, they are set low for a reason?

18 MR. FARRELL: That's correct.

19 MR. CLIVER: So you also heard a lot about
20 the hauling of contaminated soils to unapproved sites,
21 and we will talk a little bit more about the DEP's
22 findings in a couple of those, but what's the cost
23 difference in hauling purely clean soil, quote, versus
24 hauling and housing contaminated Class B type soil?

25 MR. FARRELL: Okay. Just to clarify,

1 there really isn't purely clean soil, every soil has
2 natural contaminants, and we look at the concentration
3 of those contaminants. So if they are over residential
4 standards, then they are no longer purely clean. If
5 they are below or meet the residential standard, we
6 don't really regulate them, you might be able to take
7 them to a facility for 20, \$30 a ton over the
8 residential standards 50 to \$90.

9 MR. CLIVER: Two to three times the amount
10 per ton than when we are at the dirtier end of the soil
11 than the cleaner end of the soil?

12 MR. FARRELL: That's correct.

13 MR. CLIVER: Now, in your work did you and
14 the DEP receive any analytical reports concerning
15 Cliffwood Beach in Old Bridge as we discussed in this
16 hearing today, and did they detail the nature of the
17 dumping at that site and how much dumping went on
18 there?

19 MR. FARRELL: Yes, I recall being supplied
20 with at least one analytical report from SCI which
21 indicated concentration of compounds that exceeded both
22 residential and nonresidential direct contact soil
23 remediation standards. According to SCI Special Agent
24 Joseph Bredehoft, the analysis represented source
25 materials used as part fill at the site. I recall

1 observing elevated PAH concentration reportedly
2 representing soils from a factory demolition in Bronx,
3 New York. I was present at the Cliffwood Beach site
4 during the excavation of one of the testers of the
5 soils, and observed construction demolition debris
6 intermixed within that. I recall an estimate of some
7 7,000 cubic yards being deposited at this site.

8 MR. CLIVER: And so what you are saying
9 here is that the soil was far too contaminated to be
10 placed on residential property?

11 MR. FARRELL: Yes. There were no
12 engineering or institutional controls in place to
13 prevent exposure to the contaminant in those sites.

14 MR. CLIVER: That also means it was
15 inappropriately placed in a water way?

16 MR. FARRELL: That's right.

17 MR. CLIVER: What are some of the problems
18 with placing this type of debris on the side of a
19 beach?

20 MR. FARRELL: Well, contaminants within
21 the soils are subjected to potential perry
22 precipitation events, a heavy rain. I can see from the
23 channels cut into the soils that storm water runoff had
24 occurred, and this could carry the contaminants to the
25 beach and expose those contaminants to the tidal

1 fluctuation or another storm surge. They could
2 contaminates such as benzo(a)pyrene, a known
3 carcinogen, they could enter the environment and echo
4 system and bio accumulate. With regard to the direct
5 contact concerns, the contaminants that LSRP found in
6 their analysis were not the type where you would expect
7 the vapor inhalation problem, however, if there were a
8 child playing in the dirt and he or she licked their
9 dirty hands, they could digest the contaminants, or if
10 a passerby happens to breath in some of the wind blown
11 dust, they could be exposed in that --

12 MR. CLIVER: Let me just ask a couple
13 quick follow-ups there. You just described,
14 essentially, what people do on a beach, children that
15 are playing there and people will go buy and the sand
16 blows around, so there is the potential that they can
17 ingest this contaminant just using that beach as you
18 normally would?

19 MR. FARRELL: That's correct.

20 MR. CLIVER: You talked about
21 bioaccumulation, that could happen, I think what you
22 are saying is that organisms can take this
23 benzo(a)pyrene in and pass it along to predators and it
24 can eventually move up the food chain into even,
25 potentially, fish that we would eat; is that fair to

1 say?

2 MR. FARRELL: That's fair, yes.

3 MR. CLIVER: What kind of actions has DEP
4 taken against those involved in the Cliffwood Beach
5 site?

6 MR. FARRELL: Well, we issued a \$50,000
7 administrative order civil penalty assessment to Greg
8 Guido for his action as the broker on the site. We
9 also had several discussions with Old Bridge Township
10 and appreciate their cooperation in hiring a Licensed
11 Site Remediation Professional to pursue the nature and
12 extent of the contamination and come up with a
13 remediation plan.

14 MR. CLIVER: And you heard the testimony
15 earlier about the remediation at Old Bridge, is that
16 the remediation plan you're discussing that Mr. Marion
17 discussed earlier?

18 MR. FARRELL: That's correct.

19 MR. CLIVER: Now, you also heard testimony
20 today about the Jersey Recycling Services site in
21 Palmyra. I want to transition to that. What type of
22 permitting was in place at Jersey Recycling in Palmyra
23 while Mr. Sirkin was under control of it?

24 MR. FARRELL: There were no permits.
25 Mr. Sirkin held an exemption to a Class B and Class C

1 Recycling approval which was, I believe, Fillit Sand
2 and Gravel, secured that permit, and the permit
3 transferred over to Mr. Sirkin when he took operation
4 of the site.

5 MR. CLIVER: And that exemption allowed
6 for the limited mulching operation that was described
7 in the earlier testimony?

8 MR. FARRELL: That's correct, yes.

9 MR. CLIVER: Okay. And the exemptions
10 because of the previous owner had them when Sirkin took
11 it over, they passed onto Sirkin's control?

12 MR. FARRELL: That's correct.

13 MR. CLIVER: Did you find that Jersey
14 Recycling was following the requirements to maintain
15 the exemption?

16 MR. FARRELL: No. Our observations, our
17 measurements, our review of documentation revealed JRS
18 exceeded the volume limitations necessary to maintain a
19 Class B exemption. They also accepted materials not
20 covered by their specific exemption, that is
21 contaminated soils, concrete, brick, and asphalt. In
22 addition, since JRS intermixed Class B and C materials
23 within the wind droves, which are stockpiles of
24 materials with their greatest dimension being their
25 length, and total measured volume of such materials

1 exceeded the Class B and Class C volume limitations.
2 To maintain an exemption, one must be in compliance
3 with all other applicable state, federal regulations.
4 JRS lacked the necessary permits addressing the need to
5 preserve the quality of service for wetlands, flood
6 hazard areas, waterfront development concerns and soil
7 erosion control.

8 MR. CLIVER: That's a lot of additional
9 permitting exceeding that simple exemption that Jersey
10 Recycling never bothered to attempt to get or anything
11 like that?

12 MR. FARRELL: That's correct.

13 MR. CLIVER: Did Sirkin present anyone who
14 was working with him as an LSRP?

15 MR. FARRELL: Yes, he presented a certain
16 individual as an LSRP.

17 MR. CLIVER: Licensed Site Remediation
18 Professional?

19 MR. FARRELL: Correct.

20 MR. CLIVER: Did Sirkin ever speak with
21 DEP about the soil that was brought into Jersey
22 Recycling and what did he say?

23 MR. FARRELL: Yes. We questioned
24 Mr. Sirkin in the presence of this reported LSRP
25 regarding the quality of the reported soils, Mr. Sirkin

1 insisted that all soil brought into the JRS was clean
2 as he would not import any soil unless his LSRP
3 reviewed analytical data and noted it was acceptable.

4 MR. CLIVER: What immediate actions did
5 DEP take upon discovery that Jersey Recycling violated
6 its requirements to maintain exemptions for this
7 approval that they had?

8 MR. FARRELL: The Department's Bureau of
9 Solid Waste Compliance and Enforcement issued a notice
10 of violation which stated that JRS was to cease and
11 desist import of materials into the site, unless all
12 required approvals and permits were in place.

13 Referrals were then made to other bureaus within the
14 Department to address water quality, wetlands, and
15 other land use violations. The Department's various
16 programs held several meetings with Mr. Sirkin and his
17 consultants in an attempt to bring operations into
18 compliance, however, after a few months of such
19 attempts Mr. Sirkin abandoned the facility. The
20 department attempted to locate Mr. Sirkin, however,
21 his whereabouts were not determined until this past
22 February.

23 MR. CLIVER: After you told him the extent
24 of the work that he was going to do to get this place
25 under the proper licensure, and the work he was going

1 to have to do to remediate it, he left the state?

2 MR. FARRELL: Correct.

3 MR. CLIVER: Did DEP receive any
4 analytical reports on the soils specifically brought in
5 from projects at 55 Morrell Street in New Brunswick,
6 New Jersey and the school commonly known as Camden
7 Charter School?

8 MR. FARRELL: Yes. I recall that my
9 review revealed, at least the remediation standards for
10 benzo(a)pyrene were exceeded for both residential and
11 nonresidential direct contact soil exposure scenarios.
12 I also reviewed several other laboratory reports from
13 other sites reported to be representative of the source
14 materials accepted at JRS which revealed at least the
15 residential direct contact soil remediation standards
16 were exceeded for certain PAH's, polychlorinated
17 biphenyls, or PCB's, and certain minerals. DEP further
18 conducted our own sampling from stockpiling materials
19 thought to be sold as topsoil which confirmed the
20 presence of PAH's, arsenic, PCP's, metals, pesticides
21 dieldrin, all over the either residential or
22 nonresidential direct contact soil remediation
23 standards.

24 MR. CLIVER: As you've heard in the
25 testimony today, your testing of these reports received

1 from each of these sites differed from the evaluation
2 by the LSRP, purported LSRP, on Jersey Recycling site?
3 The scientist that Sirkin was using was wrong.

4 MR. FARRELL: Well, the evaluations
5 differ, certainly. The results of the reports were
6 similar.

7 MR. CLIVER: So the results of the reports
8 were the same, but your evaluation of those reports and
9 LSRP for Jersey Recycling's evaluation of the reports
10 were completely at odds?

11 MR. FARRELL: That's correct.

12 MR. CLIVER: So what approvals would be
13 required for such contaminated soils to be accepted at
14 the Jersey Recycling site?

15 MR. FARRELL: Well, there are many.
16 Besides the site specific New Jersey Pollutant
17 Discharge Elimination System, wetlands, stream erosion,
18 flood hazard protection area, waterfront development,
19 soil erosion center control, permits that would
20 normally be required, there are four major mechanisms
21 where approval would have been received.

22 MR. CLIVER: Mr. Farrell, just before you
23 get into those, that's, by my count, more than five
24 different permitting programs that he would need to
25 comply with even before these four recommendations

1 you're about to make.

2 MR. FARRELL: Yeah, looks like five.

3 MR. CLIVER: What are those different
4 approvals that Jersey Recycling would have needed to
5 seek to do this type of work?

6 MR. FARRELL: I'm sorry.

7 MR. CLIVER: So what would have been
8 required for Jersey Recycling outside of those
9 approvals that you just listed, what are some of the
10 approvals that Jersey Recycling would have required to
11 accept this type of soil?

12 MR. FARRELL: The other four main
13 approvals would be either a solid waste facility
14 permit, a Class B General Recycling Approval which has
15 specific conditions to treat contaminated soils,
16 Certificate of Authority to Operate Under Beneficial
17 Use Determination which requires a lot of lab analysis,
18 or if it were remediation site, a Licensed Site
19 Remediation Professional could put in the remediation
20 work plan, the acceptance of this soil if and only if
21 contaminants were similar to what already existed and
22 the magnitude of contamination was no greater than what
23 existed at the site.

24 MR. CLIVER: They would have needed to
25 continually test this soil to evaluate the levels that

1 they were bringing in so that they weren't increasing
2 the levels that already existed, in other words?

3 MR. FARRELL: Yeah, that's correct.

4 MR. CLIVER: Of those methods that you
5 just listed, those scientific methods that would need
6 to be applied at Jersey Recycling to do this operation,
7 did Mr. Sirkin employ any of them?

8 MR. FARRELL: To my knowledge, he did not
9 attempt them.

10 MR. CLIVER: Mr. Sirkin's purported
11 Licensed Site Remediation Professional LSRP, was that
12 person, in fact, an LSRP?

13 MR. FARRELL: He was a temporary LSRP from
14 May 2010 until February 2013, he did not pass his
15 examination to receive a permanent LSRP license and,
16 therefore, was no longer an LSRP. For the period when
17 we documented that JRS accepted soils of suspect
18 quality, that's between April and August of 2013, he
19 was not an LSRP.

20 MR. CLIVER: But Sirkin purported directly
21 to you that he was?

22 MR. FARRELL: He did.

23 MR. CLIVER: What type of action has DEP
24 taken against Jersey Recycling and Sirkin?

25 MR. FARRELL: Well, since we have just

1 recently found Mr. Sirkin, we are in the process of
2 working with our Division of Law to generate an order
3 to show cause to require corrective actions and to
4 assess a penalty against Mr. Sirkin.

5 MR. CLIVER: And it is my understanding
6 that when you first discovered this site, you did issue
7 notices of violations and that the site was,
8 essentially, ceased -- ended operations because of the
9 DEP's cease and desist at that point.

10 MR. FARRELL: That's correct.

11 MR. CLIVER: Commissioners, I don't have
12 any further questions for the witness. Are there any
13 questions from you?

14 COMMISSIONER LEANZA: Mr. Sondermeyer
15 testified that he thought it would be advisable to keep
16 the generator of some of this hazardous waste on the
17 hook, does the NJDEP have any jurisdiction to go over
18 after the redeveloper of the Bronx site where all the
19 hazardous waste that taxpayers of Old Bridge are paying
20 for, or because they are out of state or we went
21 through these generations of contractors and
22 subcontractors is he off the hook?

23 MR. FARRELL: I would have to check with
24 our legal counsel to answer that question accurately.
25 Just to be clear, it wasn't hazardous waste, it was

1 solid waste coming in.

2 MR. CLIVER: And just for the record,
3 there is a distinction, right, between hazardous and
4 contaminated waste. The word hazardous has a specific
5 definition and it's, quite frankly, beyond the soils
6 that we are discussing today?

7 MR. FARRELL: That's correct.

8 COMMISSIONER LEANZA: I'll rephrase
9 contaminated. I guess you die equally from both.
10 Thank you.

11 MR. CLIVER: Are there any other
12 questions?

13 COMMISSIONER BURZICHELLI: I have one.
14 Thank you for your testimony today, I'm just curious,
15 you testified earlier that the data was the same among
16 the two analysts but the interpretation was different,
17 is that a common occurrence? Or is --

18 MR. FARRELL: No, it's not. It's black
19 and white. It's a matter of fact. It's a stated
20 standard. You compare the standard to the result in
21 the lab report, and there is nothing to dispute.

22 COMMISSIONER BURZICHELLI: Is there any
23 particular situations where you find that some of these
24 purported analysts are more involved in certifying
25 areas that, in fact, shouldn't be certified? You know,

1 you shop around and you find someone who will say what
2 you want them to say, is there any people or companies
3 you identified to be suspect in analytical abilities?

4 MR. FARRELL: I have not ventured into
5 that role.

6 COMMISSIONER BURZICHELLI: Thank you.

7 MR. CLIVER: That sparks one other
8 follow-up from me. Would a Licensed Site Remediation
9 Professional or scientist working in this field
10 understand that benzo(a)pyrene is a PAH?

11 MR. FARRELL: Absolutely.

12 MR. CLIVER: Okay. I have no further
13 questions. I've seen no hands from the Commission, so
14 we will excuse you and thank you for your testimony.
15 Do you have anything else to add?

16 MR. FARRELL: Just the Department
17 appreciates this opportunity to contribute to this
18 investigation. Thank you.

19 MR. CLIVER: Thank you Mr. Farrell, and I
20 will now cede my time to Mr. Seglem.

21 MR. SEGLEM: Before we call it a day, I
22 would just like to commend Counsel Cliver and his
23 entire investigative team for a job well done, in fact,
24 that goes for everybody on the SCI staff who
25 contributed to this project. I'd like to thank the

1 witnesses for their expert testimony. It's all very
2 enlightening. As I indicated at the outset, this
3 investigation is not yet complete, and in the coming
4 weeks and months when it is, you can expect to see a
5 comprehensive report of our findings since we are not
6 just about identifying problems, that report will also
7 contain specific recommendations for statutory and
8 regulatory reform going forward, so stay tuned.

9 Anything else from the commissioners?

10 COMMISSIONER SCANCARELLA: On behalf of
11 the Commission, I'd like to echo all those remarks by
12 the executive director. We share in those sentiments
13 and this vision. Thank you all for coming. That
14 concludes today's session.

15 MR. SEGLEM: This hearing stands
16 adjourned.

17 (At which time, the proceeding concluded
18 at 1:00 p.m.)

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C E R T I F I C A T E

1
2 I, Tracey L. Pinsky, a Certified Court
3 Reporter and Notary Public of the State of New Jersey,
4 do hereby certify that prior to the commencement of the
5 examination, the witness and/or witnesses were sworn by
6 me to testify to the truth and nothing but the truth.

7 I do further certify that the foregoing
8 is a true and accurate computer-aided transcript of the
9 testimony as taken stenographically by and before me at
10 the time, place and on the date hereinbefore set forth.

11 I do further certify that I am neither
12 of counsel nor attorney for any party in this action
13 and that I am not interested in the event nor outcome
14 of this litigation.

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21 _____
22 Certified Court Reporter
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24 Notary Public of New Jersey
25 My Commission expires 12-9-17

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