

D'AMATO LAW FIRM

By: Paul R. D'Amato, Esquire- NJ ID#: 006901974

Kasi M. Gifford, Esquire – NJ ID#: 152582015

2900 Fire Road, Suite 200

Egg Harbor Township, New Jersey 08234

(609) 926-3300

Attorney for Plaintiff

**SANDRA SMITH, INDIVIDUALLY AND
AS EXECUTRIX OF THE ESTATE OF
HER LATE HUSBAND GEORGE
BRADLEY SMITH,**

Plaintiff,

-vs-

**CITY OF NORTH WILDWOOD, STATE
OF NEW JERSEY, JOHN DOE, MARY
DOE, ABC PARTNERSHIPS and XYZ
CORPORATIONS,**

Defendants,

**SUPERIOR COURT OF NEW JERSEY
ATLANTIC COUNTY- LAW DIVISION**

DOCKET NUMBER: CPM-L-331-14

Civil Action

**BRIEF IN OPPOSITION TO DEFENDANT
CITY OF NORTH WILDWOOD'S
MOTION FOR SUMMARY JUDGMENT**

PLAINTIFFS' RESPONSE TO DEFENDANT'S STATEMENT OF MATERIAL FACTS

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.
6. Admitted.
7. Admitted.
8. Admitted.
9. Admitted.

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A PROFESSIONAL CORPORATION

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10. Admitted.

11. Admitted.

12. Admitted.

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14. Admitted.

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16. Admitted.

17. Admitted.

18. Admitted

19. Admitted.

20. Admitted.

21. Admitted.

22. Admitted.

23. Admitted.

24. Admitted.

25. Admitted.

26. Admitted.

27. Admitted.

28. Admitted,

29. Admitted. Chief Cavalier testified that during his time with the North Wildwood Beach Patrol, there had never been lifeguards posted on the exact beach where the drowning incident occurred. Chief Cavalier also testified that in the 70's for approximately four or five years

there were lifeguards in attendance on Moore's Beach. (See, Defendant's Exhibit 10, Cavalier Dep. 20:13-21.)

- 30. Admitted.
- 31. Admitted.
- 32. Admitted.
- 33. Admitted.
- 34. Admitted.
- 35. Admitted.
- 36. Admitted.
- 37. Admitted.
- 38. Admitted.
- 39. Admitted.
- 40. Admitted.
- 41. Admitted.
- 42. Admitted.
- 43. Admitted.
- 44. Admitted.

PLAINTIFFS' COUNTERSTATEMENT OF MATERIAL FACTS

See Appendix "A"



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LEGAL ARGUMENT

Before the court is a motion for summary judgment filed on behalf of Defendant City of North Wildwood as to liability. For the reasons stated herein, Plaintiffs respectfully request that the court deny Defendant's motion.

I. DEFENDANT CITY OF NORTH WILDWOOD'S EMPLOYEES CHIEF CAVALIER AND LIEUTENANT LINDSAY UNDERTOOK SUPERVISION OF THE UNPROTECTED INLET BEACH, AND WERE NEGLIGENT IN THEIR SUPERVISION

Defendant City of North Wildwood's employees undertook supervision of the area of the Inlet beach previously referred to as the Unprotected Inlet Beach when the lifeguards, namely Chief Cavalier, Lieutenant Lindsay, and all other lifeguards stationed on the inlet section of the beach undertook to monitor the 911 police scanner. In doing so the lifeguards were monitoring the conditions on the beach in question and making sure that they were able to quickly and adequately respond to any drowning situations on the Unprotected Inlet Beach, without delay or interference. Additionally, the lifeguards frequently patrolled in the lifeguard truck to monitor the Unprotected Inlet Beach and to warn beach goers of the dangers of swimming in the waters off of the Unprotected Inlet Beach. However, what the lifeguards failed to do and what makes their actions negligent is that the lifeguards failed to verbally warn of the dangers of simply walking in ankle deep water at the water's edge. Furthermore, the lifeguards did not put up signs, buoys or flags to warn of said dangers.

In Fleuhr v. City of Cape May, the Supreme Court noted that the immunity of a public employee under the Tort Claim Act is the exception. Fielder v. Stpmack, 141 N.J. 101, 118 (1995). 159 N.J. 532, 539 (1997). "A public employee is liable for injuries caused by his act or omission to the same extent as a private person." N.J.S.A. 59:3-1a. Id. at 540. N.J.S.A. 59:3-11 establishes a standard for determining whether an entity may be liable for negligent supervision

of a public recreational facility. Ibid. N.J.S.A. 59:3-11 provides:

A public employee is not liable for the failure to provide supervision of public recreational facilities. Nothing in this section exonerates a public employee for negligence in the supervision of a public recreational facility.

To establish a cause of action for negligent supervision one must establish that:

- 1) An injury was sustained at a public recreational facility
- 2) That a public employee undertook supervision of a public recreational facility; and
- 3) That the employee was negligent in supervision of the public recreational facility. Sharra v. Atlantic City, 199 N.J. Super. 535, 539 (App. Div. 1985).

Plaintiff was injured at the public recreational facility that is the North Wildwood Public Beach. Defendant City of North Wildwood's employees undertook supervision of the area of the Inlet beach previously referred to as the Unprotected Inlet Beach when the lifeguards, namely Chief Cavalier, Lieutenant Lindsay, and all other lifeguards stationed on the inlet section of the beach undertook to continuously monitor the conditions on the Unprotected Inlet Beach and warn of the dangers of swimming on said beach.

a. It is Undisputed that the Unprotected Inlet Beach is a Public Recreational Facility

It is a generally accepted principal that a public beach is considered a public recreational facility. As such, the Unprotected Inlet Beach at issue constitutes a Public Recreational Facility pursuant to N.J.S.A. 59:3-11.

In Klienke v. Ocean City, the Court noted, "the laws of New Jersey specifically determine that beaches are a public recreational facility. Under New Jersey statutes and case law beaches are considered public recreational areas. 'The governing body of a municipality may acquire beaches for public resort and recreation and by ordinance make and enforce rules and regulations for the use of such beaches.'" Van Ness v. Deal, 139 N.J. Super. 83, 97 aff'd, 78 N.J.

174 (1978). See also, N.J.S.A. 40:185-4 and 5; N.J.S.A. 40:92-7.1. 163 N.J. Super. 424, 432 (Law Div. 1978).

N.J.S.A. 40:92-7.1 provides:

The governing body of any municipality may:

Parks, playgrounds, beaches and resorts. a.

Acquire, lay out, improve, embellish and maintain, within and without the municipality, such public parks, squares, open spaces, playgrounds, beaches, water fronts and places for public resort and recreation, and also streets, avenues, boulevards and parkways leading to and connecting the same, as it may deem advisable, and extend and enlarge the same, or any of them; and for such purposes, acquire, in fee or less estate, and by gift, devise, purchase or condemnation, any real estate, improved or unimproved, or interest therein, within or without the municipality, suitable therefor;

Pavilions and other buildings. b. Construct therein and thereon pavilions, stands, shelters, and all other suitable buildings and structures, and equip the same with all suitable apparatus and furniture;

Recreation piers. c. Acquire, by lease, gift, devise, purchase or condemnation, one or more docks, wharves or piers within the municipality to be used for public recreation, in whole or part; construct docks, wharves or piers for such purpose and use, and acquire the real estate and rights necessary therefor, by gift, devise, purchase or condemnation;

Lakes and ponds; beautify banks. d. Acquire by lease, gift, devise, purchase or condemnation, lakes, ponds, streams and other waters and the lands covered thereby, rights of flowage, and other rights therein, and the banks, and shores thereof; and convert the same into public parks and places for resort and recreation; improve and embellish the same; construct dams and other means of impounding waters to create artificial lakes and ponds for places of public resort and recreation; and construct suitable buildings and structures in and upon such lands;

Music. e. Provide music in the public parks, recreation grounds, and public places of the municipality;

Rules and regulations posted. f. By ordinance make and enforce rules and regulations for the government, use and policing of all such public parks, open spaces, playgrounds, beaches, water fronts and places for public resort and recreation and to provide penalties for violations thereof. All such rules and regulations shall be conspicuously posted in all places where effective;

Lease of public places. g. Lease, for any term not exceeding five years, any part of any public resort and recreation place owned by the municipality and any building thereon, or part thereof, not presently needed for such use; and,

Lease of concessions; advertisement for bids; terms of lease. h. Let out and rent any privilege in any of its parks, beaches, water fronts and places for public resort and recreation, to the highest responsible bidder therefor, after advertisement of the time and place of such letting, at least ten days prior to the receipt of bids, in a newspaper circulating in the municipality, and upon such terms and conditions as it may prescribe. Upon the violation of the terms upon which any lease or privilege is granted, the same shall become void, and said governing body may so declare, and may re-enter any place so leased and prevent the exercise of the privilege so forfeited.

Here, the City of North Wildwood provides steps to the Unprotected Inlet Beach. It also provides a parking lot, and advertises the Unprotected Inlet Beach in the City's brochures and tourist guides. Additionally, the City provides clean-up crews on the beach, sells permits for 4-wheel drive vehicles to enter the beach, provides police foot patrols, and also provides lifeguard supervision. Accordingly, in line with the above referenced case law and statutes it is clear that the Unprotected Inlet Beach, like any other beach maintained by a municipality constitutes a public recreational facility pursuant to N.J.S.A. 59:3-11.

b. Members of the North Wildwood Beach Patrol, namely Chief Tony Cavalier, Lieutenant David Lindsay, and Additional Members Assigned to the Inlet Section of the Beach Undertook to Provide Supervision of the Unprotected Inlet Beach

The City of North Wildwood is liable by and through its agents, the City of North Wildwood Beach Patrol, namely Chief Cavalier, Lieutenant Lindsay, and any and all members of the North Wildwood Beach patrol undertook to supervise the Unprotected Beach, making any and all immunities to both the individual lifeguards and the City of North Wildwood inapplicable.

In Fluehr v. City of Cape May, the Appellate Division described supervision in the following manner:

[T]here must be some conduct, **no matter how minute**, evidencing an intention to supervise by way of monitoring, entering into or becoming a part of the activity itself from which the injury sprang. Liability for negligent supervision will not be imposed simply because there was an incidental undertaking at the same place only tangentially related to the recreational activity.

Thus, a plaintiff must show a specific act or omission by a public employee who has undertaken actions which evidence involvement in the activity conducted at the facility from which the injury sprang.. Moreover, plaintiff should be prepared to show that he relied on the protective services and expected that he could swim safely at that site.

303 N.J. Super. 481, 490-91 (App.Div. 1997)(internal citations omitted.)(Emphasis added.)

The Supreme Court noted in Troth v. State that, "Liability for negligent supervision will not be imposed simply because there was an incidental undertaking at the same place only tangentially related to the recreational activity." 117 N.J. 258, 272-273 (1989) (internal citations omitted.)

In Stempkowski v. Manasquan, the Appellate Division noted:

...at no point in this proceeding did plaintiff allege that a specific employee, whether known by name or not, had accepted responsibility for supervision of her or her children when the accident happened. Her allegation was

that she saw lifeguards during the afternoon, and that when the accident happened, they were not present or visible.” 208 N.J. Super. 328, 333 (App.Div. 1986). This proved detrimental to Plaintiff’s case because it was plaintiff’s position that by not supervising the beach, the municipality’s employees were liable under N.J.S.A. 59:3-11. Ibid. The Court noted that:

Characterizing a failure of supervision as an affirmative negligent act does not add to plaintiff’s cause of action. The comment to N.J.S.A. 59:2-7 states that the failure to provide supervision is a governmental policy which must remain “free from threat of tort liability” The law is clear that plaintiff cannot convert this municipality’s immunity to liability in the absence of identifying employee conduct, “no matter how minute, evidencing an intention to supervise by way of monitoring, entering into or becoming a part of the activity itself from which the injury sprang.” No such conduct was suggested in this case. General supervision of the area as urged by plaintiff would not suffice. Ibid.

Most notably in, Fluehr, the Appellate Division agreed with the motion judge that “there can be no liability for injuries which occur solely due to conditions encountered in that unimproved body of water.” 303 N.J. Super. 481, 488-89 (App. Div. 1997). Additionally, the Court noted that the public entity has no obligation to provide supervision or warning signs. Id. at 489. On the other hand however, the Appellate Division opined that once the decision has been made to provide protective services at a beach and potential liability for negligent performance of those services, and thus there is no legal justification for the immunity for unimproved property. Ibid. The Appellate Division went on to explain that though the public entity has no legal obligation to supervise the activities at these sites, once they decide to supervise, such as providing lifeguards, it has presumably determined that providing lifeguards is of more of a benefit than doing nothing. Ibid. Once it has made that decision, the fundamental reason for its immunity vanished. Ibid. Moreover, the Court asserted that a cause of action for negligent performance of protective services does not directly implicate the condition of unimproved property. Ibid. **Rather, the focus of the cause of action is on the fact that someone has undertaken to protect the public from the dangers posed by the property and has failed to do so. Ibid. [Emphasis Added.]** The Court noted that if the lifeguard properly

performed his job, the dangers that typically arise from a body of water such as the ocean should in theory, disappear. Ibid.

The Appellate Division was overruled in Fluehr; however, though the Supreme Court did address the immunity issue, the basis of the Supreme Court's rejection of the Appellate Division was based solely on the issue of proximate cause. The Supreme Court found that any negligence by the lifeguards did not proximately cause plaintiff's injuries. 159 N.J. 532 at 543. As such, the Appellate Division has cited to their Fluehr decision in at least three subsequent cases as still having the effect of binding law. In one such case, Ascough v. New Jersey Dep't of Env'tl. Prot., the Court stated:

In Fleuhr v. City of Cape May, 303 N.J. Super. 481, 484-90(App. Div. 1997), rev'd on other grounds, 159 N.J. 532 (1999), we held that N.J.S.A. 59:4-8 does not provide immunity to a public entity or employee for lifeguards' alleged negligent supervision of persons bathing in the ocean. In Kowalsky v. Long Beach Twp., 72 F.3d 385, 390-92 (3d Cir. 1995), the Third Circuit had concluded that N.J.S.A. 59:4-8 does provide immunity from such a claim. The Supreme Court discussed this issue in Fleuhr, 159 N.J. at 536-44, but ultimately decided the appeal on other grounds, *id.* at 544-45. The Court has not subsequently addressed the issue. Thus, as of now, this court's decision in Fleuhr represents the governing law on this issue. Ascough v. New Jersey Dep't of Env'tl. Prot., 2012 N.J. Super. Unpub. LEXIS 1353, *4, 2012 WL 2138055 (App.Div. June 14, 2012)

In Lynch v. Thowart the Court noted:

Immunity is the dominant consideration of the Act. Weiss v. N.J. Transit, 128 N.J. 376, 383(1992). "[W]hen one of the Act's provisions establishes liability, that liability is ordinarily negated if the public entity possesses a corresponding immunity." *Id.* at 381 (citation omitted). Although plaintiff's claim is couched in terms of negligent supervision, he is basically asserting a failure of the City to enforce its municipal ordinance precluding use of the waterways by an unlicensed or untrained person such as Lynch. As plaintiff's expert opined, Lynch would not have been permitted to launch the jet ski from the ramp and the accident would not have occurred but for the ramp attendant's failure to inquire whether Lynch and her uncle had completed the boat safety course. Judge Todd correctly found the City to be expressly immune under N.J.S.A. 59:2-4 for such inaction. Lynch

v. Thorwart, 2010 N.J. Super. Unpub. LEXIS 1430, *7-8, 2010 WL 2696742 (App.Div. June 29, 2010)

Also of note are the dissents to the Supreme Court's Fleuhr decision, Justice O'Hern and Justice Handler perfectly encapsulate Plaintiff's position in this matter. Justice Handler stated:

The approach espoused in these sections is based on the recognition that accidental injury resulting from the use of improved public property will often entail multiple causes. **There is no obvious reason why that understanding does not inform the intended application of provisions governing accidental injury in the context of unimproved public property. The TCA should be read as a whole, its individual provisions harmonized, and construed in a way most consistent with the overall legislative intent. See *Fiore v. Consol. Freightways*, 140 N.J. 452, 466, 659 A.2d 436 (1995). A consideration of the legislative intent at the time the TCA was enacted compels the conclusion that the liability provisions of the TCA for negligent supervision of improved public property should be reconciled with its provisions regarding governmental responsibility for unimproved property. *Id.* at 547. (Emphasis Added.)**

Justice Handler went on to explain:

More significantly, the general liability provision that applies to dangerous conditions of improved public property is expressed in language that is virtually identical to that used in the immunity provision for unimproved public property. The unimproved property immunity provision applies where "an injury [was] caused by a condition of any unimproved property." *N.J.S.A.* 59:4-8. The improved property liability provision is implicated when "the injury was proximately caused by the dangerous condition." *N.J.S.A.* 59:4-2.

It is indisputable that in providing for liability caused by the dangerous condition of property under *N.J.S.A.* 59:4-2, the Legislature contemplated that principles of comparative negligence would apply despite the absence of any express reference to concurrent causation or comparative negligence in that statutory section. *Cf. Nora v. Township of Livingston*, 171 N.J. Super. 579, 410 A.2d 278 (App.Div.1980) (per curiam) (noting in situation involving joint tortfeasors relevance of comparative negligence principles in allocating liability among plaintiff, defendant gas company, and defendant municipality for injury caused by negligently maintained road). There is not the slightest suggestion or intimation that in providing a specific immunity attributable to unimproved property under *N.J.S.A.* 59:4-8, the Legislature intended to foreclose the application of comparative fault principles expressly recognized in *N.J.S.A.* 59:9-4, when there is a combination of multiple causes, some of which ordinarily give rise to liability. *See, e.g., Nora, supra*, 171 N.J. Super. 579, 410 A.2d 278. *See also Garrison v. Township of Middletown*, 154 N.J. 282, 309, 712 A.2d 1101 (1998) (Stein, J. concurring) (recognizing that Legislature clearly considered common

law concepts of concurrent causation in drafting TCA and that such principles are relevant to immunity inquiry, although disagreeing with Court's position concerning definition of "dangerous condition" of improved public property). *Id.* at 550-51.

Justice Handler emphasized his view as follows:

In my view, in dealing with distinct, multiple or concurrent causes that contribute to an accidental injury, one of which gives rise to governmental immunity, the Legislature intended to invoke principles of comparative negligence or fault. Therefore, I believe the proper principle of law to be applied is one that compares and balances the immunity-conferring and liability-imposing causes, as well as any contributory negligence on the part of the plaintiff, and accords each cause its proportionate weight in the allocation of statutory responsibility.

In balancing the relative weight of these causes, where a dangerous condition of unimproved property combines with the negligent supervision of a municipal employee resulting in a plaintiff's injury, **it is appropriate to allocate damages to the government entity to the extent that a liability-imposing cause substantially increased the risk of injury.** *See Gonzales, supra*, 130 Cal. App. 3d 882, 182 Cal. Rptr. 73 (allowing claim against municipality to go forward on "hybrid dangerous condition" theory, because public entity's negligent conduct increased risk of danger posed by natural condition); *see also Scafidi v. Seiler*, 119 N.J. 93, 108-109, 574 A.2d 398 (1990) (holding where there is evidence that defendant's negligent act or omission increased risk of harm, and trier of fact determines that this increased risk was "substantial factor" in producing harm actually suffered by plaintiff, liability may be imposed); *Evers v. Dollinger*, 95 N.J. 399, 417, 471 A.2d 405 (1983) (same). Utilizing "increased risk" as a measure of liability is "consistent with the principles underlying the comparative-negligence statute, *N.J.S.A. 2A:15-5.1* (damages sustained shall be diminished by percentage of negligence attributable to person recovering); *Scafidi, supra*, 119 N.J. at 113, 574 A.2d 398; *see also Ostrowski v. Azzara*, 111 N.J. 429, 449-51, 545 A.2d 148 (1988) (finding that damages should be allocated to reflect doctor's malpractice that increased risk of harm attributable to plaintiff's condition and acts of personal negligence). This analysis also comports with the principle of tort law that recognizes that a duty of care that encompasses a victim's own potential wrongdoing or contributory negligence can be a proper basis for liability. *See Steele v. Kerrigan*, 148 N.J. 1, 689 A.2d 685 (1997); *Cowan v. Doering*, 111 N.J. 451, 545 A.2d 159 (1988).

A critical factor in these situations is that a protective duty is voluntarily assumed by the governmental entity. *See Restatement (Second) of Torts* § 323(a) (stating that rendering necessary protective services to another may subject provider to liability for injury for negligence "if [the] failure to exercise [reasonable] care increased the risk of such harm."). Equally important in assessing increased risk is the "induce[ment of] public reliance" on the part of the public entity by assuming a protective duty. *Gonzales, supra*, 130 Cal. App. 3d at 886, 182 Cal. Rptr. 73.

Thus, "when a public entity voluntarily provides a protective service for particular members of the public, which induces their reliance on the proper performance of that service, [the TCA] does not necessarily provide immunity." *Arroyo v. State*, 34 Cal. App. 4th 755, 764, 40 Cal. Rptr. 627 (1995). "Put another way, the immunity is inapplicable where a public entity's conduct actively and negligently increases the degree of danger posed by a natural condition." *Mercer v. California*, 197 Cal. App. 3d 158, 167, 242 Cal. Rptr. 701 (Ct.App.1988). See also *Lee v. Doe*, 232 N.J. Super. 569, 579, 557 A.2d 1045 (App.Div.1989) (holding that immunity for inadequate police protection would not apply "if the police officer caused the victim to rely on him for protection or the police officer otherwise increased the risk of injury to the victim.").

These principles of comparative negligence and concurrent causation are appropriately invoked in construing and applying the TCA. To reiterate, comparative causation has long been recognized in the common law of New Jersey. It is entirely reasonable to view the choice of language in *N.J.S.A. 59:4-8* as implicitly incorporating the common law principles of concurrent comparative causation. Thus, where a concurrent cause--such as the negligent supervision of a public employee--independently or concurrently causes, or substantially increases the risk of injury posed by other causes, any specific liability provision covering this cause should provide a recovery to plaintiff in proportion to the fault attributable to that cause. In this case, imputing principles of comparative causation to *N.J.S.A. 59:4-8* reconciles a legislative intent to protect bathers from negligent supervision by lifeguards with the text of the statute.

To the extent that the negligent supervision of municipal employees substantially increased the risk of injury posed by the condition of unimproved property, namely, the ocean, that percentage of increased risk may be used to impose and allocate liability. Thus, allowing recovery only for the increased risk attributable to negligent supervision simultaneously acknowledges the immunity ascribed to the condition of the unimproved property by exonerating the municipality to the extent the immunity-conferring condition proximately contributed to the accidental injury. Id. at 553-56. [Emphasis Added.]

Furthermore, Justice O'Hern submitted, "A slim and triable issue of fact was presented here concerning whether Cape May's lifeguards were negligent in their supervision of the City's beach. I would therefore affirm the judgment of the Appellate Division allowing the claim to proceed. I would do so substantially for the reason state in its comprehensive opinion." The portion of the Appellate opinion Justice O'Hern is referring to reads as follows:

We agree with the motion judge that the beach and the ocean are unimproved property. We also agree that once a bather enters a body of water, such as a river, lake, ocean or bay which is unimproved, there can be no liability for injuries which occur solely due to conditions encountered in that unimproved body of water. Thus, a person who encounters turbulence, forceful waves or uneven surfaces and who is injured solely due to those conditions has no cause of action against the public entity or public employee. That is because the public entity and public employee have no obligation to improve natural conditions or to ameliorate inherent but dangerous features of unimproved property. In short, the public entity and public employees have no obligation to make unimproved property safe. Moreover, the public entity has no obligation to post signs or flags concerning the condition of the water and inform bathers if it is safe for them to enter the water. To that extent, we affirm the order granting summary judgment insofar as plaintiff asserts that the ocean constituted a dangerous condition and that the defendant had a duty to warn independent of its decision to provide lifeguards at the beach.

On the other hand, the decision to provide protective services at a beach and potential liability for negligent performance of those services does not implicate the reasons for the immunity for unimproved property. The unimproved property immunity is an extension of the immunity conferred on public entities and their employees for failing to provide supervision of public recreational facilities. It is designed to encourage public entities to acquire and provide recreational facilities. It also confers on the public entity the authority to provide or not to provide supervision, to improve or not to improve property. The State, county or municipality may still provide access to the public to recreational areas such as a river, lake, bay or ocean. The public entity has no legal obligation to supervise the activities at these sites. **However, once a public entity decides to supervise the activities at the site, such as by providing lifeguards, it has presumably determined that more benefits are derived by providing lifeguards than by exercising its right to do nothing. Once it has made that decision, the fundamental reason for its immunity vanishes.** [303 N.J. Super. 481, 488-89, 697 A.2d 182 (App.Div.1997).] *Fleuhr v. City of Cape May*, 159 N.J. 532, 558 (1999). [Emphasis Added.]

Justice O'Hern added that the Tice rule—that immunity trumps liability—does not apply in a case such as *Fleuhr* because there were two separate concurrent causes of plaintiff's injury: the natural condition of the ocean and the negligence of the lifeguards. Id. at 559. **Justice O'Hern was concerned by the fact that although there were two causes of injury, the city failed to explain why an immunity attributable to one cause would trump liability with respect to the concurrent cause of the lifeguard's negligence. Justice O'Hern opines that, "the municipality's immunity for the**

natural condition of the ocean has no effect, trumping or otherwise, on the municipality's liability for the alleges negligence of its lifeguards. Id. at 560.

[Emphasis Added.]

Justice O'Hern also contemplated that the City's argument that the lifeguards cannot be held liable because the ocean wave was the sole cause of the Plaintiff's injury, "begs the question of concurrent causation," because thought Plaintiff was not saying that a lifeguard drove his head into the sand, the argument was that had the lifeguard exercised due care the Plaintiff would not have been injured. Ibid. Justice O'Hern clarified that the question to be asked in a case such as this is whether the "identified cause," the negligence of the lifeguards, is a cause the legislature intended to immunize. Ibid.

Justice O'Hern was of the opinion that the liability that "otherwise exists" in New Jersey under N.J.S.A. 59:31-11, means that a plaintiff should have the opportunity to attempt to prove that Cape May's lifeguards contributed to cause his injuries and to have a jury evaluate the causation question and assess the municipality liability, if any, for his broken neck. Id. at 562. **Justice O'Hern scolded that the Court may not at the summary judgment stage, usurp the jury's role and declare without benefit of a factual hearing that the surf, and only the surf, caused the harm. Ibid. [Emphasis Added.]**

Furthermore, Justice O'Hern declared that:

An even more significant reason impels me to reject the City's arguments. To accept the City's arguments would mean that public entities providing lifeguard service have no duty to save drowning ocean bathers. For that is essence of the city's reasoning. A child who ventures too far into the surf may be

in danger of drowning as a result of being struck by a wave. **Under the City's argument, a paid public lifeguard would be under no legal duty to exercise ordinary care to save the drowning child from the surf because it is absolutely immune if a wave strike the child or sucks the child out to sea. That would be bad law and bad public policy. Ibid. [Emphasis Added.]**

Justice O'Hern also noted that:

Perhaps the best evidence of the link between lifeguards and beach revenue is the fact that most seashore municipalities choose to fund lifeguard programs despite the fact that N.J.S.A. 59:2-7 protected them from being sued for declining to do so.

Here, the North Wildwood Beach Patrol lifeguards regularly monitored the police radio.

Both Chief Cavalier and Lieutenant Lindsay testified that the lifeguards would listen to the radio and when a call came in, they would immediately respond without waiting for any additional calls from police dispatch. Lieutenant Lindsay explained that he did this, "because of the section of the beach [he] was in charge of, [he] would have [his] radio on scan all the time, so [he] is listening directly to dispatch." See Lindsay Dep. 26:20-22. Lieutenant Lindsay explained that he did this so that he was reacting, "right away."

The lifeguards would effectuate rescues of the Unprotected Inlet Beach on a regular basis. Specifically, Chief Cavalier testified that the lifeguards which were posted on First and Surf would effectuate approximately twelve rescues of swimmers attempting to swim from the Unprotected Inlet Beach to Champagne Island every summer. In addition, Chief Cavalier and Lieutenant Lindsay testified with regard to various North Wildwood Beach Patrol reports which referenced various rescues that were effectuated by the First and Surf crew off of the Unprotected Inlet Beach. Furthermore, the First and Surf lifeguards also had to effectuate about a half a dozen stranded Jet Ski rescues every summer. Lieutenant Lindsay explained that the lifeguards respond to any kind of water emergency. The North Wildwood Beach Patrol occasionally asked for assistance from the New Jersey State Police Marine Division when

necessary to effectuate these rescues as evidenced by the certification of Trooper Maslowski. Most significantly the lifeguards would regularly write reports of "preventions" off of the Unprotected Inlet Beach in which they would tell people not to swim off of the Unprotected Inlet Beach, as well as monitor and stop Jet Skis from pulling up onto the Unprotected Inlet Beach. Lieutenant Lindsay testified that he would go down to the Unprotected Inlet Beach and let people know how dangerous it is down there. Lieutenant Lindsay wanted people to know how dangerous it was down there, so that no one would drown like Brad Smith did. Accordingly, members of the North Wildwood Beach Patrol namely Chief Cavalier and Lieutenant Lindsay undertook regular supervision of the Unprotected Inlet Beach by: (a) routinely monitoring the police scanner, and (b) preventing beach goers from swimming off of the Unprotected Inlet Beach, and (c) taking the both the North Wildwood Beach Patrol truck and Jet Ski down to the Unprotected Inlet Beach to monitor the beachgoers. Chief Cavalier and Lieutenant Lindsay expressly intended to undertake this supervision by choosing to constantly monitor the police radio during their shifts. The monitoring of the police scanner for incidents at the Unprotected Inlet Beach evidenced an intent to supervise by way of monitoring, entering into and becoming a part of the activity itself from which the injury sprang.

Lastly, the Court in Burroughs v. Atlantic City, cited to their opinion in Troth v. State, noting:

plaintiff failed to show that any employee "**whether known by name or not**, had accepted responsibility for supervision of her or her children when the accident happened. Her allegation was that she saw lifeguards during the afternoon, and that when the accident happened, they were not present or visible." No liability was found despite the fact that plaintiff, in her affidavit opposing summary judgment, said that "there were guard stands and lifeguards on each of the beaches in front of her when she first arrived at about noon." We concluded our opinion in that case by observing that, "[g]eneral supervision of the area as urged by plaintiff would not suffice." Id. at 333. See also, Troth v. State, 222 N.J. Super.

420, 427 (App.Div.1988), cert. granted 111 N.J. 565 (1988) holding that "policing" is not "supervision as contemplated by the statute." 234 N.J. Super. 208, 222(App.Div. 1989)

Therefore, even if Plaintiffs had failed to properly identify Chief Cavalier and Lieutenant Lindsay as direct Defendants in this litigation it would not be futile to Plaintiffs' claims for Negligent Supervision as Plaintiffs are now able to identify that lifeguards who were members of the North Wildwood Beach Patrol regularly took part in the above mentioned activities which constituted supervision of the Unprotected Inlet Beach. The Court in Troth v. State remanded the case despite procedural deficiencies and noted, "Given the procedural posture in which this issue is presented, we consider it to be inappropriate for summary disposition. The claim of negligent supervision was not alleged in the complaint and was only tangentially developed in the abbreviated record before us. Its eventual resolution by the trial court on a more developed record would better serve the interests of justice." 117 N.J. 258, 273 (N.J. 1989). Here, Plaintiffs have identified at least two members of the North Wildwood Beach Patrol who specifically undertook supervision of the Unprotected Inlet Beach. This was out right supervision and the two lifeguards were very forthcoming about their actions. These actions were not just incidental acts of supervision.

c. The members of the North Wildwood Beach Patrol That Undertook to Provide Supervision of the Unprotected Inlet Beach were Negligent in This Supervision

The members of the North Wildwood Beach Patrol, namely Chief Cavalier and Lieutenant Lindsay, that undertook to provide supervision of the Unprotected Inlet Beach were negligent in this supervision.

The Appellate Division explained in Pucca v. City of Long Branch that the fundamental elements of negligence apply to this element of a claim for negligent supervision. Pucca v. City of Long Branch, 2015 U.S. Dist. LEXIS 37545, *33, 2015 WL 1346170 (D.N.J. Mar. 25, 2015). These elements are of course:

For the sake of thoroughness, the elements of negligence are:

1. A duty is owed by the Defendant to the Plaintiff.
2. This duty is created by statute, standard of conduct, or the natural responsibilities of societal living and humans relations recognized by reasonable persons.
3. The Defendant Breaches that Duty
4. The Plaintiff incurs damages
5. The Defendant's negligence was the proximate cause of said damages.

Here, Dr. Griffiths opined that Chief Cavalier, Lieutenant Lindsay, and other members of the North Wildwood Beach Patrol were negligent in the supervision that they undertook as the lifeguards should have been ever present on the Unprotected Inlet Beach and should have provided more specific and direct warnings of the hidden drop off and vortex or whirlpool effect and that this supervision was the proximate cause of Brad Smith's drowning. The lifeguards clearly knew that there was a real and present danger on the Unprotected Inlet Beach. The lifeguards undertook supervision of the Unprotected Inlet Beach by listening to the police scanner so as to be able to instantaneously respond to distress calls. The lifeguards also drove down to the Unprotected Inlet Beach and warned of the dangers of swimming in the adjacent waters. Additionally, the lifeguards

had a practice of preventing beachgoers from swimming in the waters off of the Unprotected Inlet Beach. However, the lifeguards failed to warn of the specific danger of walking at the water's edge on the Unprotected Inlet Beach and also failed to establish the level of presence that would have been acceptable to prevent a drowning in the area. As such, the Chief Cavalier and Lieutenant Lindsay were negligent in their supervision of the Unprotected Inlet Beach which was the proximate cause of Brad Smith's death.

II. STANDARD OF REVIEW

Motions for summary judgment are governed by the New Jersey Rules of Court. More specifically, R. 4:46-2 provides that a court shall grant a motion for summary judgment if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue to any material fact challenged, and that the moving party is entitled to a judgment or order as a matter of law. In Brill v. Guardian Life Ins. Co., 142 N.J. 520, 539-40 (1995), the Supreme Court articulated the standard to be applied when deciding motions for summary judgment; "trial courts are required to engage in some type of evaluation, analysis or sifting of evidential materials as required by R. 4:37-2(b) [motions for involuntary dismissal] in light of the burden of persuasion that applies if matter goes to trial." The reason behind the decision, according to the Court, is "to encourage trial courts not to refrain from granting summary judgment when the proper circumstances present themselves." Id. at 541. However, if the summary judgment turns on a question of law, or if further factual development is unnecessary in light of the issues presented, then summary judgment need not be delayed. United Savings Bank v. State, 360 N.J. Super. 520, 525 (App. Div. 2002). Rule 4:46-2(c) further states that "a summary judgment or order, interlocutory in character, may be

rendered on any issue in the action (including the issue of liability) although there is a genuine factual dispute as to any other issue (including any issue as to the amount of damages).”

III. SUMMARY JUDGMENT IS INAPPROPRIATE AT THIS TIME AS DISCOVERY HAS YET TO EXPIRE AND DEPOSITIONS AND EXPERT DISCOVERY ARE STILL BEING CONDUCTED

In the instant matter, discovery is not completed as depositions are still being taken and final expert reports have yet to be received. The discovery end date in this matter was extended to February 15, 2017. The outstanding discovery includes four depositions and miscellaneous documents which are outstanding from the City of North Wildwood. The Plaintiffs have provided defense counsel with two liability reports of Dr. Weggel and two liability reports from Dr. Thomas Griffiths.

Additionally, due to the recent consolidation of these matters, discovery remains outstanding regarding Brandy Smith’s claim for the negligent infliction of emotional distress. Plaintiffs are arranging for an IME with a psychiatrist. Undoubtedly, Defendants will require further discovery regarding Brandy Smith’s claims.

The trial court should not grant a summary judgment when the matter is not "ripe" for such consideration, especially when discovery has not been completed. It is axiomatic in our jurisprudence that “summary judgment dismissing the complaint should not be granted until the plaintiff has had a reasonable opportunity for discovery, particularly where the facts upon which liability is predicated are peculiarly within defendant’s knowledge” *Auster v. Kinois*, 153 N.J. Super. 52, 56 (App. Div. 1977) (emphasis added) (citing *Bilotti v. Accurate Forming Corp.*, 39 N.J. 184, 206 (1963)). In fact, the New Jersey Supreme Court has stated unequivocally that when “critical facts are peculiarly within the moving party’s knowledge,” it is especially inappropriate to grant summary judgment when discovery is incomplete.

Velantzas v. Colgate-Palmolive Company, 109 N.J. 189, 193 (1988) (emphasis added) (citing with approval, Martin v. Educational Testing Service, Inc., 179 N.J. Super. 317, 431 (Ch. Div. 1981) and Bilotti v. Accurate Forming Corp., 39 N.J. 184, 206 (1963)) .

The party opposing the motion is entitled to the opportunity to obtain material necessary to justify opposition through depositions. Judson v. Peoples Bank and Trust Company of Westfield, 17 N.J. 67, 76 (N.J. 1954). See also, Salomon v. Eli Lilly and Company, 98 N.J. 58 (1984); Jackson v. Muhlenberg Hospital, 53 N.J. 138 (1969) and Cella v. Interstate Properties, 232 N.J. Super. 232 (App. Div. 1989). In addition to that entitlement, the party opposing the motion has an obligation to demonstrate the likelihood that further discovery will supply the missing elements of the cause of action. Auster, supra. at 56.

In the instant case, defendant has failed to present the proofs necessary to sustain his burden on this motion for summary judgment. Plaintiff submits that discovery is the only method which will reveal the factual truth of the matter which forms the basis of this complaint. Summary judgment should not be granted at this time.

CONCLUSION

Accordingly, for the reasons stated above, Plaintiffs requests the court enter an order denying Defendant City of North Wildwood's motion for summary judgment as to liability.

D'AMATO LAW FIRM

By: 
Paul R. D'Amato, Esq.

Dated:

By: 
Kasi M. Gifford, Esq.

Dated:

D'AMATO LAW FIRM

By: Paul R. D'Amato, Esquire- NJ ID#: 006901974

Kasi M. Gifford, Esquire – NJ ID#: 152582015

2900 Fire Road, Suite 200

Egg Harbor Township, New Jersey 08234

(609) 926-3300

Attorneys for Plaintiffs

**SANDRA SMITH, INDIVIDUALLY AND
AS EXECUTRIX OF THE ESTATE OF
HER LATE HUSBAND GEORGE
BRADLEY SMITH,**

Plaintiff,

-vs-

**CITY OF NORTH WILDWOOD, STATE
OF NEW JERSEY**

Defendants,

**SUPERIOR COURT OF NEW JERSEY
ATLANTIC COUNTY- LAW DIVISION**

DOCKET NUMBER: CPM-L-331-14

Civil Action

**APPENDIX "A"
BRIEF IN OPPOSITION TO DEFENDANT
CITY OF NORTH WILDWOOD'S
MOTION FOR SUMMARY JUDGMENT**

Appendix "A"

PLAINTIFFS' COUNTERSTATEMENT OF MATERIAL FACTS

1. On July 27, 2012, the decedent George Bradley Smith (hereinafter "Brad Smith"), his wife Sandra, his children Brandy and Kole went to the North Wildwood beach located at Surf Avenue in North Wildwood, New Jersey.

2. The Smiths were accompanied by Scott Sunderland, his wife, and their two young children. This beach was guarded by lifeguards employed by the City of North Wildwood.

3. Brad Smith with his daughter Brandy, Scott Sunderland, and Scott Sunderland's two children decided to go for a walk.

4. The walk took them north along the shoreline.

**D'AMATO
LAW FIRM**

COUNSELORS AT LAW
A PROFESSIONAL CORPORATION

2900 Fire Road
Suite 200
Egg Harbor Township, NJ 08234

5. To the North of the last lifeguard stand located at Surf Avenue is a beach referred to as the Inlet Beach, Moore's Beach, Moore's Inlet Beach, and the Point.

6. This beach was not protected by lifeguards.

7. There were universal "No Swimming" signs located at the street side entrance to the Inlet Beach.

8. There were no "No Swimming" signs that would have been available to the group walking from First and Surf at the water's edge.

9. There were no signs that warned of a sudden drop off that pedestrians could encounter while walking in ankle deep water with their children.

10. There were no signs anywhere in North Wildwood that warned that simply walking at the water's edge was dangerous.

11. There were no signs that warned that a person walking with her or her children could fall into a drop off which would expose one to the vortex or whirlpool which is present was the Hereford Inlet.

12. During this walk Brad Smith, Scott Sunderland, and their daughters encountered a drop off.

13. The drop off was not visible because it was under the water.

14. Because of this drop off, Brad and his seven year old daughter and Scott Sunderland and his seven year old daughter suddenly fell into deep water which was far over their heads.

15. The Smiths and Sunderlands were only walking in ankle deep water which was no higher than to mid-calf at times.

16. Scott Sunderland was able to return to land with his daughter on his back.

17. After reaching land, Scott Sunderland flagged down two jet skiers, one of whom was able to save Brandy Smith.

18. On April 1, 2016, Scott Sunderland at his deposition testified as follows:

Q: And how deep is the water on you just before you go into the water?

A: Calf

See Sunderland Dep. 35:8-10.

Q: As you were walking along, I think you said roughly calf-deep water?

A: Um-hum

Q: Is that a yes?

A: Yes, I would say top of my calf.

See Sunderland Dep. 130:4-131:15.

Q: Were you making any attempt to walk in an absolute straight path, or were you just ambling along and you fell?

A: We were just walking along the water.

Q: Because here's my question. Since you were not making an attempt to walk in an absolute straight line, is it possible that as you approach the location of the incident you were stepping a little bit to the right here a little bit to the left there?

A: Yeah, I mean we could have, but we were never deeper than the top of my calf.

See Sunderland Dep. 114:21-115:6.

Q: You are heading back. And were there times as you are walking back before you fell into the hole that all of you or some of

you were walking in ankle-deep water as opposed to mid-calf water?

A: Yes.

See Sunderland Dep. 129:23-130:3.

Q. And what did you see when you had that observation [seeing Brad and Brandy]?

A: They were separated. And I'm going to approximate they were off the beach about a hundred, 120 feet. Brandi was closer to inside the inlet, Brad was closer to the ocean, and they were getting further apart. Brandi was staring directly at me, and Brad was on his back facing Brandi, so looking back towards the inlet. And he was just kind of almost—almost on his back like just going with the current. **And it seemed like Brandi was stuck in this—she wasn't getting turned around in like a whirlpool.** She was on this outer side of it, and then it seemed like Brad was caught in this other—almost like a river and he was getting pulled further away from her.

See Sunderland Dep. 41:20-42:12.¹[Emphasis Added.]

19. Attached hereto and made a part hereof as Exhibit "1" is a true and accurate copy of the complete transcript of the deposition of Scott Sunderland.

20. On March 10, 2016, Brandy Smith at her deposition testified as follows:

Q: and were you and your dad at—walking in the water?

A: **Yes. Like, we—it was only, like, to our ankles, at first, yeah. It was, like, we were still, like, right here, close to the sand, so you could, you had your feet on sand for a while you were walking.**

¹ The correct spelling of Brad Smith's daughter's name is "Brandy". However, the spelling "Brandi" was inadvertently used in some deposition testimony, and has been referenced as such to maintain the word-for-word integrity of the deposition testimony.

Q: Um-hum. And there came a time when you and your dad somehow went into the water. Right?

A: Yeah.

Q: How did that happen?

A: I can't remember much, but like—how it happened, I—my eyes were closed, and I didn't know—like, I couldn't see anything much. And—and it just happened. And then we ended up somewhere in the ocean.

See Smith Dep. 21:5-19.

...

Q: All right. After you fell into the water, okay, do you remember seeing your dad at any time, after you fell into the water?

A: Yes.

Q: And do you—and where was he? How far was he from you?

A: He was pretty close. Just like a little bit far away from me, not that far.

Q: Okay. Was he saying anything to you?

A: Yes he was saying my name a lot. And then I don't remember much about—all I remember was him saying my name.

Q: Okay. And you remember the fellow on the Jet Ski picking you up?

A: Yes.

Q: All right. When the fellow on the Jet Ski picked you up, where was your daddy at that point in time?

A: I didn't see him anymore. I don't know—I didn't know where he was.

Q: All right. When you last saw daddy, what was he doing?

A: Laying on his back.

See Smith Dep. 29:19-30:16. [Emphasis Added.]

21. Attached hereto and made a part hereof as Exhibit "2" is a true and accurate copy of the complete transcript of the deposition of Brandy Smith.

22. Brad Smith struggled to stay afloat and was sucked beneath the sea as a result of the vortex also known as the whirlpool. See Smith Dep. 29:19-30:25; See also Sunderland Dep. 41:20-42:12; 45:29-47:2.

23. Brad Smith was swallowed up by the vortex his body was recovered on the beach three days later during the early morning hours of July 30, 2012. See Exhibit "3". See also Exhibit "4".

24. Attached hereto and made a part hereof as Exhibit "3" is a true and accurate copy of the July 30, 2012, North Wildwood Police Department referencing the recovery of Brad Smith's body.

25. Attached hereto and made a part hereof as Exhibit "4" is a true and accurate copy of the statement given by witness Daniel O'Connell.

26. On February 16, 2016, Chief of the North Wildwood Beach Patrol since 1986, Joseph Anthony "Tony" Cavalier (hereinafter "Chief Cavalier") testified as follows:

Q: Okay. If I said to you, what is your understanding of what happened to Mr. Smith, do you have one?

A: How I think it happened?

Q: Yes.

A: Yes.

Q: Okay. And before you tell me how you think it happened, can you tell me the following: You didn't see it happen; did you?

A: No.

Q: All right. All right. So, you're basing your forthcoming answer as to how it happened based on what?

A: Being down there all the time.

Q: Okay. So, why don't you tell me how you think it happened.

A: At certain times of the day, when the tide is in or out, there's a drop off along that section of the beach,

Q: Okay. What do you mean by a drop off?

A: It literally drops off.

Q: Okay. And how long has that particular condition existed as far as you know?

A: The inlets changing all the time. Every year, it changes.

See Cavalier Dep. 41:20-42:19. [Emphasis added.]

27. Attached hereto and made a part hereof as Exhibit "5" is a true and accurate copy of the deposition transcript of Chief Cavalier.

28. When questioned about his knowledge of the drop off, Chief Cavalier testified as follows:

Q:... the drop off runs how---how far, or how long is it?

A: Twenty yards.

Q: Okay. And is that drop off, and I know you said this, but I'm kind of having difficulty understanding it. Is every season that drop off someplace along that Inlet Beach?

A: Yes.

Q: Okay. Does the drop off, season to season, move?

A: Yes.

Q: Okay. And all the years that you've been part of the North Wildwood Beach Patrol, is this drop off, does it, like, move from, let's say Point A, and then the next year, it's like a mile away, or is there a certain limitation that it stays within?

A: Limitation.

Q: And what would you say that is? Like, is it, like a quarter of a mile, a tenth of a mile that it moves?

A: Tenth of a mile.

See Cavalier Dep. 56:5-25.

Q: Okay. Were there any signs on July 27, 2012, that would have alerted Brad Smith as to this drop off?

A: No.

See Cavalier Dep. 58:8-11.

29. Chief Cavalier was asked whether there were any signs at the water's edge warning of the hazardous conditions. Chief Cavalier responding in the negative testified:

Q: Now, you do have an understanding that Mr. Smith and his family and the Sunderland family had been sitting on a protected beach on July 27, 2012, and had—and that Mr. Sunderland with his son, and Mr. Smith and his daughter decided to take a walk on the beach? Are you aware of that?

A: No.

Q: Okay. As they are walking from the protected beach, you would call it the last one, First and Surf. Right?

A: Yes.

Q: As they're walking, and they're going towards Moore's Beach, would there be any sign warning them of any hazardous condition located near the water's edge, as they're walking?

A: No.

See Cavalier Dep. 72:13-73:3.

30. Furthermore, when Chief Cavalier was asked about the visibility of the drop off he testified as follows:

Q: Okay. When you referred to the drop off earlier in your testimony, does this photograph show what you call a drop off?

A: No.

Q: Okay. How is a drop off different than the photograph that you have in your hand?

A: It's along the water's edge. It's in the water.

Q: So, that—wait. Okay. **When you say it's in the water, so that if I'm standing on land, I can't see the drop off, correct?**

A: Yes.

Q: Okay. That area that's shown in that photograph, is that Moore's Beach?

A: No.

Q: Is that Inlet Beach?

A: Yes.

See Cavalier Dep. 82: 23- 83:16. [Emphasis Added.]

31. Moreover, Chief Cavalier when asked if this drop off is consistently present, testified regarding the details of the drop off as follows:

Q: All right. Virtually, all the questions I'm going to be about that drop off. Because I want to try to understand where that **drop off** is, how it occurs. And you've indicated that it moves along with the shore line. Is that right?

A: Yes.

Q: So that's a dynamic process?

A: Yes.

Q: But that it is relatively constant, and they're not your words, so that it's a feature that, that while it moves, it doesn't really go away; does it?

A: No.

Q: It doesn't move from day to day; does it?

A: Yes. The Inlet changes every day.

Q: Okay.

A: The currents.

Q: Okay. Does the drop off change during the tide?

A: Yes. Certain tides, there is no drop off.

Q: Okay. What kind of tides is there no drop off, and what kind of tides is there a drop off?

A: High tide. Low tide, it's a regular beach.

Q: Okay. And that's because the drop off—

A: Would be the further out.

Q: --is so far out that you couldn't walk to it?

A: Correct.

See Cavalier Dep. 111:6-112:15.

A: When the water is out is when there is a drop off. See Cavalier Dep 113:9-10.

Q: Okay. Do you know whether the currents are scouring that Point, that Lindsay calls a Point?

A: I believe it scours the whole Inlet Beach, the way the currents run, not just there.

See Cavalier Dep 118:15-21. [Emphasis Added.]

32. Chief Cavalier further testified:

Q: Okay. Well, when the drop off appears, how big an area is it?

A: Ten, fifteen yards.

Q: Okay. And how—how—what's the drop? In other words, if someone is walking, and they encounter the drop off, how far will they step down?

A: Over their head.

Q: Okay. All right. So, it's sort of a cliff?

A: I don't consider it that.

Q: Okay.

A: It's when the tide's out, it's just the water drops off.

Q: All right. It's a sudden drop off?

A: Yes.

See Cavalier Dep 119:1-17. [Emphasis Added.]

33. Chief Cavalier, noting that the drop off is present every year, explained that there are two drop offs and compared the two as follows:

Q: The drop off is, is present every year; isn't it, someplace or other?

A: Yes.

See Cavalier Dep. 131:25 – 132:1.

D'AMATO
LAW FIRM

COUNSELORS AT LAW
A PROFESSIONAL CORPORATION

2800 Fire Road
Suite 200
Egg Harbor Township, NJ 08234

Q: Okay. Okay. The drop off that we've been talking about is typically how deep?

A: Ten.

Q: Okay. **And are there other areas along bay of these beaches where there are other drop offs?**

A: Yes.

Q: Okay. Are those drop off, can they be as deep as 10 feet, also?

A: 50 feet. 50 to 60 feet.

Q: Okay.

A: **That's the drop off at Moore's Beach, where they fish.**

See Cavalier Dep. 133:20- 134:6.

[Emphasis Added.]

34. Chief Cavalier acknowledged that the drop off was present at the location of the Smith drowning on July 27, 2012 when he testified as follows:

Q: Okay. So if I follow you correctly, the drop off, when the drowning occurred, was at the Point, and it was about 10 or 15 feet deep?

A: Yes.

See Cavalier Dep. 135:20-23.

35. Chief Cavalier acknowledged that the vortex or whirlpool is present in the same location as the drop off:

Q: The vortex that you talked about before, how far is the vortex from the drop off?

A: That's—that's where it is.

Q: Oh, okay. All right. So, the vortex is, is related to—

A: Yes.

Q:-- the drop off? Okay.

See Cavalier Dep. 131:2-13.

36. North Wildwood provides and maintains a parking lot in the Hereford Inlet Section, which Chief Cavalier credits for making First and Surf Avenues, a more crowded beach as noted in the following deposition testimony:

Q:... "Two rescues, guards, Goss and Muso did a good job on controlling the crowd at First and Surf. There are heavy crowds at First Street due to the parking lot." Can you explain what that means that there are heavy crowds due to the parking lot? What's the connection?

A: Well, there's a--- the city made a parking lot, and people come down to the beach and park there, so they go out on First and Surf.

Q: Got it. And from that parking lot that we've been referring to that's next to the condominiums, individuals that park their cars there, can take one set of steps to get right on Moore's Beach?

A: Yes.

37. Chief Cavalier testified that on July 27, 2012, there were no signs on the Unprotected Inlet Beach prohibiting walking in ankle deep water, or walking in water that goes to your mid-calf. See Cavalier Dep. 62:1-8.

38. Chief Cavalier testified that the lifeguards would not regularly enforce the "No Swimming" Signs. See Cavalier Dep. 59:18-23. However, they did listen to the radio and effectuate rescues on the Unprotected Inlet Beach every summer, as evidenced by Chief Cavalier's testimony:

Q: All right. The—let's see if we can do it this way: were there any occasions where North Wildwood lifeguards had to effectuate a rescue of a person that was in the water off of Moore's Beach?

A: Yes.

Q:... were there occasions before July 27, 2012, where lifeguards of the North Wildwood Beach Patrol had to effectuate a rescue of someone that was swimming off of what we've been calling the Inlet Beach?

A: Yes.

Q: Okay. From your experience, is it safe to say that in all the years that you have been a member of the North Wildwood Beach

Patrol, that before July 27, 2012, there were occasions during the summer season when North Wildwood lifeguards had to effectuate rescues of individuals swimming both off the Moore's Beach and off of the Inlet Beach?

A: Yes.

Q: Okay. Typically, how would your lifeguards be alerted to the fact that they had to effectuate a rescue off of Moore's head—Moore's Beach and the Inlet Beach?

A: Police department, we would monitor the police radio. The police would get a call, somebody's in distress, Moore's or the Inlet, and we would respond.

See Cavalier Dep. 91:10- 92:17.

39. Additionally, Chief Cavalier, acknowledging that about a dozen times a summer the lifeguards must save someone who has tried to swim to Champagne Island, a sand bar, located off of the Unprotected Inlet Beach explained:

Q: Is there any prohibition from a person who's on the Inlet Beach, not Moore's Beach, the Inlet Beach from swimming to Champagne Island? A prohibition.

A: No.

Q: Okay. Is there any prohibition for someone swimming to Champagne Island from Moore's Beach?

A: No.

Q: Okay. How many rescues in a given summer before July 27, 2012, did your lifeguards have to effectuate relative to people who were trying to swim from Moore's Beach and/or the Inlet Beach to Champagne Island and vice-versa?

A: About a dozen a summer.

See Cavalier Dep. 101:5-21.

40. Chief Cavalier testified to specific incidents on the Unprotected Inlet beach as follows:

Q: All right. All right. I'm now going to hand you what's been marked for identification as Exhibit 33, a daily report dated July 25, 2010. And you'll see a reference to one inlet rescue. And my question is, can you tell from the document where the rescue—no, more precisely, off of what beach the rescue took place?

A: This would be the unguarded area.

Q: Okay.

A: Because it's a kayak.

Q: Okay. That would be Moore's Beach?

A: Moore's Beach, or—

Q: Or the Inlet Beach?

A: The Inlet Beach.

See Cavalier Dep. 94:4-17.

Q: July 28, 2010. It says, "Kite surfer stuck in channel for 15 minutes." Can you tell where that event took place, in looking at that report? I know the—

A: Out in Hereford Inlet.

Q: Okay...

See Cavalier Dep. 95:4-9.

Q: All right. Now, I'm going to show you, yep. One dated July 31, 2010, and this is Exhibit 35. And the highlighted part says, "3:55, Guard Lydon saw a group at the Point that was about 200 yards out. They drifted down from Moore's, and two of the victims were shaken up." Where was that rescue effectuated?

A: About a hundred yards from Moore's Beach.

Q: Okay. And that was off of an unprotected beach. Correct?

A: Yes.

See Cavalier Dep. 95:13-23.

Q: All right. Let me show you a report dated August 23, 2010, marked for identification as Exhibit 36. The highlighted part says, "Second and Surf rescue at the Point. People drifted down from Moore's." From your experience, was it unusual to see that people

who had come from Moore's Beach into the water were drifting down towards the Inlet Beach?

A: I'm confused the way they wrote this. Okay. Second—and they—they went in a hundred or so yards from Moore's, and drifted in the current.

Q: Okay. All right.

A: It was probably an outgoing tide.

See Cavalier Dep. 96:2-16.

Q: Okay. Let me show you what has been marked for identification as Exhibit 37. It's a report dated August 25, 2010. And the highlighted part says, "Major rescue off Moore's Beach. Fisherman fell off sea wall." It's back in 2010. Do you remember a fisherman falling off a sea wall?

A: Yes.

See Cavalier Dep. 96:20-97:2.

Q: Before July 27, 2012, did the members of your beach patrol have to effectuate any rescues relative to jet ski accidents that had taken place off of Moore's Beach and/or the Inlet beach?

A: Yes.

Q: Can you give us an estimation in the summertime how many rescues occur relative to Jet Ski accidents?

A: Half a dozen.

Q: And how were the members of your patrol alerted to the fact that a Jet Ski accident takes place?

A: Police radio. Somebody called 911.

See Cavalier Dep. 98:5-17. [Emphasis Added].

The next exhibit is dated July 24, 2011. I'm marking it as Exhibit 39. And my question of you is about the entry here under ocean rescues. Again, it's dated July 24, 2012. It says, "Guard Ryan Sanki- rescue of woman 50 yards outside swim zone ignoring whistles."

Q: What swim zone is the author of this referring to?

A: The Surf Avenue chair, we put a flag west of it, no swimming. This is referring to a woman that was past the flag that went in the water.

See Cavalier Dep. 98:22-99:11.

41. The Beach Patrol Daily Report dated August 19, 2012, about three weeks after Brad Smith's drowning, states that there were, "Eight Preventions at the Point." Chief Cavalier explained a prevention as follows:

Q: Okay. Now, let me show you what's been marked for identification as Exhibit 44. It's a daily report dated August 19, 2012. And at the bottom, the same category, again, it says, "Eight preventions at the Point." Okay.

Now, when it says eight prevents, do that—
if you can tell, does that mean preventing eight people from going into the water? What—I don't understand this term prevention.

A: They were trying to stop people from going in the water there. [Emphasis Added.]

See Cavalier Dep. 103:6-19.

42. When asked about preventions Chief Cavalier testified as follows:

Q: Exhibit 41 is a daily report dated July 4, 2012. Couple weeks before Brad Smith's drowning. The author, under ocean rescue says, "Two Jet Ski Prevents at Moore's Beach." You'll see that phrase, preventions, or prevents, used in all these reports. Can you tell me what the author means from that, by prevents?

A: They took the WaveRunner Jet Ski down to Moore's Beach, people were swimming out, Champagne Island, and they prevented them from doing that.

Q: Okay. I've been educated by locals as to this Champagne Island. Is there any

prohibition from a person who's on the Inlet Beach, not Moore's Beach, the Inlet Beach, from swimming to Champagne Island? A prohibition.

A: No.

Q: Okay. Is there any prohibition for someone swimming to Champagne Island from Moore's Beach?

A: No.

Q: Okay. How many rescues in a given summer before July 27, 2012 did your lifeguards have to effectuate relative to people who were trying to swim from Moore's Beach and/or the Inlet Beach to Champagne Island and vice-versa?

A: About a dozen a summer.

See Cavalier Dep. 100:15-101:21.

[Emphasis Added.]

43. When asked about any discussions between Chief Cavalier, the Mayor, and City Council regarding the closing of the Unprotected Inlet Beach, Chief Cavalier testified as follows:

Q: Was there any discussion while you were the chief of the beach patrol of North Wildwood, before July 27, 2012, at a mayor and council meeting of the City of North Wildwood, about having a lifeguard or lifeguards with lifeguard stands in what we've been calling the Inlet Beach area?

A: No.

Q: Okay. Same question for Moore's Beach... Before July 27, 2012, did you ever attend a meeting of the mayor and council where there was a discussion about having a lifeguard and a lifeguard, perhaps with a stand, at what we've been calling Moore's Beach?

A: Yes.

Q: Okay. Given the number of years you've been the chief of the beach patrol, can you give me your best estimate as to how many times you spoke to the mayor and council at one of their meetings?

A: About Moore's Beach?

Q: Yea.

A: Once.

Q: Okay. And when was that?

A: Twelve years ago.

Q: Okay. And can you tell me what you said?

A: We had Mayor Palumbo, who was the mayor, a discussion was brought up about should we guard the Moore's Beach again. And the mayor and I went to the beach, and he actually went around asking people how they felt about a lifeguard being back there. And 90 percent of the people didn't want a lifeguard there.

Q: Did they tell you why they didn't want a lifeguard there?

A: They want to be able to do what they want to do.

Q: And one of the things they wanted to do was drink alcoholic beverages?

A: Yes.

Q: All right. What else besides drinking and alcoholic beverages did they want to do?

A: Dogs, Jet Skis.

Q: Okay. And since that time, have you, as the chief of the beach patrol, let the people do what they wanted to do when you were there with the then mayor?

A: If we got complaints from the public, the police department would respond, if people were out of control with—the alcohol, or the dogs.

Q: Okay.

A: And we finally got it under control.

Q: Okay. When did you finally get it under control?

A: Well, with the dogs, we eliminated that. But the alcohol, you never eliminate.

Q: Since July 27, 2012, I have been to Moore's Beach and the area that you call the Inlet Beach several times, and I have witnessed police officers of the City of

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2800 Fire Road
Suite 200
Egg Harbor Township, NJ 08234

North Wildwood walking on the beach.
Have you made that same observation?

A: Yes.

Q: All right. Did you ever talk to the chief of the North Wildwood Police Department about having North Wildwood police officers patrol Moore's Beach and the Inlet Beach?

A: Yes.

Q: All right. And going back as many years as you feel comfortable telling me, how long have you been discussions with the chief of police of the City of North Wildwood about patrolling Moore's Beach and the Inlet Beach?

A: The last 10 years.

See Cavalier Dep. 31:5- 34:3. [Emphasis Added.]

44. One year to the day prior to Brad's drowning, on July 27, 2011, Shorenewstoday.com posted an article entitled "Guard Chief Warns About Swimming in Inlet." This article was posted a result of the drowning fatalities of a Baltimore woman off of the unprotected inlet beach. Chief Cavalier is quoted as saying:

The Inlet can look like it has calm water, but it is deceiving. **The water starts off shallow but then about two feet out from shore it can drop off. [Emphasis Added].** You can go from knee deep to right over your head real quick. There's a certain point off the shore, you can see it from the sea wall, **the water looks like a washing machine out there. See Exhibit "6".** [Emphasis Added.]

45. Attached hereto and made a part hereof as Exhibit "6" is a true and accurate copy of the above referenced article.

46. Lieutenant David Lindsay, a retired 32 year veteran of the North Wildwood Beach Patrol, was deposed on March 2, 2016. In that deposition, Lieutenant Lindsay testified:

Q: In the North Wildwood Beach Patrol, could you draw with a red marker where the inlet zone was?

A: Sure.

Q: All right. Now, you know the city better than I do... can you give me street names?

A: Yes, Sir.

Q: Okay. Go ahead.

A: Inlet zone went from Surf Avenue down to the ocean, along the waterfront to the rock pile at Second and JFK, and then back along the bulkhead or walkway up to, I believe it's First and JFK.

Q: First?

A: First and Surf.

See Lindsay Dep. 13:9-23.

Q: For how many years before July 27, 2012, were you assigned for the summer to, we'll call it, the inlet zone?

A: I believe in '98, I was moved to the Inlet.

Q:...I'm surmising that because of your experience and your professionalism, you were assigned to the inlet zone, as opposed to other zones. Would that be a fair statement?

A: Well, I was assigned to the inlet zone in '90—the dates aren't exactly clear, but around '96, I was put in charge of the Jet Ski.

Q: Right.

A: And then the Jet Ski was more or less put in charge—it was assigned to the Inlet. So, I went with the Jet Ski.

...

Q:... am I correct in saying that the area where, is, say Moore's Beach and the Inlet Beach is some of the more dangerous beach area in North Wildwood, because of these currents that we've been talking about?

A: That's true.

See Lindsay Dep. 20:8-21:13.

Q: And that's why I—I don't know who told me, somebody told me that that's why you were assigned there, because you were a veteran, and—and because of the condition of the inlet there. Now, the chief said that in the early '70s, I think it was 1977, 1975, that they actually used to have lifeguard stands in the area that you call Moore's Beach and the Point area. Do you remember that?

A: No.

Q: Okay. In looking at Exhibit 55, which you call the inlet zone or beach, or the inlet beach, how many lifeguard stands would typically be located in that area before July 27, 2012 for the summer season?

A: It would vary between two and three.

Q: Okay. And the lifeguard stand that would be closest to the—what do you call it, the bird sanctuary?

A: Yes.

Q: Would be how far from the bird sanctuary?

A: Right on the bird sanctuary line.

Q: Okay. Now, while we're talking about bird sanctuary, in the past summers I've been there, and I see where they put up the fence all around that area, and the bird in question, is it the plover?

A: Piping plover.

Q: Piping plover. Okay. How was that bird sanctuary created?

A: Well, I mean, I don't know much about it. It's—I believe it's a—on the verge of extinction, and—

Q: Okay.

A:--so, it's protected by the state. And—

Q: Was it the wildlife department?

A: I think so.

Q: Okay.

A: Yeah. And they did a very good job of sometimes there would be a guy there, in the peak season, you know, we tried to keep people out of there, it wasn't our job, but we

would try to, if we saw someone go in there, we would get them out. But sometimes they would have someone in that area, you know, keeping people out.

See Lindsay Dep. 21:16-23:8.

Q: Okay. Now, Mr. DiJoseph and I and a couple other investigators, and for the past summers, after the drowning, we would go to the beach, and we observed employees of the North Wildwood Public Works Department cleaning the beach. Okay? And near—in the Moore's Beach area, we saw an employee of the Public Works Department, because he had something on that said public works, picking up trash. Given your experience on the beach patrol, what work would the Public Works Department do cleaning the beaches north of the inlet zone?

A: I would—they would clean them. Yeah.

Q: Yeah. I—as I said, I was raised in Margate, and they used to have a large tractor, and it had this device on the back that would collect shells.

A: A rake.

Q: A rake?

A: Yeah, the beach rake, yeah.

Q: Yeah, and—

A: That, I don't think they raked it. I don't believe they raked it.

Q: Okay.

A: But I mean, you know, you being down there, this section of the beach is—

Q: Moore's,

A: Moore's is—I crowded. So, if they didn't clean up down there, you know, the—the trash and whatnot, you know, would be—

Q: Okay. I see.

A: Out of control.

See Lindsay Dep. 24:8-25:13.

47. Attached hereto and made a part hereof as Exhibit "7" is a true and

accurate copy of the deposition transcript of Lieutenant Lindsay.

48. Since Lieutenant Lindsay was in charge of the Inlet section of the beach he was asked at depositions how he knew whether or not someone was in need of assistance on the Unprotected Inlet Beach. Lieutenant Lindsay testified in the following manner:

Q: According to these records, which we'll get in a moment, it appears to us that there were occasions where lifeguards, and not just saying you necessarily just yet,

...

Q: Where lifeguards that were posted in the inlet zone had to effectuate rescues up north, the Moore's Beach, and at the Point area. Is that correct?

A: Yes, sir.

Q: All right. And how would you, if you were posted in the inlet zone, know that somebody was in trouble at the beaches, which is Moore's Beach, the Point area? How would you know that?

A: Well, I actually was, you know, a lot of guys made jokes, because I would always listen to scan. But because of the section of the beach I was in charge of, I would have my radio on scan all the time, so I I'm listening directly to dispatch.

[Emphasis Added.]

See Lindsay Dep. 26:4-22.

A: So, if a 911 call comes in, I'm, you know, instead of a 911 call coming in, going through our beach tent, filtering down to me, I'm—I'm reacting right away.

Q: All right. Would you take the Jet Ski down there?

A: A lot depends on the call. If it was there's somebody on a raft, you know, if there's—a lot depends on the 911 call, itself. Always, we'd go with the—I would go in the Jeep first, because you're going to get your quickest response time with the Jeep in the truck. And you'll get eyes on the situation. A lot of times, you know, the group I

work—the guys I worked with were all really good, and we all knew what we were dealing with. So, if I started down—if they saw the truck going towards the Point, or at Moore's Beach, you know, not in its normal 10 mile an hour pace, they would start to gravitate towards the Jet Ski to get that piece of equipment in motion. So, you know, a 911 call comes in, there's a situation in the Moore's Inlet, the Point, and it's doesn't affect here, we would to the island. I can't—
Q: Champagne Island?

A: Champagne Island.

Q: Yeah.

A: Yeah. Any kind of water emergency, you know, we're going to respond to.

Q: Now, what we've learned from doing research is, it seems like every summer, you're affected or infested with super starts that want to try to go from Moore's Beach over to Champagne Island and back. Is that correct?

A: Well, this actually isn't Champagne Island.

Q: Oh, okay.

A: That's a sand bar that appears at low tide. Champagne Island is more over here. Off the—off the map.

Q: Okay. So, it would be above Exhibit 55?

A: Yes.

Q: Okay. I see.

A: And, yeah, it's—you know, visually, it looks like a 75 to a hundred meter swim.

But—

Q: What is it?

A: Probably 75 to a hundred meters. But it looks like it's a—you know, something you can get to.

Q: I would agree.

A: But—

Q: Because, you know—

A: Right.

Q: That's what I would have thought it was.

A: Yeah. But at high tide, you can't see this.

Q: You can't see Champagne Island?

A: No. You can't see this sand bar right there.

Q: Oh.

A: So, that's only visible at mid to low tide.,

Q: Okay. If you had to give me an estimate of the number of times when you were assigned to the inlet zone before July 27, 2012 that you had to assist in rescues of people who were trying to swim from Moore's Beach to Champagne Island, or back, give me your best estimate. How many times a summer?

A: Twice a week.

Q: Okay. And I have a buddy that was raised down here in Cape May County. And he told—he's a tremendous swimmer, but he was explaining to me how difficult that swim is, because of the currents. Correct?

A: Yeah. It's treacherous.

Q: Okay. Now, in what situations, again, going back to your experience as a lifeguard, would members of the North Wildwood Fire Department have to assist you in effectuating rescues from Moore's Beach to the beginning of the inlet zone?

A: Assist us, or show up?

Q: Or show up.

A: Well, never during a—our working hours. We've never had the fire department show up during—

Q: Okay.

A: -- guarded hours of operation.

Q: Got it. Go ahead.

A: And then whenever there was an after water—an after hours call that came through 911, because the fire—I work with the fire department, also. They're listening to the dispatch, also. So, they're—they're responding, more than likely, whenever it comes through dispatch.

Q: What was your position on the fire department?

A: Part-time. And a volunteer.

Q: Okay. Got you. All right. On what—in what type of situation would you have to request the assistance of North Wildwood

police officers relative to any issues that were happening from Moore's Beach to the beginning of the inlet zone?

A: Only when we were dealing with intoxicated people—on the beach. Never called the police department for a water issue.

Q: Okay.

See Lindsay Dep. 26:24-31:1.

49. Lieutenant Lindsay described the Hereford Inlet Conditions as follows:

Q: Okay. If you had to give me an estimate of the number of times when you were assigned to the inlet zone before July 27, 2012, that you had to assist in rescues of people who were trying to swim from Moore's Beach to Champagne Island, or back, give me your best estimate. How many times a summer?

A: Twice a week.

Q: Okay. And I have a buddy who was raised down here in Cape May County. And he told—he's a tremendous swimmer, but he was explaining to me how difficult that swim is, because of the currents. Correct?

A: Yea. It's treacherous.

See Lindsay Dep. 29:8-20.

Legally you couldn't take dogs there [the Unprotected Inlet Beach]. But it was unguarded, unprotected you know, it wasn't there was no—there was no one there to tell you not to take dogs there.

A: Okay.

A: So, I would hear a lot of times dispatch send down some Class II officers to—because locals might call and say there's a dog on the beach. But, you know, for the most part, it's an area where people would take their dogs and not be hassled as much.

See Lindsay Dep. 34:8-18.

50. On July 1, 2013, Lieutenant Lindsay was recorded by a Mrs. Simpson on the North Wildwood Beach. This conversation was transcribed. See Exhibit "8". Lieutenant Lindsay was questioned about the conversation at his deposition.

51. Attached hereto and made a part hereof as Exhibit "8" is a true and accurate copy of the above referenced transcription.

52. Lieutenant Lindsay made a statement to Mrs. Simpson regarding the number of drowning fatalities on the Unprotect Inlet Beach. When questioned about this statement at deposition, Lieutenant Lindsay testified:

Q:... Now, let me ask you this: you told Mrs. Simpson on the bottom of page 3, "You know, there's seven drownings in nine years."

A: um-hum.

Q: When you say drownings, are they fatalities?

A: Well, to be honest with you, there were four in nine years. What I would do is, I would sit here in my truck, and I would see people down there.

Q: At the Point, you mean?

A: At the Point.

Q: Yeah.

A: And what I would do is, I would go down there, and try to express to the people, you know, how dangerous it is down there. So, when I said that, it was just trying to get people—because I could go down there, tell them what's going on, and on my way back, look in the rearview mirror and they're going right back in the same spot. So, I was trying to convey to her that it's not a place to be swimming.

See Lindsay Dep. 34:20-35:14.

Q: Now, I have highlighted in yellow what I'd like you to look at. It says, "Rescued two boogie boarding adults from the inlet with guard" is that Lydon?

A: Yes, Sir.

Q: All right. Now, I—listen, if you say you don't remember, I can appreciate it.

A: Um-hum

Q: Do you remember this incident?

A: No.

Q: Okay. All right. Now, go to the next exhibit, 33.

A: Um-hum.

Q: Is that your handwriting?

A: No, sir.

Q: All right. That's Lieutenant Taylor again?

A: No. That's Bill Whitey.

Q: Is he still a member of the beach patrol?

A: No. He's in Wildwood.

Q: Okay. He works for the beach patrol there?

A: Yes, sir.

Q: All right. Do you remember this incident, "One inlet rescue, kayak in distress"?

A: No. I'm not on that day. Up top, it has the—the Taylor and—

Q: Yeah. You wouldn't be it?

A: That would be probably my day off.

Q: Okay. Go to 34.

A: Yes.

Q: That's your handwriting?

A: Yes, sir.

Q: All right. And we've highlighted it, it says, "Kite surfer stuck in channel for 15 minutes, para sailboat picked him up and dropped him off at tenth street." Do you remember this?

A: No, I don't.

Q: All right. Can you tell, in looking at this form, where in the inlet this took place?

A: I could guess.

Q: Give your best estimate.

A: I mean—yeah. I would say, more than likely, in this area here.



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See Lindsay Dep. 39:4-40:23.

Q: Two questions. **The Jeep that you were referring to, where was that kept on the beach?**

A: How do you want me to mark—you want me to mark it, or—

Q: Well, okay. Was it in the inlet zone?

A: Yes, sir.

Q: Okay. And, typically, was it at First and Surf?

A: No. We would bring it down, we'd bring the Jet Ski on the trailer, we'd set the—there would be a stand that we would call Second and Ocean.

Q: Right.

A: And we'd have Second and JFK. They were the—the handles on the radio. And we would have a ramp at Second and ocean with the Jet Ski in the ramp, you know, cones, and the truck and the Jet Ski would be at Second and Ocean. So, it would be— [Emphasis Added.]

See Lindsay Dep. 49:18-50:10.

Q: Okay. Now, here's the final thing: I think you've answered this, but you were telling me, if you would ride down on the Jeep to the Point area, and tell people how dangerous it was, as you're driving back, you could see in the rearview mirror that they totally disregarded what you're saying, and they went back in the water. What would you tell the, when you went down there, when they're at the Point, as to why they shouldn't be swimming there?

A: We would tell them that they're in unprotected part of the beach, unguarded part, and that it's not a safe place to swim.

Q: Okay. If somebody was walking at water's edge, would you tell them not to walk there?

A: I couldn't. We just didn't have the—because it was—it's pretty—you know being down there yourself, it's a pretty popular area to walk. A lot of people—a lot

of people that are at the Moore's Beach will walk this way to get a hot dog, a lot of people that are at the inlet beach will walk that way to see the boaters and Jet Skis, and-so, it—you know, it just wasn't—it wasn't—

See Lindsay Dep. 50:10-51:15.

53. Lieutenant Lindsay was asked at his deposition why the Unprotected Inlet Beach remains unprotected despite the number of drowning fatalities and rescues on the Unprotected Inlet Beach. He responded in the following manner:

Q:... You've been very candid and truthful today, and I respect that. And I'm almost finished. I just want to ask you a question. I've been through all of these reports, okay, yours and others. **With all the rescues that are documented, I keep asking myself, why wasn't there a lifeguard stand with lifeguards close to Moore's Beach, as opposed to being at, First and Surf?**

A: First and Surf, yeah. Well, the answer I would give to that question is, when you put a lifeguard stand on the beach, you're telling the public that's a safe place to swim. And that area of the beach is anything but safe. Forget about the currents. It's a boating channel. I explained to my—Will the other day, we joked about, we thought we were going to see Rodney Dangerfield come in on Caddyshack with the horn going, Jet Skis, you know, kite surfers, speed boats. You name it. I mean, you've been down there.

Q: Yeah.

A: On a—on July 4th, it's—we would drive down there, and we'd be like, let's get out of here. It's—as a lifeguard, it was—we didn't want to be anywhere near it. [Emphasis Added.]

See Lindsay Dep. 43:20-44:18.

54. Michael C. Maslowski, a retired New Jersey State Trooper, and member of the Marine Division of the New Jersey State Police, provided a certification dated September 28, 2016.

55. Attached hereto and made a part hereof as Exhibit "9" is the certification of Michael C. Maslowski.

56. In his certification Trooper Maslowski indicates that the Marine Division of the New Jersey State Police has been called in to assist with water rescues of the Unprotected Inlet Beach over the years. See Maslowski Cert. ¶ 7.

57. **When questioned as to whether or not the drop off was a factor in the Smith drowning, Chief Cavalier explained:**

Q: Would I encounter the drop off—in this case, the Sunderland version is that Smith, Sunderland and the children were walking in ankle deep water, parallel to the beach.

A: Yes.

Q: Okay. And two of them just fell away, the beach fell away. And you indicate, you theorized they fell in the drop off?

A: Yes.

Q: Okay. What I'm trying to understand is, would the drop off have been running along the beach, and they got too close to it and slide from the side, or would they have encountered a drop off that ran perpendicular to the direction they were walking? Do you understand what I'm asking you?

A: Do you want me to explain how I think?

Q: Yeah, I do. Yeah. Very much.

A: They were walking along, and they came to the spot where it's—I call a drop off, and it was over their head, and they stepped into it.

See Cavalier Dep.120:20-121:25.

[Emphasis Added.]

58. Chief Cavalier clarified that the drop off is discussed by other lifeguards amongst themselves, and is recognized as a risk to beachgoers, even those who are simply walking at the water's edge:

Q:...and do you discuss where the drop off is with any of your personnel during the course of a summer?

A: No.

Q: Do they discuss it with you?

A: Yes.

Q: Okay. So, the drop off is a phenomenon that the guards will discuss—

A: Yes.

Q: --amongst themselves? And you recognize it as a risk?

A: Yes.

...

Q: You understand that the drop off is a risk to people who are using the beach?

A: Yes

Q: And you recognize that it's a risk that comes up to someone who is simply walking, not swimming?

A: Yes. [Emphasis Added.]

See Cavalier Dep. 122:7-123:4.

59. Chief Cavalier explained why he has recognized this risk for ten years at his deposition:

Q: Is that correct? And how long have you recognized that risk?

A: Ten years.

Q: What caused you to recognize that risk 10 years ago?

A: Some of the rescues we had down there (emphasis added).

Q: Okay. Can you tell me which—what rescues you had, and where they would be documented, that led you to recognize that risk?

A: No. I—it's my own personal experience of going down there, and looking at it.

See Cavalier Dep. 122:7- 123:16.

60. Chief Cavalier was also personally aware of the vortex or whirlpool and explained his knowledge as follows:

Q: Okay. He [Dr. Stewart Farrell] also says that when the back bay is going into the ocean, that there is a vortex or whirlpool in the body water called the Inlet?

A: Yes.

Q: All right. Given the number of years that you have been on the beach patrol, is that vortex or whirlpool created every time the back bay moves out to the ocean?

A: Yes.

Q: All right. I know you're not a research scientist, but what is your understanding of what causes the whirlpool or vortex?

A: I believe it's the bay hitting the ocean at that point.

See Cavalier Dep.43:15-44:5.

Q: All right. How large is this whirlpool or vortex that you have seen in the past in the Inlet?

A: Twenty-five yards.

Q: Okay. And does it appear to be circular.

A: Yes.

Q: Okay. So, the diameter across would be about 25 yards?

A: Yes. I'm sorry(emphasis added).

See Cavalier Dep.45:4-18.

61. Chief Cavalier was of the opinion that an average swimmer could not swim through the vortex or whirlpool, he stated:

Q: That's okay...Could an average swimmer swim through the vortex?

A: No.

See Cavalier Dep. 45:4-46:25.

Q: Okay. So, at Moore's Beach, before July 27, 2012, was that area consistently 50, 60 feet deep?

A: Yes.

Q: All right. For what length?

A: Twenty yard, twenty-five yards.

See Cavalier Dep. 53:12-16.

Q: Okay. And Dr. Farrell, in one of his statements, and hopefully we can get to it today, he says that sometimes when the back bay is going to the ocean, that the water is moving at five miles per hour, the water that's going out to the ocean.

Q: Would you agree with him?

A: Yes.

Q: Would you agree that it could be more than five miles per hour?

A: Yes.

Q: Ten miles per hour?

A: No, not—not that—

Q: Somewhere between five and ten miles per hour?

A: Yeah.

See Cavalier Dep. 60:16- 61:6.

62. Lieutenant Lindsay, who is of the opinion that the Unprotected Inlet Beach needs to be shut down to prevent future drownings, clarified at his deposition that he believes the reason the beach has not been shut down is because the local establishments and people would be against the beach closure. Lieutenant Lindsay described his reasoning as follows:

Q: ...What was the pressure that whomever that was associated with the bars was putting on to keep Moore's Beach open, as opposed to closing it?

A: Well, to be honest with you, I—I don't know any pressure. When I was in that conversation [the recorded conversation with Mrs. Simpson] I was really just talking about my own personal opinion. And what I

did a lot with—and you, know, I still to that day feel the same way, it has nothing to do with how the city or the bartenders—the bar owners, but it's just my personal opinion would be that if you were to—if you were to shut that section of the beach down, which is really the—the only way you're going to prevent another drowning, and everything I say there, you know, I'll stand by. I would have told Mrs. Simpson---

Q: Right.

A:-- the same thing if she told me she was with you guys.

Q: Right.

A: So, it's not a matter of any of the bar owners, or anyone. It's just my personal opinion that if you were to shut down this section of the beach—

Q: Right.

A:--which, and you said you were there in the—you know, the peak of the summer, I don't know the bar owners that are right over the bulkhead would be too happy. And I know for a fact that the—the local people, who go to that beach, just to get away from the lifeguards, you—you know, you wouldn't have a happy bunch of people.

See Lindsay Dep. 32:11-33:18 [Emphasis Added.]

63. Lieutenant Lindsay expressed extreme concern regarding the lack of warning to beachgoers such as Brad Smith. He truly believes that the only way to prevent another drowning at the Unprotected Inlet Beach is to close the beach completely. Lieutenant Lindsay testified in the following manner:

Q: Well, what warnings are there to people like Brad Smith, who's walking with his daughter down the beach, to say that there could come a time where

you're going to walk into 10 foot deep water when you're only walking in ankle deep to mid calf water? There's no warning?

A: No. The signs we put up, dangerous currents. But—

Q: But you wouldn't see them if you're walking from a protected beach to where the event took place?

A: No. Nope (emphasis added).

Q: All right. Here's another thing I asked myself. And it's easy for me to ask questions, and it's tough for people to provide answers. I realize that. What do you think, given all your experience on the beach patrol, and especially with this area that we've been talking about, how do we prevent another Brad Smith from drowning?

...

A: Yeah. You know, being a lieutenant down there for so long, and being on a lot of these drownings, you know, I asked myself the same thing. And I think the only way to prevent it is to shut the beach down completely (emphasis added). I mean, fences, you know, guard dogs, 24/7. Not even—not even walking down there. Because there's—you know—

Q: In a perfect world, if—if you were king, where would you shut the beach off;; from what point to what point?

...

Q: What you're saying is you'd have to close the beaches from Moore's Beach to the inlet zone, where it starts?

A: Yes.

Q: Okay.

A: And no one step a foot on—on the sand. See Lindsay Dep. 45:10- 47:13.

Q:... What would you tell them when you went down there, when they're at the Point, as to why they shouldn't be swimming there?

A: We would tell them that they're in unprotected part of the beach, unguarded part, and that it's not a safe place to swim.

Q: Okay. If somebody was walking at water's edge, would you tell them not to walk there?

A: I couldn't we just didn't have the—because it was—it's pretty—you know being down there yourself, it's a pretty popular area to walk. A lot of people—a lot of people that are the Moore's Beach will walk this way to get a hot dog, a lot of people that are at the inlet beach will walk that way to see the boats, and Jet Skis, and—so, it—you know, it just wasn't—it wasn't—

Q: Yeah. The Chief touched on that. Not enough manpower, or woman power.

A: Right.

Q: To be politically correct. The—when people would walk from Moore's Beach south, where would they go to get a hot dog?

A: There was a stand—there's a stand at First and Surf, and also one at Second and JFK.

Q: Okay. In a perfect world, if North Wildwood had an unlimited budget, would you, if you were the chief, have lifeguards walking on foot between Moore's Beach and the beginning of the inlet zone to warn people about that even walking in ankle deep water could be dangerous.

A: Not lifeguards. Police.

Q: Who would you—If you would have to have police department. Because you'd have too much of a confrontation with—with the beach patrol.

...

A: Yeah. I mean, you'd have to really, it would be like a military state. You'd have to—you would get a—have such a problem with locals. That's their beach. They—you know, they think, you know.

Q: Um-hum. You know, I'm going to leave this up to you if you want to answer it or not. Mrs. Smith, her sole motive by this

litigation is never to let this happen to another family, to lose, you know, a husband, two young—you know, a father to, you know—to two young kids. You don't have to answer if you don't want to.

A: Um hum.

Q: And nobody's blaming you please, think about this whole thing.

A: Oh, I know.

Q: What would you say to her about the future for—to prevent this from happening again?

A: Yeah. You know, it definitely wasn't an easy thing for me. I would tell her I don't know what the answer is. And I sat—I sit on the beach eight hours a day, six days a week. And knowing how dangerous it is down there, trying to do my best. And you know, I know, our response team couldn't have done a better job. There was a Jet Ski on scene.

Q: Yeah.

A: That was right there.

Q: Right, yeah, we know.

...

A: What it is, is you put big fences, electrical fences with guard dogs, and police, and you don't let people in there. That's—that's what it comes down to.

See Lindsay Dep. 51:8-54:8

64. An extensive amount of depositions were taken, and almost every city official was asked about their personal knowledge of the dangers which are present on the Unprotected Inlet Beach.

65. Former City Administrator Louis Belasco responded in the following manner:

Q: ... Being a resident of North Wildwood, and you're maturing through grammar school and high school and college, were there any dangers to the inlet beach area, and including the inlet that runs adjacent to

it, that you became aware of, as someone living there?

...

A: Well, all inlets are inherently dangerous, mostly due to the currents that run through them.

See Belasco Dep. 15:5-15.

66. Attached hereto and made a part hereof as Exhibit "10" is a true and accurate copy of the deposition transcript of Louis Belasco.

67. Carl Delinski, Jr., the Supervisor of Public works in North Wildwood, testified in the following manner:

Q: Okay. Now, given your employment with the city over the years, have there been times that the Inlet Beach and Moore's Inlet Beach changes in size?

A: Constantly.

Q: Okay. And why is that?

A: I would guess because of the inlet, itself.

Q: Yeah.

A: The tides that run through the inlet. It's constantly changing. The whole beach, actually, not just there. Even our beach front, the big beach. But that's—from day to day, it could be different when you go down there.

Q: All right. We've taken a lot of depositions, we also took the deposition of Chief Cavalier of the beach patrol, so all of us lawyers know—we've learned a lot about the inlet, Hereford Inlet, and the beaches there. Just given your experience with that inlet, itself, is there something unique about the inlet waters there?

A: The tides are terrible there. I mean it—that's where the water fills the back bay, and empties. So, it rips through there like really bad. I mean (emphasis added).

See Delinski Dep. 15:3- 16:3.

Q: All right. We took the deposition of Chief Cavalier, who was talking about

when the back bays are going into the ocean, that you can literally see—

A: Oh, yeah,

Q: --a vortex?

A: Yes,

Q: All right? He described it for us in pretty good detail. Have you ever seen this vortex?

A: Sure.

Q: Okay. And does it typically occur when the back bays are going into the ocean?

A: I would think, yeah, on the outgoing tides.

Q: Yeah. Outgoing from the bay to the ocean?

A: From the bay into the ocean, yeah.

Q: And is it there every day when the back bays are going into the ocean?

A: I would think in spots, yes.

Q: And what does it look like?

A: Whirlpool. Just a big vortex, like you said. You could actually see the water spinning (emphasis added).

See Delinski Dep. 16:18 – 17:15.

68. Attached hereto and made a part hereof as Exhibit "11" is a true and accurate copy of the deposition transcript of Carl Delinski, Jr.

69. Chief of the North Wildwood Police Department, Matthew Gallagher, testified in the following manner:

Q: Okay., are you aware of any dangers of what—of the beach that you circled in blue, which was Moore's Beach, on Exhibit 58, of the beach collapsing?

A: I was called down to Moore's beach, I don't know remember the year, where they actually did close off the beach for a little while, because there was—sand was collapsing into the ocean.

Q: Okay. And what year or years was that?

A: I don't recall.

Q: Best estimate?

A: within the last five years. [Emphasis Added.]

See Gallagher Dep. 22:21- 23:8.

Q: Okay. Now, from the time you became a police officer in 1987, until the time of the drowning of Brad Smith, had you ever been involved in the investigation of any drowning off of the area which we have called Moore's Beach, Inlet Beach, and Second Avenue?

A: Yes.

Q: How many?

A: Two.

Q:.. The first drowning that you were involved in was which one?

A. It was during firemen's weekend, and there was a group playing horseshoes, and somebody tried to—they were drinking alcoholic beverages, they tried to swim out to the island on a bet.

Q: Okay. And the second one?

A. The second one was—I was notified of it. I wasn't directly involved in it. It was a Greek woman, who had been—I don't recall the name.

See Gallagher Dep. 13:20-15.

Q: Okay, none. Okay. During the period that we're talking about, what involvement, if you can speak to this, did the North Wildwood Police Department have with respect to the beaches that we're talking about?

A: We do—during the summer months, we have patrol on the beaches, two officers assigned for patrol. But it's just not that area. It's the complete beach.

Q: Okay. Anything else?

A: No.

Q: All right. During the time interval that we're talking about, would there be situations that the North Wildwood Police Department would assist the

North Wildwood lifeguards, the beach patrol, with respect to the area that we've been talking about, as noted in Exhibit 58?

A: Well, if we had any calls, they would come in through dispatch, or they could come in from Chief Cavalier, or the beach patrol, and we will respond to assist them, yes,

Q: All right. Can you give me the buffet of activities that you would assist in? That is, when I say you, the North Wildwood Police Department.

A: Alcohol on the beach.

Q: Okay.

A: Rowdy groups, lost children, lost property, underage drinking.

See Gallagher Dep. 15:7-16:9.

Q:... did the police officers at any time, from 1987 until the date of the Brad Smith drowning, ever use a quad or any type of motor vehicle to patrol the beach?

A: Yes.

Q: And what type of vehicle did they use?

A: Well, we use quads.

Q: Right.

A: Yea, we use quads. A couple years ago, we went to a Polaris, but I don't know if it was before 2'12 or after 2'12, 2012.

See Gallagher Dep. 17:11-21.

Q: Okay. Before 2012, from 1987 up until the Brad Smith drowning, did—I thought you said there was officers that would patrol the entire North Wildwood Beach, including Moore's and the Inlet Beach?

A: On quads, correct.

See Gallagher Dep. 19:11-16.

70. Attached hereto and made a part hereof as Exhibit "12" is a true and accurate copy of the deposition transcript of Matthew Gallagher.

71. Mayor of North Wildwood, Patrick Rosenello was deposed on March 10, 2016. He testified as follows:

Q: All right. This is kind of a follow-up question to something I asked you about 15 minutes ago: Looking at that body of water called the inlet, and given the fact that you started living in North Wildwood at age four. Right? Up until July 27, 2012, the drowning of Mr. Smith, what have you, personally, observed about the inlet, itself, the body of water, relative to the- I'll be a little bit more specific—relative to how the actual channel moves?

A: Right. It changes on an almost daily basis. There are what I call shoals or sand bars that come and go. This large piece of sand you see up here and coming off the bottom of Stone Harbor didn't exist five years ago, and it might not exist tomorrow. The inlet beach that we're talking of didn't exist until probably the late '80s, maybe, mid to late '80s. There was no sand accumulated there. So, it—it—the whole—the whole area changes on a—I say on a daily basis. I still live in an area where I can see the inlet. And literally on a daily basis.

See Rosenello Dep. 29:12-30:7.

Q: Okay. All right. Now, let's talk about the particular activities that take place on that beach. We supplied Mr. Barker with certain photographs showing police officers walking on what you would call Moore's Beach, okay, in the summertime. And there's some testimony that you instituted—was it you or Mayor Henfey that instituted that procedure?

A: The walking beats?

Q: Yeah.

A: That was something that I instituted.

Q: Okay. And that would have been the summer of what season; '14, '13'?

A: '14.

Q: Okay. And why did you institute these patrols, if you will?

A: We instituted walking patrols on our entire beach, primarily to address the issue of the open display of alcoholic beverages.

Q: Okay.

A: And—

Q: Okay. Before July 27, 2012, did you personally ever observe police officers of the North Wildwood Police Department patrolling the beaches of North Wildwood? Just walking?

A: Not walking.

Q: Okay.

A: No.

Q: Were they on quads?

A: They were usually in some type of a vehicle, yes.

Q: Okay. And was it customarily one officer or two officers?

A: Customarily—I would say it would be two.

Q: Okay. And would they patrol on quads to what you have called the inlet beach area on that exhibit?

A: I witnessed police officers on quads in this guarded area. I can't definitively say that I saw them anywhere else prior to that.

See Rosenello Dep. 20:23-22:11.

Q: Now, given—given your personal and governmental experience with this—the beach that we've been talking about, do you know what those men are doing?

A: Looks like they are constructing a small protective dune in front of the vehicle access at either Ocean Avenue or Surf Avenue.

Q: Okay.

A: There are two entrances—there are two vehicular accesses to the inlet beach, one's at Ocean Avenue, one's at Surf, and it's hard—I believe, because of where the picture is taken from, it's most likely the Ocean Avenue access to the inlet beach is what that is a picture being taken of.

See Rosenello Dep. 67:5-68:18.

Q: All right. Were you aware, before July 27, 2012, of the time that no one was permitted to be on the beaches of North Wildwood at night?

A: I believe it's ten p.m. until six a.m.

Q: Okay.

A: That's my best recollection.

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Q: I'm sorry. I didn't mean to speak over you.

A: That's all right.

Q: Were you aware, before July 27, 2012, that North Wildwood police officers in the summertime would patrol the beach to make sure that no one was violating the curfew of ten p.m. until six a.m.?

A: Yes.

Q: Okay. Were you aware that it's been testified that they also patrolled what you call the inlet beach, including Moore's Beach?

A: That, I cannot specifically say I was aware of.

Q: Okat. Let me just check my notes. I'm almost done.

A: Can I make a—just a—it may be important, it may not be.

Q: Go ahead.

A: In the guarded area of the inlet beach, because of the way it sets up, there's actually street lights that cast lights onto the beach there. A lot of times, people from motels will be playing volleyball and things of that nature at that location in the evening. And I don't know that the police would kick them off the beach at 10 o'clock. Because the areas up by the sea wall. That's—the only reason I mean that because is because that's the only recollection I have of people being on that beach later in the evening.

72. Attached hereto and made a part hereof as Exhibit "13" is a true and accurate copy of the deposition transcript of Patrick Rosenello.

73. On May 23, 2016, superintendent of Public Works, Harry Wozunk in his deposition testified as follows:

Q: Okay. Now, before July 27, 2012, when you were superintendent of Public Works for North Wildwood, did you ever see police officers patrolling Moore's Inlet, as you see in that photograph that's in your hand?

A: Have I seen police in the area, yes.

Q: How about on the beach?

A: On the sand, yes.

Q: Okay. Fine. Now, did the employees of the North Wildwood Public Works

Department pick up trash on the beach that is shown in Delinski-5 and Delinski-6?

A: Employees of North Wildwood Public Works would pick up trash on the inlet section by hand, yes.

See Wozunk Dep. 8:18-9:7.

Q: All right. Now, what, if anything, did the employees of the Public Works Department do with respect to the Inlet Beach?

A: They would hand—walk the area, and police for trash. From there, there was an outfall pipe in the area, at the bend off of Central Avenue. We would have to periodically maintain that. We would use a backhoe, or a front end loader to open that up, when needed.

See Wozunk Dep. 10:12-20.

Q: Okay. When, with your history with North Wildwood, did you become aware of the vortex or whirlpool?

A: Through my tenure in Public Works, I've heard of the vortex years ago with—and I'm pretty sure you—I don't know if you've had him here for it, but Dr. Farrell. We've talked about the inlet with the sand migration, and so forth, between Stone Harbor and North Wildwood. As I said, I was previously employed with Stone Harbor, so I dealt with Dr. Farrell there on trying to maintain our beaches there. And then coming over to North Wildwood, had the same information. We always talked about the sand migration, always had an impact through the Hereford Inlet water channel. With that, knew about the vortex thatm this being called a vortex, is the water ebb tide from the mass of body of water changing from high tide, low tide on the in and out. Came familiar with that one evening, one afternoon, when I was in town late, and got called about—from residents at New York Avenue, who thought something mysterious was happening with water boiling and so forth. And upon looking on the beach and so forth, we found



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Suite 200
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out the beach was actually—beach area, sand area at Pine and New York actually had a 12-foot cliff, the sand was taken out, the whole corner in that area. That's when it was very obvious of a vortex and so forth to actually create a suction and remove the material in that area.

Q: What year is that, approximately?

See Wozunk Dep. 19:2-20:6.

Q: All right. Now, the next bullet point is, "Henfey," referring to the former mayor, "referred to the area of Inlet Beach and Moore's Beach as an attractive nuisance."

A: Yes.

Q: That happens to be a legal term, and it also is something that laypeople would also say. What did he mean when he said it was an attractive nuisance?

A: I believe, in the discussions that we've had with that, the attractive nuisance was a catch phrase that we would use for an area that is attracting people, and we don't have much of the right or responsibility to the area.

See Wozunk Dep. 29:17-30:7.

Q: Do you have an opinion as to whether people should be permitted to sit on the beach in what we were calling Moore's Inlet? Is it safe for them to do so?

A: Not knowing the conditions of every day, it would be up to them.

Q: Well, you mentioned how you placed the block and the ball, and it was swallowed up by the—the sand. **Did that experience lead you to have concerns about the safety of people walking on the water's edge at the Inlet Beach or Moore's Inlet?**

A: It's—yeah, it's an inlet moving water. I'd have concerns with anybody being there.

See Wozunk Dep. 36:9-23. [Emphasis Added.]

74. Attached hereto and made a part hereof as Exhibit "14" is a true and accurate copy of the deposition transcript of Harry Wozunk.

75. On March 2, 2016, Ronald Simone, the Mayor of North Wildwood's Administrative Assistant and a former North Wildwood Beach Patrol member in his deposition testified as follows:

Q: Why would they post two lifeguard stands at the beach around First and Surf, as opposed to one?

A: Probably for manpower needs. They did operate a Jet Ski at that location, so they needed you know, extra manpower to push the Jet Ski out when there was an immediate emergency in that area.

See Simone Dep. 16:12-17.

Q: During the time period that I'm referring to, 2007 until July 27, 2012, would you personally observe police officers of the North Wildwood Police Department having to provide services in the inlet zone area?

A: I'm sure they drove by the inlet zone with quads. I personally didn't witness, you know, any occasions where police were driving the quad around the inlet. I mean, I've heard of—

Q: Okay.

A: --police officers patrolling that area, though.

Q: Those quads that you refer to, we have a picture or two of those, what do you call them; police quads—

A: I always just called them quads. Police four wheel terrain vehicles.

Q: Okay. Did the North Wildwood Beach Patrol, when you were a lifeguard, have its own quads that is could patrol?

A: I think we had one.

Q: Okay. And where was it typically stationed?

A: It would vary, I believe. You know, I never operated the quad. I'd see it down south, around 22nd Avenue...
See Simone Dep. 25:9-26:8.

76. Attached hereto and made a part hereof as Exhibit "15" is a true and accurate copy of the deposition transcript of Ronald Simone.

77. Ronald Simone also created an Exhibit which shows the plotting of rescues and/or fatalities on North Wildwood Beach from summers 2010 through 2015.

78. The aforementioned exhibit is attached hereto and made a part hereof as Exhibit "16".

79. The former Mayor of North Wildwood, William Henfey, is quoted in the September 26, 2012 issue of the Cape May County Herald as saying: "there's a vortex that's created in our inlet, we have competing inlets coming out of Hereford Inlet and it's causing a whirlpool effect there." See Exhibit "17".

80. Attached hereto and made a part hereof as Exhibit "17" is a true and accurate copy of the above referenced article.

81. The Hereford Inlet Lighthouse information packet states: "...strong currents and shifting sandbars near the entrance to the inlet caused frequent groundings and shipwrecks. Because of this, in 1849, a Life Saving Station was constructed along the sought bank of the Hereford Inlet." See Exhibit "18".

82. Attached hereto and made a part hereof as Exhibit "18" is a true and accurate representation of the above referenced pamphlet.

83. In a December 17, 2013, report the U.S. Army Corps of Engineers it states that, "Tidal currents may cause tangible effects on shore stability and water quality. These are tidal driven water level differences between the ocean and back bay areas. The periodic rise and fall of the ocean water elevation adjacent to barrier islands, creates the ebb and flood cycle of tidal currents. See Exhibit "19" p. 59.

84. Attached hereto and made a part hereof as Exhibit "19" is a true and accurate copy of the above referenced report.

85. Unfortunately, the Smith drowning was not the only drowning which occurred as a result of the drop off on the Unprotected Inlet Beach.

86. On June 30, 2009, after the lifeguards had left for the day and signaled everyone out of the water, three women began to enter the water. See Exhibit "20".

87. Attached hereto and made a part hereof as Exhibit "20" is a true and accurate copy of the North Wildwood Police Department Investigation Report from July 13, 2009 regarding the Hart and Watkins drownings.

88. On August 31, 2016, the survivor of that incident, Domonique McNeil was deposed in connection with this matter's companion wrongful death case.

89. Attached hereto and made a part hereof as Exhibit "21" is a true and accurate copy of the deposition transcript of Domonique McNeil.

90. While the women were standing at the water's edge, the first woman, Domonique McNeil, moved about two feet to the left and fell as a result

of the drop off. Ms. McNeil described this feeling as “a false bottom.” See McNeil Dep. 43:7-10

91. Shortly after Ms. McNeil fell into the water, her two relatives, Jamilah Watkins and Shayne Hart were also pulled in while trying to help Ms. McNeil out of the water. See McNeil Dep. 23:3-19

92. Eventually, the three were separated, and Ms. McNeil described the water as feeling, “like a twister, an underwater twister, but at the same time it was like pushing and pulling.” See McNeil Dep. 46:11-15.

93. McNeil went on to explain, “... if I tried to move, I wasn’t going anywhere. Like I was kind of trapped where I was at, and then it was more just waves. Like I don’t know, the water went from zero feet to like bottomless.” See McNeil Dep. 47:3-7.

94. She reached a man on the beach and he called 911. However, the two had lost sight of Ms. Watkins and Ms. Hart. See Exhibit “20”.

95. The two young women were recovered from the water by emergency personal and transported to the hospital where they were eventually pronounced dead. See Exhibit “20”.

96. Additionally, as discussed in Exhibit “4” another woman drown in July of 2011. Her belongings were found on the Unprotected Inlet Beach.

97. Nevertheless, the City of North Wildwood promotes itself as a safe destination for families. In an article entitled, “Things to do in North Wildwood, NJ,” posted on the USA Today website, it is noted that “Moore’s Inlet is the only

beach in the Wildwoods that allows dogs and barbecues. It's a good spot for fishing and renting personal watercraft." See Exhibit "22".

98. Attached hereto and made a part hereof as Exhibit "22" is a true and accurate copy of the above referenced article.

99. J. Richard Weggel, Ph.D, P.E., D.CE., has opined that due to the hazards at the Unprotected Inlet Beach, discussed in his report dated April 19, 2016, compel him to strongly recommend the Unprotected Inlet Beach at Hereford Inlet, North Wildwood, NJ, be closed.

100. Attached hereto and made a part hereof as Exhibit "23" is a true and accurate copy of two Certifications executed by Professor Weggel which include Report, Addendum Report, and Curriculum Vitae, and photographs which Professor Weggel will utilize if asked to testify at a hearing.

101. Professor Weggel stated, "the fact that steep slopes appear on all six surveys [which he reviewed] indicates that the conditions are persistent. See Weggel Addendum 7/18/16.

102. The dangerous slope conditions are below the water line and are not visible to pedestrians walking on the beach. Furthermore, they are not generally predictable although they probably occur most frequently during ebb current flows in the inlet." See Weggel Addendum 7/18/16.

103. Dr. Weggel further advised, "I personally would not walk near the water line on the beach and I would advise my friends and loved-ones to stay away from this area." See Weggel Addendum 7/18/16.

104. Dr. Weggel also explained, "I am bound by the Code of Ethics of the American Society of Civil Engineers to hold paramount the safety, health, and welfare of the public. I believe that the city inlet conditions are a threat to public safety." See Weggel Addendum 7/18/16.

105. In his November 16, 2016, report Dr. Thomas Griffith opined:

From the outset, it was my professional opinion that the beach should have been closed to all users prior to the date of Brad Smith's drowning. It is my professional opinion that if and only if complete closure of the beach was absolutely not an option, effective barriers and layers of protection should have been in place to protect the public from entering the area at the time of Brad Smith's drowning. No reasonable accident prevention methods exist which would eliminate the risk of serious injury or death on the Unprotected Inlet Beach. **In my professional opinion the only way to be certain another person will not drown as a result of the clear and present dangers on the Unprotected Inlet Beach is to permanently close the beach to the public.**

Members of the North Wildwood Beach Patrol, including Chief Cavalier and Lieutenant Lindsay sought to provide some form of warning and protection to the beachgoers on the subject area of the beach. They did so by regularly monitoring the police scanner in order to be instantaneously informed of any drowning situations off of the inlet beach. In addition, the lifeguards routinely drove the North Wildwood Beach Patrol truck to the subject area of the beach and attempted to make people aware of the dangers of swimming in the waters there. Furthermore, the lifeguards consistently performed "prevents" at the Unprotected Inlet Beach in an attempt to keep people out of the water. By regularly performing such actions Chief Cavalier, Lieutenant Lindsay, and other members of the North Wildwood Beach Patrol voluntarily undertook supervision of the Unprotected Inlet Beach while in the scope of their employment as North Wildwood Beach Patrol members.

Some of the actions taken by Chief Cavalier, Lieutenant Lindsay, and other members of the North Wildwood Beach Patrol are in line with my suggestion that lifeguards could

have and should have patrolled this area during the day especially when the tide was running out. **However, in my professional opinion the actions taken by Chief Cavalier, Lieutenant Lindsay, and other North Wildwood Beach Patrol members were negligent in that they failed to adequately patrol and warn of the specific dangers, namely the invisible drop off and whirlpool or vortex which were and are present on the Unprotected Inlet Beach. Knowing the dangers present on the beach, the lifeguards should have had a constant physical presence on the beach and provided warnings of the dangers associated with simply walking in ankle deep water on the beach. As a direct and proximate cause of the negligence of Chief Cavalier, Lieutenant Lindsay, and other members of the North Wildwood Beach Patrol Brad Smith was caused to drown resulting in his death. See Exhibit "24" p. 15-6.**

106. Attached hereto and made a part hereof as Exhibit "24" is a copy of Dr. Thomas Griffith's November 16, 2016, report.

107. On July 13, 2005, the City of North Wildwood was granted a permit pursuant to the Coastal Permit Program Rules at N.J.A.C. 7:7-7 and in accordance with the Coastal Area Facility Review Act N.J.S.A. 13:19 et seq. and/or the Waterfront Development Law N.J.S.A. 12:5-3. See Exhibit "25".

108. Attached hereto and made a part hereof as Exhibit "25" is a letter from the State of New Jersey Department of Environmental Protection evidencing said permit and setting forth its parameters.

109. Pursuant to the permit, the City, "must also provide customary lifeguard services for members of the public who use the ocean areas up to the high water mark regardless of whether they are just passing through or remaining on the beach area." See Exhibit "25" p. 2 ¶4.

110. This permit has been renewed on a continuing basis.

111. The 2010 Comprehensive Master Plan Update City of North Wildwood, Cape May County, New Jersey states that, “the Hereford Inlet is an ever changing tidal channel whose waters, until recently, threatened to claim the lands along the City’s northern edge. The Inlet Conservation Zone was crafted to recognize the natural environment along Hereford Inlet and to limit the land uses permitted in this area accordingly.” See Exhibit “26” p. 230-231 ¶ b.(1)

112. Attached hereto and made a part hereof as Exhibit “26” is a true and accurate copy of the “2010 Comprehensive Master Plan Update, City of North Wildwood, Cape May County, New Jersey.”

113. The Master Plan also states, “the City has gained significant beach along Hereford Inlet~ between 2nd Avenue and the Hereford Inlet Lighthouse at Central and 1st Avenues. The Inlet beach, known locally as Moore’s Beach, has lost some width but remains stable. Where the low water line was once located at the Seawall, the City now enjoys a wide beach-front along the inlet; thereby creating an intertidal environment. Atmospheric events routinely alter the natural features of the shoreline and threaten people and property.” See Exhibit “26” p.510 ¶1-2.

114. Further, the Master Plan explains, “While the beach has had a long history of accretion, a sustained period of erosion began in 1998. Since then, the City’s beaches have witnessed severe retreat, especially along the North end... the beach saw over 200 cubic yards of sand move to Hereford Inlet or south into Wildwood (city) since 2001” See Exhibit “26” p. 509 §12.2.3 (A.)

Kasi M. Gifford, Esquire- ID #152582015
D'AMATO LAW FIRM, P.C.
2900 Fire Road, Suite 200
Egg Harbor Township, New Jersey 08234
609-926-3300
Attorney for Plaintiffs

**SANDRA SMITH, INDIVIDUALLY AND AS
EXECUTRIX OF THE ESTATE OF GEORGE
BRADLEY SMITH,**

Plaintiffs,

-vs-

**CITY OF NORTH WILDWOOD, STATE OF
NEW JERSEY;**

Defendants.

**SUPERIOR COURT OF NEW JERSEY
CAPE MAY COUNTY
LAW DIVISION**

DOCKET NUMBER: CPM-L-331-14

CIVIL ACTION

**ATTORNEY CERTIFICATION OF
EXHIBITS**

Kasi M. Gifford, Esquire, of full age, hereby certifies:

1. I am a member of the law firm of D'Amato Law Firm, P.C., Attorneys for Plaintiff, Sandra Smith, individually and as Executrix of the Estate of George Bradley Smith, and am entrusted with the preparation of this case.
2. Attached hereto and made a part hereof at Exhibit "27- Exhibit 41" are true and accurate copies of still aerial photographs of the Hereford Inlet taken by a drone on July 31, 2014.
3. Attached hereto and made a part hereof at Exhibit "42" is a true and accurate copy of the Aerial Video Examination of the Hereford Inlet taken by drone on July 31, 2014.
4. Attached hereto and made a part hereof at Exhibit "43" is a true and accurate copy of Cape May County Planning Department Aerial Photographs of the Hereford Inlet from 1920 through February 22, 2013.
5. Attached hereto and made a part hereof at Exhibit "44" are true and accurate copies of Aerial Photographs taken from Helicopter of the Hereford Inlet on March 1, 2016.
6. Attached hereto and made a part hereof at Exhibit "45" is a true and accurate copy of a photograph which illustrates two City of North Wildwood Police Officers patrolling the Beach on June 20, 2014.



2900 Fire Road
Suite 200
Egg Harbor Township, NJ 08234

7. Attached hereto and made a part hereof at Exhibit "46" is a true and accurate copy of a photograph which illustrates City of North Wildwood Public Works employees working on the Inlet Beach on June 20, 2014.
8. Attached hereto and made a part hereof at Exhibit "47" is a true and accurate copy of North Wildwood Resolutions designating the Lifeguard Protected Beaches from the years 2004 to 2011.
9. Attached hereto and made a part hereof at Exhibit "48" is a true and accurate copy of the North Wildwood, New Jersey 2016 Information and Recreation Guide.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.



Kasi M. Gifford, Esquire
Attorney for Plaintiff

Dated:

D'AMATO
LAW FIRM
COUNSELORS AT LAW
A PROFESSIONAL CORPORATION

2900 Fire Road
Suite 200
Egg Harbor Township, NJ 08234

D'AMATO LAW FIRM

Paul R. D'Amato, Esquire-NJ ID# 006901974

2900 Fire Road, Suite 200

Egg Harbor Township, New Jersey 08234

609-926-3300

Attorney for Plaintiffs

**SANDRA SMITH, INDIVIDUALLY AND
AS EXECUTRIX OF THE ESTATE OF
HER LATE HUSBAND GEORGE
BRADLEY SMITH,**

Plaintiffs,

-vs-

**CITY OF NORTH WILDWOOD, STATE
OF NEW JERSEY, JOHN DOE, MARY
DOE, ABC PARTNERSHIPS and XYZ
CORPORATIONS,**

Defendants

**SUPERIOR COURT OF NEW JERSEY
CAPE MAY COUNTY- LAW DIVISION**

DOCKET NUMBER: CPM-L-331-14

CIVIL ACTION

ORDER

THIS MATTER having been opened to the Court by all counsel, and for
good cause having been shown;

IT IS HEREBY ORDERED and ADJUDGED this _____ day of
_____2017, as follows:

1. Defendant City of North Wildwood's Motion for Summary Judgement is hereby DENIED; and
2. A copy of this Order shall be served on all Counsel of Record within (7) days.

Honorable John C. Porto, J.S.C.

**D'AMATO
LAW FIRM**

COUNSELORS AT LAW
A PROFESSIONAL CORPORATION

2900 Fire Road
Suite 200
Egg Harbor Township, NJ 08234



Exhibits 1-12

1 SUPERIOR COURT OF NEW JERSEY
2 LAW DIVISION - CAPE MAY COUNTY
3 DOCKET NO. CPM-L-331-14

4 SANDY SMITH,
5 Individually and as Executrix
6 of the Estate of her late husband,
7 George Bradley Smith,
8 Plaintiff

9 vs.

10 CITY OF NORTH WILDWOOD,
11 STATE OF NEW JERSEY,
12 JOHN DOE, MARY DOE,
13 ABC PARTNERSHIPS
14 and XYZ CORPORATIONS,
15 Defendants

16 * * *

17 Videotape Oral Sworn Deposition of
18 SCOTT SUNDERLAND, held at the D'Amato Law
19 Offices, 2900 Fire Road, Suite 200, Egg Harbor
20 Township, New Jersey, on Tuesday, March 22,
21 2016, commencing at 11:13 a.m., before Lisa
22 Reagan, CCR in the State of New Jersey, there
23 being present:

24 * * *
25 WORD FOR WORD REPORTING, LLC
CERTIFIED COURT REPORTERS
6 NORTH BROAD STREET
SUITE 202
WOODBURY, NEW JERSEY 08096
PHONE: (856) 384-2770
FAX: (856) 384-2779
email: office@word4word.net

WORD FOR WORD REPORTING, LLC (856) 384-2770

INDEX

* * *

WITNESS: SCOTT SUNDERLAND

| | |
|----------------|---------|
| EXAMINATION | PAGE |
| BY MR. HUNKINS | 4, 104 |
| BY MR. BARKER | 25, 142 |
| BY MR. D'AMATO | 120 |

EXHIBITS

* * *

| NUMBER | DESCRIPTION | MK'D |
|-----------------------------|---|------|
| Sunderland-10 | Photograph..... | 4 |
| Sunderland-11 | North Wildwood Police Department Supplemental Report..... | 55 |
| Sunderland-12 | Report prepared by North Wildwood Investigator Richard Schmidt..... | 63 |
| Sunderland-13 | Newspaper Article..... | 92 |
| Sunderland-14 through 25 | Set of Enlarged Photos..... | 120 |

| REQUESTS FOR PRODUCTION | |
|-------------------------|------|
| PAGE | LINE |
| 109 | 8 |

WORD FOR WORD REPORTING, LLC (856) 384-2770

APPEARANCES:

D'AMATO LAW OFFICES
BY: PAUL R. D'AMATO, ESQUIRE
2900 Fire Road, Suite 200
Egg Harbor Township, New Jersey 08234
and
BARRY, CORRADO, GRASSI & GIBSON, P.C.
BY: JOSEPH C. GRASSI, ESQUIRE
2700 Pacific Avenue
Wildwood, New Jersey 08260
Attorneys for the Plaintiffs

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF LAW
BY: BRIAN HUNKINS, DAG
R.J. Hughes Justice Complex
25 Market Street
Trenton, New Jersey 08625
Attorneys for the Defendant
State of New Jersey

BARKER, GELFAND & JAMES
BY: A. MICHAEL BARKER, ESQUIRE
210 New Road
Linwood, New Jersey 08221
Attorneys for the Defendant
City of North Wildwood

Also Present: Tom Zanaras, Videographer
Lou DiJoseph, Investigator

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(Photograph was marked for
purposes of identification as Exhibit
Sunderland-10.)

THE VIDEOGRAPHER: Today is
March 22nd, 2016. This is the videotape
deposition of Scott Sunderland. We're going
on the record and the time is 11:13 a.m. The
appearance of counsel will be noted in the
transcript. Will the court reporter, please,
swear in the witness?

SCOTT SUNDERLAND, after having
been first duly sworn, was examined and
testified as follows:

* * *

THE VIDEOGRAPHER: Thank you. You
may proceed.

* * *

EXAMINATION BY MR. HUNKINS:

Q. Mr. Sunderland, good morning.

A. Good morning.

Q. I introduced myself a little earlier.

My name is Brian Hunkins. I'm a Deputy
Attorney General, and I represent the State,
and we're here today for a deposition, as you
know. You heard some of the instructions

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1 already, but I'll just repeat them for you
2 real quick.

3 **A. Sure.**

4 **Q.** You're sworn to tell the truth. Do
5 you understand that?

6 **A. Yes, I do.**

7 **Q.** If I ask you a question that you don't
8 understand, please do not answer it. Okay?

9 **A. Yes.**

10 **Q.** Instead, what you should do is tell me
11 you don't understand it and I'll rephrase it.
12 Okay?

13 **A. Okay.**

14 **Q.** All right. So if you answer any of
15 the questions that you're asked today, we will
16 all assume that you understood the question
17 and gave us your best answer. Okay?

18 **A. Okay.**

19 **Q.** There will probably be things that we
20 ask you about that you just don't know the
21 answer to, and if that's the case, you should
22 say "I don't know." Okay?

23 **A. Okay.**

24 **Q.** You are not to guess. Do you
25 understand that?

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1 **A. Yes, I do.**

2 **Q.** There may be facts or details, though,
3 in fact, the location of the incident itself,
4 where you are not going to know the exact
5 answer but you will be able to approximate for
6 us, and estimate, and if you can give us
7 estimates, we will want you to do that, but
8 you should let us know that they are
9 estimates. Okay?

10 **A. Yes.**

11 **Q.** You can take a break at any time. Are
12 you okay to proceed now?

13 **A. Yes.**

14 **Q.** Okay. Do you have any questions for
15 me before we start?

16 **A. No.**

17 **Q.** Okay. Just for the record and to let
18 you know, we marked a few things before we got
19 started. First we have a video that was taken
20 of a site visit to the beach on February 5,
21 2016, and we marked the DVD as Sunderland-1.

22 Then we marked as Sunderland-2 a
23 color photograph, aerial photograph taken
24 March 14th, 2012, of the beach area.

25 Then Sunderland-3 is a typed

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1 report, which is, as I understand it, a
2 summary of Investigator DiJoseph's meeting and
3 discussion with you about the incident.

4 **A. Correct.**

5 **Q.** Okay. And Sunderland-3 is five pages.
6 And the last page has an aerial photograph of
7 the beach which we marked as Sunderland-4.
8 Then Sunderland-5 is the same statement as
9 Sunderland-3 but it's got some markings on it.
10 From what I understand, are these your
11 markings or edits to the statement?

12 **A. Yes, they are.**

13 **Q.** And I called it a statement but really
14 we'll call it a report by the investigator.

15 **A. Right.**

16 **Q.** Does Sunderland-5 make corrections to
17 what the report says?

18 **A. Yes.**

19 **Q.** And I'm sure we will go into those
20 changes later, but if we turn to the last page
21 of Sunderland-5, we, again, see that aerial
22 photograph; is that correct?

23 **A. Yes.**

24 **Q.** But we marked this one as
25 Sunderland-10 as a separate exhibit because it

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1 has an X mark on it; is that right?

2 **A. Yes.**

3 **Q.** And is that an X mark that you put
4 there?

5 **A. I put that there, yes.**

6 **Q.** And it looks like you also put your
7 initials?

8 **A. Initials, correct.**

9 **Q.** Maybe just to kind of cut to the
10 chase, let me hand you Sunderland-10, or you
11 can have the equivalent. It's the aerial
12 photograph with your X and your initials SAS.
13 And that's your X, correct?

14 **A. That is my X.**

15 **Q.** Was that your effort to mark the
16 location of the incident as carefully and as
17 accurately as you could?

18 **A. Yes.**

19 **Q.** When I say incident, I mean the
20 location where you and the people with you
21 suddenly went into the water. Do you
22 understand that?

23 **A. Correct. Yes, I do.**

24 **Q.** What I would like to do, now that you
25 have identified that, though, is see if we can

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1 find an approximate -- the approximate
2 location on another exhibit. Let's look at
3 Sunderland-2. Let me show you that. It's
another aerial photograph. And I want to note
for the record Sunderland-2 has a green dot
off the beach at one point. Do you see that?

7 **A. Yes, here (indicating.)**

8 **Q.** For today's purposes or for right now
9 at least, I want you to ignore that green dot
10 because there's probably a story as to how
11 that got on there, but you don't know how that
12 green dot got on there, correct?

13 **A. No, I have no idea.**

14 **Q.** That has nothing to do with you and
15 we're going to ignore that. Don't assume that
16 means anything. Okay?

17 **A. Yes.**

18 **Q.** To orient ourselves, I just want to
19 ask you whether it seems to you the beach at
20 this location, generally speaking, kind of has
21 a -- I'll use the term shoulder -- that juts
22 out into the ocean a little bit. Do you know
23 what I mean?

24 MR. D'AMATO: Can I have the
25 question read back, please?

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1 MR. HUNKINS: I'll rephrase it.

2 BY MR. HUNKINS:

3 **Q.** If you look at Sunderland-2, and if
4 you look at -- yes, that's this photograph,
5 Sunderland-2.

6 **A. Okay.**

7 **Q.** And if you look at where I'm pointing,
8 do you see where the beach kind of protrudes
9 out somewhat from the land?

10 **A. Okay.**

11 **Q.** I'm going to refer to that as a
12 shoulder. Is that okay with you?

13 **A. Yeah, that's fine.**

14 **Q.** Does it seem to have somewhat the
15 shape of somebody's shoulder?

16 **A. Okay.**

17 **Q.** Okay. Now, if you look back at
18 Sunderland-10, which is the photograph where
19 you marked the location of the incident, do
20 you see what appears to you to be part of the
21 shoulder on Sunderland-10?

22 **A. I mean it juts out.**

23 **Q.** And if you, again, compare
24 Sunderland-10 with Sunderland-2, if you look
25 at some landmarks, you notice that on

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1 Sunderland-10 that your X is approximately
2 adjacent to a curve in the roadway?

3 **A. Okay, yes.**

4 **Q.** All right. And if you look at
5 Sunderland-10, can you find that same curve in
6 the roadway?

7 **A. I can.**

8 **Q.** And so then sort of comparing the two,
9 if you were to put an X on Sunderland-2
10 approximately where the incident occurred, do
11 you think you would be able to do that?

12 **A. Not accurately, no.**

13 **Q.** Okay. Looking at Sunderland-10, which
14 is where you put your X, use your own words,
15 but is that sort of like on the top side of
16 the shoulder?

17 MR. D'AMATO: What is?

18 MR. HUNKINS: The X. I'll
19 rephrase the question.

20 BY MR. HUNKINS:

21 **Q.** Did you put your X, generally
22 speaking, on the top of the shoulder?

23 **A. I'm not really quite understanding
24 what you are asking. I mean you're saying --
25 you're saying it looks like a shoulder. So**

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1 **I'm trying to imagine what you are saying it
2 looks like, if that makes any sense. So if
3 you are asking me to put the X here onto this,
4 it doesn't look...**

5 MR. D'AMATO: I have an objection.

6 MR. HUNKINS: I'm going to
7 withdraw it. I'm going to let him finish and
8 then withdraw it.

9 THE WITNESS: In order to put this
10 area, I would have to go off of the curve and
11 the angle, because it looks different to me.

12 MR. D'AMATO: I have an objection.

13 MR. HUNKINS: I'm going to
14 withdraw that question.

15 MR. D'AMATO: Let me tell you what
16 my objection is, and I'm not trying to
17 interrupt. Somebody has to identify what
18 exhibits he's looking at because we're going
19 to have a transcript.

20 So, Mr. Sunderland, this here is
21 Sunderland-2; this is Sunderland-10. A
22 transcript is going to be made of this. So if
23 you could, when you are pointing here, say
24 Sunderland-2.

25 THE WITNESS: Okay.

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1 MR. HUNKINS: Thank you.
 2 BY MR. HUNKINS:
 3 Q. Just to get back on track, looking at
 Sunderland-10, that is where you put your X
 identifying the location?
 6 A. **Correct.**
 7 Q. All right. When you put your X on
 8 Sunderland-10, what is it that you used to
 9 look at your X there? Is it because you have
 10 a memory of some certain landmarks?
 11 A. **Yes.**
 12 Q. Okay. What are they?
 13 A. **It would be where the rock wall and**
 14 **the parking lot are and where I believe the**
 15 **oceanfront is.**
 16 Q. Okay. So looking at Sunderland-10,
 17 can you just point with your finger at the
 18 rock wall that you just referred to?
 19 A. **The rock wall would be here, in that**
 20 **corner (indicating.)**
 21 Q. And immediately next to it is the
 22 parking lot?
 23 A. **Yes, behind it.**
 24 Q. All right. So with your permission,
 25 I'm going to write the words "rock wall" and a

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1 "parking lot" with an arrow. Is that all
 2 right with you?
 3 A. **That's fine.**
 4 Q. Okay. Rock wall and parking lot.
 5 Point for me one more time at the
 6 rock wall.
 7 A. **Rock wall would be right there. I**
 8 **believe it to be a rock wall (indicating.)**
 9 Q. It looks like a line of rocks almost?
 10 MR. D'AMATO: May I suggest
 11 something? Here's a marker. Let's mark it.
 12 BY MR. HUNKINS:
 13 Q. Take the color marker and just draw a
 14 circle around the rock wall and the parking
 15 lot.
 16 A. **(Complies.)**
 17 Q. Thank you. I'm going to draw an arrow
 18 in black pen to your colored circle. So if I
 19 understand you correctly, looking at
 20 Sunderland-10, when you drew your X, you used
 21 the rock wall and parking lot as your landmark
 to locate the incident?
 23 A. **Well, the overall -- I use the whole**
 24 **overall.**
 25 Q. Okay.

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1 A. **But yes, that is one of the landmarks**
 2 **I looked at it, yes.**
 3 Q. Is there any other landmark you used
 4 to draw your X?
 5 A. **The relationship to where this is**
 6 **where I believe the oceanfront would be on 10,**
 7 **Sunderland-10, would be at about this**
 8 **location. So between those two, that's kind**
 9 **of how I would figure that's where we were at**
 10 **that time (indicating.)**
 11 Q. Thank you. And you've helped us by
 12 drawing your X and identifying the location,
 13 and I don't want to belabor the point or have
 14 you do anything that you are not able to do,
 15 but just for informational purposes, would you
 16 be able to draw an X on Sunderland-2 using
 17 those same landmarks or any other method where
 18 you could be reasonably sure you are giving us
 19 the location? And if you are not able to do
 20 that, no problem.
 21 A. **No.**
 22 Q. Okay. So Sunderland-10 is the
 23 location of the incident?
 24 A. **Yes.**
 25 Q. Okay. Now what I would like to do is

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1 direct your attention to Sunderland-1. That's
 2 the video of the site visit from February 5,
 3 2016, and you had a chance to look at that
 4 before we started today?
 5 A. **I did.**
 6 Q. And we might not even have to play it.
 7 Let me just ask you, approximately two minutes
 8 into that video, is there some images of the
 9 view of the beach and waves and then the
 10 camera turns about 180 degrees and looks at
 11 the land?
 12 A. **Yes.**
 13 Q. And at about that point in the footage
 14 there's some words that come up that identify
 15 three towers as being equidistant, roughly?
 16 A. **Yeah, I saw that.**
 17 Q. And then after that does the footage
 18 show the camera panning to the left and to the
 19 right?
 20 A. **I believe so, yes.**
 21 Q. And in panning, it shows landmarks
 22 that exist to the left of that location and to
 23 the right?
 24 A. **Okay.**
 25 Q. Okay. Having looked at that video,

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1 does that footage starting at about two
 2 minutes where it looks at the sand and the
 3 ocean and then it turns 180 degrees and looks
 at the three towers, is that approximately
 where the incident occurred?
 6 **A. I wouldn't be able to tell because I**
 7 **don't recognize those landmarks.**
 8 **Q.** Are there any landmarks that you
 9 recognized by looking at that footage on
 10 Sunderland-1?
 11 **A. Not -- not really.**
 12 **Q.** So in other words, when the camera
 13 panned to the left and there were some
 14 buildings off in the distance, I think they're
 15 condos, but I'm not sure, they're buildings,
 16 did you recognize any of those?
 17 **A. Not really, no.**
 18 **Q.** Okay. And similarly, when the camera
 19 panned to the right, it focused in on a rock
 20 wall. Do you remember that?
 21 **A. Yes.**
 22 **Q.** Is that a landmark that you recognize?
 23 **A. I recognize the pathway on top of the**
 24 **rock wall, but as far as where I was when we**
 25 **went in and trying to compare that, I would**
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1 **have no idea.**
 2 **Q.** Okay. So if I understand you
 3 correctly -- well, let me back up. On the day
 4 of the incident, you went in the water;
 5 thankfully you got out, right?
 6 **A. Yes.**
 7 **Q.** And I assume you were present at the
 8 scene when initial rescue efforts were under
 9 way?
 10 **A. Yes.**
 11 **Q.** I assume at some point that day you
 12 left the beach?
 13 **A. Yes.**
 14 **Q.** When is the next time you came back?
 15 **A. The next day.**
 16 **Q.** Okay. And did you come back to the
 17 location of the incident?
 18 **A. To the location, yes.**
 19 **Q.** And when you went back the next day to
 20 the location of the incident, how did you
 21 figure out where to go?
 22 **A. You could kind of -- I just kind of,**
 23 **again, looking to where the oceanfront was and**
 24 **there was kind of almost an abrupt -- I don't**
 25 **want to say abrupt, but like -- kind of like**
 WORD FOR WORD REPORTING, LLC (856) 384-2770

1 **how the roadway is on 2.**
 2 **Q.** Sunderland-2?
 3 **A. How the road turns around there, it**
 4 **kind of almost looked like that --**
 5 **Q.** Okay.
 6 **A. -- at the beach at that area. It**
 7 **wasn't, you know, walking down there I could**
 8 **kind of tell where the approximation was where**
 9 **I went in.**
 10 **Q.** Correct me if I'm wrong. The
 11 appearance of the actual beach and the sand
 12 would change based on the height of the tide?
 13 **A. Oh, absolutely, absolutely.**
 14 **MR. BARKER:** On the what? I
 15 didn't hear you. Height of the?
 16 **MR. HUNKINS:** Tide.
 17 **BY MR. HUNKINS:**
 18 **Q.** And I imagine over time sand is going
 19 to move somewhat so that would change the
 20 appearance?
 21 **A. Yes.**
 22 **Q.** So what you were doing, if I
 23 understand you correctly, is you noticed that
 24 the curve of the road which you pointed out on
 25 Sunderland -- actually, Sunderland-10 and
 WORD FOR WORD REPORTING, LLC (856) 384-2770

1 Sunderland-2, was roughly adjacent to the
 2 location of the incident?
 3 **A. No, that's not what I meant. I meant**
 4 **the curve of the road was kind of how the**
 5 **beach shape was.**
 6 **Q.** Okay.
 7 **A. So I didn't use that as a, you know, a**
 8 **landmark to get to that area. It was more**
 9 **where the oceanfront -- I call it where the**
 10 **oceanfront and the inlet basically meet.**
 11 **Q.** Okay. And that's what you marked on
 12 Sunderland-10?
 13 **A. Correct.**
 14 **Q.** All right.
 15 **A. Correct.**
 16 **Q.** After -- so you told me about the day
 17 after the incident you went back to the
 18 location of the incident?
 19 **A. Yes.**
 20 **Q.** How many times since then have you
 21 gone back to the location of the incident?
 22 **A. I went that -- actually, actually, I**
 23 **went the night of after it happened. I took**
 24 **Brad's older children down and his brother and**
 25 **we were calling for Brad.**

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1 **Q.** So the evening of the incident and
 2 then the day after?
 3 **A.** **The day after I went down myself.**
 4 **Q.** After that, how many times did you go
 5 back?
 6 **A.** **I probably went, I believe, the next**
 7 **day after that, and then it was -- it might**
 8 **have been two or three times during that week.**
 9 **I'm not a hundred percent sure. But then the**
 10 **next time it was when I -- when I met the**
 11 **investigator.**
 12 **Q.** Okay. Mr. DiJoseph?
 13 **A.** **Yes.**
 14 **Q.** All right. And when you took Mr.
 15 DiJoseph down, you made your -- you located
 16 the scene of the incident?
 17 **A.** **Yes.**
 18 **Q.** And you did that how?
 19 **A.** **Again, by the oceanfront and the rock**
 20 **wall and the distance between the two. I mean**
 21 **that's the generalization. That's where I,**
 22 **you know, I guesstimated where it would be.**
 23 **Q.** And when you say the distance between
 24 the two, do you mean in your mind's eye, you
 25 know, in your memory the distance?

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1 **A.** **Yes.**
 2 **Q.** You don't mean that feet or yards?
 3 **A.** **No, no, just in my mind, yes.**
 4 **Q.** All right. On the day of the
 5 incident -- and by the way, I've read
 6 Sunderland-3 and also the version with your
 7 edits, but basically from what I understand,
 8 on the day of the incident you and the group
 9 you were with walked from the guarded beach
 10 almost up to a rock wall and turned around and
 11 came back?
 12 **A.** **Yes.**
 13 **Q.** And it was on the return trip that the
 14 incident occurred?
 15 **A.** **Yes.**
 16 **Q.** And can you tell us how far you got on
 17 the way back when the incident occurred? Were
 18 you, for example, halfway back to the starting
 19 point when the incident occurred, or are you
 20 able to estimate it in that way?
 21 **A.** **I would say we were -- I mean a**
 22 **guesstimate, we were --**
 23 **Q.** It can't be a guess, but if it's an
 24 estimate...
 25 **A.** **An estimate, I would say we got -- we**

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1 **got pretty close to the rock wall. We didn't**
 2 **get all the way down towards it. So I would**
 3 **guess that I was --**
 4 **MR. D'AMATO:** He doesn't want you
 5 to guess. You can approximate. You can
 6 estimate.
 7 **MR. HUNKINS:** And let me stop you
 8 there. Your answer so far already suggests to
 9 me maybe there's some confusion.
 10 **BY MR. HUNKINS:**
 11 **Q.** I understand from the report that I
 12 read that you didn't walk all the way up to
 13 the rock wall?
 14 **A.** **No, we did not.**
 15 **Q.** Is that because the beach sort of ran
 16 out and it was just water and you couldn't get
 17 to the wall?
 18 **A.** **I have no idea why.**
 19 **Q.** Okay. For whatever reason, you didn't
 20 walk all the way to the rock wall, so I'll
 21 just ask you approximately how close did you
 22 get to the rock wall?
 23 **A.** **I really don't know. I'd say maybe a**
 24 **hundred feet. I don't know. Maybe two**
 25 **hundred feet.**

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1 **Q.** Okay. And it was at that point that
 2 you turned around and walked back?
 3 **A.** **Yes.**
 4 **Q.** All right. So my question was, from
 5 that point where you turned around and walked
 6 back, did you get halfway back to your
 7 starting point when this happened or some
 8 other estimate?
 9 **A.** **Well, we started all the way out to**
 10 **where we were originally seated, where we went**
 11 **down to the beach. So I would say we got, I**
 12 **don't know, maybe three-eighths of the way,**
 13 **not quite half.**
 14 **Q.** Okay. So when the incident occurred,
 15 you were an estimated three-eighths of the way
 16 back to your starting point on the beach from
 17 where you turned around?
 18 **A.** **Possibly less than that. Possibly**
 19 **less than that.**
 20 **Q.** In any event, putting aside that
 21 estimate, the X that you wrote on
 22 Sunderland-10 is your --
 23 **A.** **Yes.**
 24 **Q.** -- indication where this occurred?
 25 **A.** **Yes.**

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1 MR. HUNKINS: Okay. That's all I
2 have. The other attorney will have some
3 questions for you. I might have some more
later. Thank you.

THE WITNESS: Okay.

* * *

6 EXAMINATION BY MR. BARKER:

8 Q. Mr. Sunderland, my name is Michael
9 Barker. I will be asking you some questions
10 and, again, if, at any time, I ask you a
11 question which is not clear for any reason,
12 please stop me and I'll be happy to go back
13 and rephrase it, and please don't guess when
14 responding to any questions.

15 A. Okay, I understand.

16 Q. What's your full name?

17 A. Scott Alan Sunderland.

18 Q. And how do you spell Alan?

19 A. A-L-A-N.

20 Q. And what's your date of birth?

21 A. 4/24/65.

22 Q. And where do you presently live?

23 A. 1383 Lake Road. That's in
24 Feasterville.

25 Q. And how do you spell Feasterville?

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1 A. F, as in Frank, E-A-S-T-E-R-V-I-L-L-E.

2 Q. That's in Pennsylvania?

3 A. Correct.

4 Q. And you're married?

5 A. Yes, I am.

6 Q. And to whom are you married?

7 A. Andrea Sunderland.

8 Q. And you have how many children?

9 A. Three.

10 Q. And what are the names of the children
11 who were with you on the walk on the beach
12 that day?

13 A. Ally. At the beach with me? Ally,
14 Aidan and Jett.

15 Q. When you started off walking on the
16 beach, about what time of day was it?

17 A. I would say it was 3, 4 o'clock.
18 That's when we went down to the beach. I
19 would say 3 o'clock we went down. So the
20 walk, 4:00, 5:00.

21 Q. Do you remember -- you were at a
lifeguarded area when you started your walk,
22 right?

23 A. Yes.

25 Q. Do you know the name of that

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1 lifeguarded area? Could you identify it
2 otherwise?

3 A. Not really, no.

4 Q. And when you left the lifeguarded
5 area, were the lifeguards still there?

6 A. Yes.

7 Q. And as you started to walk, you walked
8 in a northerly direction?

9 A. Yes, I would imagine it would be
10 north, yes. Yes, it would be north.

11 Q. I'm not so sure that it is north, but
12 it's the top of the picture, right?

13 A. Yes.

14 Q. And I saw that you had referred to it
15 in a statement as north, or at least towards
16 the rock wall, right?

17 A. Yes, I was going up the coast; let's
18 put it that way.

19 Q. Understood. And as you are going up
20 the coast, do you recall that there was a
21 point in time shortly after you left that Brad
22 turned around and waved to his wife?

23 A. Can you repeat that, please?

24 Q. Yes. Do you recall that shortly after
25 you left, commenced this walk, there was a

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1 point in time that Brad turned around and
2 waved back to his wife?

3 A. I don't -- I don't remember that, no.

4 Q. Do you remember the lifeguards going
5 off duty?

6 A. I don't remember that, no.

7 Q. Do you have any recollection that you
8 looked at the time or noticed the time?

9 A. I only know from about when we got
10 there to when the incident approximately
11 happened.

12 Q. You mean when you first got to the
13 beach?

14 A. When we first got to the beach, yes.

15 Q. Well, let me ask you this for an
16 estimate. Do you know, from the time you
17 commenced this walk to the time that you went
18 in the water, how much time had elapsed?

19 A. I would say a couple hours, two hours,
20 maybe three, possibly.

21 Q. You were walking for two or three
22 hours?

23 A. No, we didn't walk --

24 Q. So my question might not have been
25 clear or you may not have understood it. So

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1 here's the question again.
 2 **A. Okay.**
 3 **Q.** From the time you started the walk --
 4 **A. Oh, okay.**
 5 **Q.** -- until the time that you went in the
 6 water --
 7 **A. Okay.**
 8 **Q.** -- meaning this unfortunate accident
 9 took place, what's the elapsed time?
 10 **A. I would say under an hour.**
 11 **Q.** Okay. As you were walking north, when
 12 you started walking north, do you remember the
 13 position of the people, like who was where, if
 14 you remember? So you're going towards the
 15 rock wall or to the top of the photograph or,
 16 north as we say --
 17 **A. Right.**
 18 **Q.** -- and you're at a certain place on
 19 the surface of the earth there and there's
 20 somebody to your right, somebody to your
 21 left --
 22 **A. Right.**
 23 **Q.** -- and I'm trying to figure out who is
 24 where.
 25 **A. So if we were walking towards the rock**
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1 wall, we weren't necessarily all together at
 2 that point. We didn't go for a walk together.
 3 It didn't start off as that.
 4 **Q.** I see.
 5 **A. The girls, Ally and Brandi, were**
 6 **playing in the tidal pools, and I believe that**
 7 **my son, Jett, was there, and Cole, in that**
 8 **general same area, but that was closer to**
 9 **where we were sitting. Brad got up and he**
 10 **kind of ran up to the girls to scare them, you**
 11 **know, just like the monster, and I was still**
 12 **sitting there and, you know, I told him he**
 13 **looked ridiculous. So I just got up and**
 14 **started going after him, walking, you know,**
 15 **behind him, and then we were there for a**
 16 **little while.**
 17 **Q.** At the pools?
 18 **A. At the -- at that pool area. And then**
 19 **we just, you know, started walking. Who got**
 20 **in front, it might have been the girls first;**
 21 **it might have been Brad and I first. At that**
 22 **point, I really don't know, but we did all end**
 23 **up together and kind of walked together down**
 24 **towards the rock wall.**
 25 **Q.** Up towards the rock wall?

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1 **A. Well, yes, okay, up towards the rock**
 2 **wall.**
 3 **Q.** All right. So then you got to the
 4 point where you're closer to the rock wall and
 5 someone makes the decision to turn around and
 6 go back?
 7 **A. Correct.**
 8 **Q.** Who made that decision to go back?
 9 **A. I have no idea.**
 10 **Q.** All right.
 11 **A. We have two little girls. So who**
 12 **knows.**
 13 **Q.** So the group kind of now turns around
 14 and is going back in a southerly direction?
 15 **A. Yeah, it wasn't like a, you know,**
 16 **purposeful walk. We were just kind of --**
 17 **Q.** Meandering?
 18 **A. Yeah, meandering, talking. I'm sure**
 19 **Brad and I are talking and the girls are just,**
 20 **you know, yammering on nonstop.**
 21 **Q.** So did you notice anything unusual as
 22 you walk up towards the rock wall, or
 23 northbound?
 24 **A. I remember seeing a -- I don't know if**
 25 **it was before we got walking up towards the**
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1 **rock wall or if it was on the way back, but I**
 2 **remember seeing a fisherman.**
 3 **Q.** Anything else you noticed?
 4 **A. No.**
 5 **Q.** And the fisherman was standing off in
 6 the water?
 7 **A. He was standing off in the water.**
 8 **Q.** Was he to your right when you observed
 9 him?
 10 **A. So I'm not sure where I saw him, if I**
 11 **saw him, you know, so it would be depending if**
 12 **I was going north or coming back from the**
 13 **walk.**
 14 **Q.** And you don't remember that?
 15 **A. I do not remember that.**
 16 **Q.** So as you are walking with your little
 17 group back in a southerly direction, who is
 18 closer to the ocean side and who is closer to
 19 the land side?
 20 **A. I'm closer to the ocean side.**
 21 **Q.** And are you the closest to the ocean
 22 side?
 23 **A. Yes.**
 24 **Q.** And then who would be to your right?
 25 **A. To my right would be --**

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1 Q. Well, wait, wait, you are walking
2 south, so --
3 A. **Oh, are we talking towards the rock
wall or walking away from the rock wall?**
Q. You are walking away from the rock
6 wall walking back to where you started, and
7 you may refer to that photograph in front of
8 you, if you like. You can hold it up, show it
9 to the video camera.
10 A. **So if we're walking from here --**
11 MR. BARKER: Wait, can you see it,
12 there, Tom?
13 THE VIDEOGRAPHER: Yes.
14 BY MR. BARKER:
15 Q. Now you can point.
16 A. **If we are walking from here --**
17 Q. Going south.
18 A. **-- up to that point --**
19 Q. Where is your position? Closer to the
20 ocean?
21 A. **I consider that east, to be honest,
22 because this is the ocean. So the ocean is
23 east. So we're going east and the ocean would
24 be on -- so going in this direction
25 (indicating.)**

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1 Q. Yes, sir. And where is your position
2 and what's the position of the others?
3 A. **I was closest to the water.**
4 Q. Yes, sir.
5 A. **And then it was, I believe, my
6 daughter and then my son, Aidan.**
7 Q. All right.
8 A. **Brad was behind me.**
9 Q. Oh.
10 A. **So we were not all side by side.**
11 Q. Okay. You're closest to the water?
12 A. **Yes.**
13 Q. Ally is now to your right or a little
14 landward side?
15 A. **Yes.**
16 Q. And then Aidan is to the right of
17 Ally, right?
18 A. **Of Ally, yes.**
19 Q. And as you are walking back in that
20 direction east, as you say --
21 A. **East, east, yes.**
22 Q. -- do you notice anything unusual as
23 you are stepping and walking, or is it just
24 the same way as when you walked up?
25 A. **Well, when we walked up, we were more**

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1 **inland. We were more inland.**
2 Q. And this time, as you are walking east
3 going back --
4 A. **We were along the coast.**
5 Q. Right. And you're in the water at
6 that point?
7 A. **Yes.**
8 Q. And how deep is the water on you just
9 before you go in the water?
10 A. **Calf.**
11 Q. And what about Ally, she's right next
12 to you, right?
13 A. **That I'm not a hundred percent sure.
14 I'm not sure if she was next to me or if she
15 was on my back. I don't know if I was giving
16 her a piggy-back or not.**
17 Q. I see. And what about, did you happen
18 to observe your son Aidan and where he was in
19 the water?
20 A. **Yeah, he was next to me but, again,
21 I'm not sure if Ally was next to me or if I
22 was giving her a piggy-back.**
23 Q. And Aidan was how old at the time?
24 A. **He was nine.**
25 Q. And did you happen to notice anything

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1 about the depth of the water on his lower
2 extremity?
3 A. **He wasn't in the water at all.**
4 Q. He was more towards the sand?
5 A. **Yeah, he was on the sand. He wasn't
6 in the water.**
7 MR. D'AMATO: At what point are
8 these observations of his?
9 MR. BARKER: These observations of
10 his as he's described them is on his walk back
11 down east.
12 THE WITNESS: This is right before
13 the incident. So this is just before the
14 incident.
15 BY MR. BARKER:
16 Q. As you are walking in the fashion as
17 well as you can describe it based on your
18 memory, do you remember what happened, how you
19 felt and what happened to you as you found
20 yourself going in this water?
21 A. **As I was walking, I took a step on my
22 left leg and it just dropped.**
23 Q. You mean your left leg went out and
24 you went --
25 A. **No, just like I was walking and then**

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- 1 it's just like I just stepped right into,
 2 like, nothing. It was like it almost slid,
 3 like it slipped, and then with that I just
 went over. So it was like my leg just went
 out from underneath me.
- 6 Q. I saw that you described to the
 7 policeman it was like you walked into a gully;
 8 is that correct?
- 9 A. Yeah.
- 10 Q. And with that, you just toppled in?
- 11 A. Toppled and went right in.
- 12 Q. If Ally was on your back, she went in
 13 with you?
- 14 A. She was on my back immediately. I
 15 know that. Because I thought she fell on top
 16 of me, and when we had spoken about it when I
 17 asked her what she remembered, she said I was
 18 giving her a piggy-back.
- 19 Q. Is this the conversation that she
 20 referred to earlier this morning as having
 21 taken place back in January?
- 22 A. Yes.
- 23 Q. Of this year?
- 24 A. Yes, yes.
- 25 Q. And she told you at that time what you

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- 1 just said?
- 2 A. Yes.
- 3 Q. So she really refreshed your memory as
 4 to where she was?
- 5 A. She did. And that's not the first
 6 time, right?
- 7 Q. Right, okay. As you were now in the
 8 water, you've described how you got there,
 9 where was Aidan?
- 10 A. Aidan was on land. He never went in.
- 11 Q. Now, just before you went in, did you
 12 have the opportunity to look back --
- 13 A. No.
- 14 Q. -- and see Brad or Brandi?
- 15 A. No. I know Brad was right behind me
 16 because I think we were talking, but I never
 17 seen him -- I never saw where they were at
 18 that time. I don't know how they went in. I
 19 don't know.
- 20 Q. For clarity of the record, you cannot
 describe what happened to Brad and how he went
 in the water?
- 23 A. Correct, I cannot describe it, no.
- 24 Q. And you cannot describe what happened
 25 to Brandi and how she went in the water?

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- 1 A. Right, I do not know.
- 2 Q. Excuse me, I just lost the mike.
- 3 A. I saw.
- 4 Q. Okay. What happened to you now that
 5 you're in the water? Ally is on your back?
- 6 A. Correct.
- 7 Q. Pick it up at that point and tell us
 8 what you recall happening.
- 9 A. As soon as I went in the water, I
 10 immediately, you know, tried to -- I wasn't --
 11 how do you say it? I wasn't, like, panicked.
 12 I just thought, Oh, we just fell in the water.
 13 So at first I was kind of, you know, laughing
 14 like, Oh, wow, how did that happen, and went
 15 to, you know, feel for the bottom and didn't
 16 feel the bottom. So I just started to swim
 17 and I wasn't really paying attention. I was
 18 just swimming. And Ally was on my back, and
 19 that was probably for the first -- under a
 20 minute, maybe within the first 20 seconds,
 21 maybe 30 seconds passed. That's when I looked
 22 up from swimming with my head down that I
 23 realized that I was further from shore than
 24 when I started. And that's when it started to
 25 get real. So I started swimming harder.

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- 1 And I remembered at that point
 2 that the fisherman and he -- Brad and I had
 3 kind of joked when we initially saw him that
 4 he was like Jesus. He was just standing in
 5 the middle of the ocean in a way. And I knew
 6 that he was there. That spot was there. So I
 7 knew it was shallow at that point, but it was
 8 not where I was at. So I'm in kind of
 9 recovery mode now, and I'm thinking that's my
 10 go-to. If I can't get back to the beach,
 11 that's where I need to get to.
- 12 So I then just started swimming
 13 really hard, and I wasn't necessarily looking
 14 up. I just had my daughter on my back and I
 15 knew I needed to get back to the beach where
 16 we went in. And I just -- just started
 17 plowing really hard. There was a point I was
 18 -- I'm going to say I was swimming for maybe,
 19 like, two minutes, and I just kept throwing my
 20 arms out, because I wasn't looking. I was
 21 just too concentrated on swimming, and I kept
 22 throwing my arms up like where is the sand,
 23 where is the sand, and I remember just before
 24 I hit, You're going to have to float, because
 25 I started thinking about, you know, when you

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1 are in -- they tell you to ride with currents,
2 ride with currents, and I'm, obviously,
3 fighting something, but it felt like I was
almost swimming through air. I couldn't get
any traction. I don't know how to describe it
6 other than that. Or like even a rope was
7 pulling on me, like on my feet, because it
8 felt like I was in this one spot.

9 And about at that point, that's
10 when I felt on my fingertips, just these two,
11 just felt the sand and then I just started
12 scrambling. Aidan ran down, and as I was
13 grabbing at the sand, I believe at that point
14 he took Ally. I remember saying, "Grab her,
15 grab her," and I literally climbed up and kind
16 of on my belly. And I just kind of laid there
17 for a minute because I was exhausted, and then
18 that's when I turned over and that's when I
19 saw Brad and Brandi.

20 **Q.** And what did you see when you had that
21 observation?

22 **A.** They were separated. And I'm going to
23 approximate they were off the beach about a
24 hundred, 120 feet. Brandi was closer to
25 inside the inlet, Brad was closer to the

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1 ocean, and they were getting further apart.
2 Brandi was staring directly at me, and Brad
3 was on his back facing Brandi, so looking back
4 towards the inlet. And he was just kind of
5 almost -- almost on his back like just going
6 with the current. And it seemed like Brandi
7 was stuck in this -- she wasn't getting turned
8 around in like a whirlpool. She was on this
9 outer side of it, and then it seemed like Brad
10 was caught in this other -- almost like a
11 river and he was getting pulled further away
12 from her.

13 He yelled for me. He said,
14 "Scott, Brandi," and that's when I went back
15 in the water to get her. When I got back in
16 the water, same thing, kind of just -- kind of
17 slide or almost kind of like -- not slide, but
18 more of a kind of like dive, I guess, but not
19 a dive, because there's definitely -- it goes
20 from, I would approximate, a foot and a half
21 to nothing or, you know, deep, over my head,
because when I was out in the water, I never
23 touched bottom not once.

24 I started to swim towards her and
25 I realized at that level she was too far and I

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1 turned around.

2 At that point, I climbed back up
3 and I got up, stood up, and I just -- I
4 started waving. I remember trying to yell.
5 My mouth was open, but I was not making any
6 noise, any sounds.

7 I believe at that point that's
8 when I saw the State trooper in his boat and I
9 saw him and he was moving. He was -- I'd say
10 he was probably going, you know, 20 miles an
11 hour, 25 miles an hour. He was driving pretty
12 fast and he was coming out of the inlet
13 towards where Brad was. So I yelled to Brad.
14 I said, "You're good, buddy, you're good, just
15 stay up. He's coming." And I was waving like
16 this, so I was waving to where Brandi was and
17 I was doing this to where Brad was. And he
18 saw me; the officer saw me. We locked eyes.
19 And when I pointed like this, he turned his
20 head and he looked in the other direction. So
21 he didn't look down. He looked out into the
22 ocean, and he just went literally right by
23 Brad by, I would say, probably about 40,
24 50 feet. And that's when Brandi really
25 started to get panicked. She was swimming

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1 very hard. She wasn't making any sounds at
2 that time. And she was treading water. So
3 she wasn't trying to swim back to shore. She
4 was just treading water. But I remember
5 seeing her, like, she was so far out of the
6 water because she was treading water so hard.
7 And at that point, after the boat went by,
8 that's when she started to scream and in my
9 mind I kept thinking, "Don't scream, don't
10 scream, you need your energy" type. And
11 that's when I just started waving, and I
12 turned back towards the sea wall, because
13 there were people down there, and I started
14 waving and, you know, just kind of jumping.
15 Again, I was -- you're helpless. You don't
16 know what to do. I didn't want to leave the
17 area because I didn't want to lose contact
18 with where they were. I kept telling myself,
19 You have to stay in contact with Brad and
20 Brandi, so I would know where they were at all
21 points, at all times. I started waving. I
22 saw people down there towards the rock wall
23 and there were two jet skiers, two jet skis.

24 **Q.** Towards the rock wall?

25 **A.** Down towards the rock wall. They were

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1 in shallow water sitting. They weren't moving
 2 and they were kind of just laying back on
 3 their jet skis, and there were other people on
 shore that I believe that maybe they were
 talking to, and next thing I knew, I saw the
 6 jet skier, the first one, just -- I mean he
 7 was gunning it and he just came flying up. I
 8 would say he was probably about maybe 40 feet
 9 off the beach, and as he was coming up, I was,
 10 again, pointing to where Brandi was and Brad,
 11 and as he got closer, he kind of swerved in a
 12 little bit so he could hear me.

13 Q. In towards the sand?

14 A. In towards the sand to where I was,
 15 but still probably no more than 30 feet in.
 16 Probably not even more than 40 feet in. So he
 17 kind of swerved in but that far off the beach
 18 still.

19 So I yelled at him, "Little girl
 20 and my buddy," and he immediately turned and
 21 he saw Brandi, and as he was approaching her,
 22 I took my eyes off of her and I was then
 23 watching Brad, because he clearly saw her.

24 Q. Could you see Brad?

25 A. I did see Brad at that point, and he,

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1 again, was laying on his back, and at this
 2 point he was where -- now I could see, as I
 3 was watching him, I could see the wave
 4 formations and he was in them, short, though,
 5 very small waves, small waves, but it kind of
 6 outlined -- it was out towards where this hook
 7 was where the fisherman was. So you could see
 8 like a sand bar. You didn't see it, but you
 9 could kind of see it by the waves. So they
 10 kind of were going around it and he was in
 11 that.

12 And as I watched him, you know, I
 13 kept glancing back and I saw the jet skier get
 14 Brandi and then I just locked on Brad. And
 15 the jet skier, I believe, kept going towards
 16 Brad, but then eventually just came to shore
 17 to bring Brandi back. He had taken off his
 18 life vest and had given it to Brandi. And he
 19 brought Brandi to the beach, and they got off
 20 the jet ski. And at that point, before that,
 21 he actually got back, that's when the last I
 22 saw of Brad. I just saw, you know, he was on
 23 his back and basically almost lying, you know,
 24 flat on his back, and a little wave came up
 25 and then that was it. But the waves, very

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1 small, and that was it. That was the last I
 2 saw of him.

3 Q. When you saw the jet skier with Brandi
 4 as he's bringing her in, what do you say to
 5 him and what does he say to you?

6 A. Well, first I ran to Brandi and she
 7 was, you know, very stunned, very quiet, very
 8 stunned. She went up to where Aidan and Ally
 9 were (indicating.)

10 Q. Up to -- you're pointing in a certain
 11 direction.

12 A. Up on the beach. So from the water's
 13 edge to the beach but to where Aidan and Ally
 14 were. This whole time, even when I went back
 15 in the water after Brandi, they were up
 16 together playing on the beach. And I would
 17 say they were probably, from water's edge,
 18 maybe 40 feet, 50 feet up. And Aidan, I could
 19 see him drawing like trying to distract Ally
 20 from what was going on.

21 And I remember seeing them right
 22 before I went back in the water, because I
 23 thought I was -- I knew I was going to drown.
 24 When I went back in the water, I knew I was
 25 never going to make it to her, but I knew Brad

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1 would do that. He would have done that for
 2 me. He would have went after my kids.

3 MR. HUNKINS: Why don't we take a
 4 break?

5 MR. D'AMATO: Yes.

6 THE VIDEOGRAPHER: Going off the
 7 record, 12:03.

8 (A short recess was taken.)

9 THE VIDEOGRAPHER: This is the
 10 beginning of tape No. 2. Back on the record.
 11 The time is 12:11.

12 BY MR. BARKER:

13 Q. So we got a little side-tracked before
 14 the break, and the question that I was really
 15 putting before you at that time was I can see
 16 in my mind's eye the jet skier coming in with
 17 Brandi and I've got the scene of her as you've
 18 described it and she gets on the beach, and
 19 I'm asking you: At that point in time, what's
 20 the conversation, if any, between you and the
 21 person on the jet ski?

22 A. I ran up to him, I hugged him, and I
 23 said, "You just saved my niece's life," and he
 24 jumped back on the jet ski and he went looking
 25 for Brad.

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- 1 Q. Well, how did he know that Brad was
2 there?
3 A. I told him.
Q. Right there in that conversation?
A. I pointed to both of them. So as soon
6 as he picked up Brandi, he knew Brad was out
7 there.
8 Q. I see. So he went out looking?
9 A. He went out looking.
10 Q. And what happened then?
11 A. He went out looking. I think that's
12 when all of the -- you could hear all the
13 sirens, a lot of sirens, and I think at that
14 point --
15 Q. You could hear the sirens as he's
16 going out to get Brad?
17 A. As he was going out and he was
18 searching for Brad, yeah, that's when you
19 could hear sirens, but I mean they weren't
20 close but you could hear them, and there was a
21 lot of them. So I already knew he went under
22 because I saw him go. So, you know, at that
23 point it kind of all blends together for me as
24 far as time. But, you know, I know I was
25 pretty exhausted. I was kind of sitting

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- 1 there.
2 Q. Well, go back in your mind's eye now
3 and tell us what you can about what you recall
4 happening, what you did, where you went, who
5 you saw, what was said.
6 A. Well, when Brandi got up, as I said,
7 with the jet skier, he went back out. At that
8 point, I know a woman came up to me and she
9 said, "Is it okay if we take your kids to find
10 their mother?" Because there was people
11 walking down now from the ocean side. So from
12 where the lifeguards would have been, they're
13 walking now north up the coast --
14 Q. Towards you?
15 A. -- towards me. I remember seeing my
16 son, my older son, Jett, and that's when I
17 told him, "It was Brad, it was Brad." And I
18 saw my wife.
19 Q. She walked up?
20 A. Yeah. And she was very stunned,
obviously. She didn't know what was going on.
I think there was probably emergency vehicles
23 now that were parked all over the beach. They
24 kept asking me to, you know, "Come with me,
25 come with me."

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- 1 Q. This is the EMS people?
2 A. EMS people, yeah, "Come with me." And
3 I said, "Well, he's out there. He's out
4 there." So I just kept kind of walking down
5 to the beach again.
6 At that point, I saw the -- I
7 guess an EMS person got me again, brought me
8 up to where the ambulance was, and he was
9 asking me all these questions, who I was, and
10 I really couldn't even talk at that point. I
11 really thought I was almost having a heart
12 attack because I was so out of breath. So I
13 just told my son Jett, "Give him all my
14 information." So my son was telling him, you
15 know, my name and how we all got there, the
16 whole thing.
17 That's when I saw the State
18 trooper come back with the jet skier, not the
19 jet skier who saved Brandi, but the jet skier
20 that he went out to rescue that was out,
21 apparently, in the ocean, that his ski went
22 down, ran out of gas, whatever, but he's
23 pulling back, and that was more on the
24 oceanfront side. And no one was going to him,
25 which bothered me.

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- 1 Q. Going to who?
2 A. None of the police officers. The
3 police officers -- it really annoyed me. I
4 was very agitated by the fact that no one was
5 looking for Brad except a boater and the jet
6 skiers.
7 Q. Who is the boater?
8 A. There was a boat out there. There
9 might have been several boats out there,
10 private boats, that were now just kind of
11 circling around the area. And they were kind
12 of like -- whether it be EMS, whether it be
13 police officers, whatever, they're kind of
14 talking amongst themselves, like little
15 chitchat, and I remember saying, "He's out
16 there, he is out there." And that's when I
17 saw, you know, the State trooper come up in
18 his boat with the jet ski, and he's trying to
19 get the jet ski onto the beach.
20 About that same time, the jet
21 skier who saved Brandi is now on the front
22 side in the ocean, and he's trying to get his
23 jet ski back in the water to look for Brad
24 again, because for whatever reason, he must
25 have got -- the current must have pushed him

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1 up against -- you know, the waves must have
 2 pushed him up against, and I saw him trying to
 3 push out. So I ran down to help him to get
 back out in the water to look, and then I
 think in that same time frame that's when I
 6 saw the State trooper. I ran down there to
 7 where the State trooper was. He had a rope
 8 tied to the front of the jet ski that he was
 9 towing it with. The jet skier that he rescued
 10 was on the boat, I believe. He might have
 11 even been on the jet ski. But the State
 12 trooper is yelling to me to grab the rope, to
 13 pull the jet ski into the shore, and I said,
 14 "I'm not going back in there," and he's like,
 15 "Just grab the rope." But the rope wasn't on
 16 the beach; the rope was in the water. So I go
 17 back in and I start sliding down again. So I
 18 yelled at him, "I'm not going back in there
 19 again," and I said, "He's out there. What are
 20 you doing?" Like I was kind of yelling at the
 21 State cop. I don't think he had any clue that
 22 Brad was out there. I don't think he knew
 23 what was going on. I think he thought he was
 24 just rescuing this jet skier.

25 So I kept yelling to him, "He's
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1 out there, he's out there, go get him, go get
 2 him," and then I think that's when I ran back
 3 up to the EMS and next thing, you know,
 4 they're checking me out and they kept asking
 5 me, "You need to go to the hospital. You
 6 swallowed water. You need to go to the
 7 hospital." I said, "We need to find Brad
 8 first. We need to find him first."
 9 And then eventually when we were
 10 there with the EMS for maybe, I don't know, a
 11 half hour, maybe, and then they said, "You
 12 need to come to the hospital." And I said
 13 okay. So my son and I went, Jett, went in the
 14 back of the ambulance and we went to the
 15 hospital.
 16 **Q.** Do you recall speaking to a police
 17 officer at the beach?
 18 **A.** **I spoke to -- I mean specifically, no.**
 19 **Q.** All right. There's a document called
 20 North Wildwood-8. The date of report is
 21 July 31, 2012, but it's recounting what
 22 happened on July 27th, 2012, and I'm going to
 23 read to you what he wrote about speaking to
 24 you.

25 **MR. D'AMATO:** Do you want to make
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1 me copies of this?
 2 **MR. BARKER:** Sure, we can do that.
 3 **MR. D'AMATO:** Just go off for a
 4 minute.
 5 **THE VIDEOGRAPHER:** Going off the
 6 record, 12:21.
 7 (North Wildwood Police Department
 8 Supplemental Report was marked for purposes of
 9 identification as Exhibit Sunderland-11.)
 10 **THE VIDEOGRAPHER:** We're back on
 11 the record, 12:24.
 12 **BY MR. BARKER:**
 13 **Q.** So let's pick up the chronology a
 14 little bit and put things in place. Here's a
 15 report from a policeman who wrote on
 16 Sunderland-11, "On July 27th, 2012 at
 17 approximately 17:36, 5:36 p.m. --
 18 **MR. D'AMATO:** You can read it.
 19 **BY MR. BARKER:**
 20 **Q.** Are you with me, sir?
 21 **A.** **Yes.**
 22 **Q.** "I was dispatched to the Hereford
 23 Inlet regarding broken-down wave runners in
 24 the water. Upon arrival, I immediately
 25 noticed people shouting for help in the water,

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1 and upon further notice, I could see swimmers
 2 in distress. I immediately called for water
 3 rescue over the radio and rendered assistance
 4 to parties involved." That's the background
 5 of him being there.
 6 **A.** **Okay.**
 7 **Q.** He writes then, after he talks about
 8 Sergeant Harkins arriving, "Sergeant Harkins
 9 arrived on scene and I advised him there was
 10 one male still unaccounted for in the water.
 11 I tended aid to the seven-year-old female
 12 until lifeguards arrived on scene. I then
 13 turned her over to them."
 14 So this policeman has already
 15 spoken to someone and learned that there's a
 16 gentleman still out in the water.
 17 **A.** **Yeah, that would have been me. He**
 18 **would have spoken to me.**
 19 **Q.** Do you remember this policeman at all?
 20 **A.** **No. It's all --**
 21 **Q.** A blur?
 22 **A.** **Well, there were so many people at**
 23 **that point. A lot of vehicles, too. There**
 24 **were a lot of vehicles.**
 25 **Q.** But you do remember speaking to a

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1 policeman, or maybe not?

2 **A. I remember speaking to a policeman at**
3 **the hospital.**

4 **Q.** Okay. But not at the beach?

5 **A. Not that I recall, no.**

6 **Q.** This scene that's being written about
7 here is at the beach, so let me --

8 **A. No, I don't recall.**

9 **Q.** You don't recall. Let me ask you
10 this: He then writes in his third paragraph.
11 "I then spoke with a Scott Sunderland who
12 advised me that Brad Smith was still in the
13 water and he lost sight of him."

14 Do you remember that conversation?

15 **A. No.**

16 **Q.** He then writes in the next sentence,
17 "Sunderland advised me that he and his
18 daughter, along with Smith and his
19 seven-year-old daughter, were walking along
20 the shoreline when they slipped into the water
21 and were pulled out to sea by the undertow."

22 Do you remember saying anything
23 like that?

24 **A. No.**

25 **Q.** The next sentence says, "Sunderland

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1 advised me that he and his daughter were able
2 to make it back to shore but Smith and his
3 daughter was unsuccessful."

4 Do you remember saying anything
5 like that to a policeman?

6 **A. No, I don't remember.**

7 **Q.** He next writes, "Sunderland advised
8 that two subjects on wave runners later
9 identified as Daniel O'Connell and Thomas
10 Meenan saved Brad Smith's seven-year-old
11 daughter in the water."

12 Do you remember saying anything
13 like that?

14 **A. Not to a police officer. I can't**
15 **recall.**

16 **Q.** And do you even remember that there
17 was a second person on a wave runner that
18 helped save the girl?

19 **A. Yeah, I had said that.**

20 **Q.** You said that?

21 **A. I said that earlier in the deposition.**

22 **Q.** I don't recall that. I only remember
23 you talking about one person on a wave runner.

24 **A. No, there were two jet skiers on two**
25 **separate jet skis when I waved. They both**

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1 **came up, but Daniel -- I believe it was**
2 **Daniel -- he came up first. He was before the**
3 **other guy.**

4 **Q.** Daniel was the first to speak to you?

5 You think it was Daniel?

6 **A. Yeah, Daniel was the one who rescued**
7 **Brandi.**

8 **Q.** Brandi?

9 **A. Yeah. I mean I'm pretty sure, yeah.**

10 **Q.** Is Daniel the one -- is Daniel in this
11 photograph?

12 **A. I believe so, yes.**

13 **Q.** I'm holding up photograph No.
14 Sunderland-8. There's a subject with his
15 hands on a wave runner or a jet ski. Can you
16 identify that subject, that person?

17 **A. Yes, I believe that to be Dan. In**
18 **other words, I'm not --**

19 **Q.** Positive?

20 **A. I know that's the person that saved**
21 **her but, again, name to the person, I'm not**
22 **exactly sure. It's not like I was hanging out**
23 **with him and I know his name.**

24 **Q.** So you identify that person in this
25 photograph as the person who saved Brandi?

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1 **A. Yes.**

2 **Q.** And this is a scene with you in it
3 also, correct?

4 **A. Correct.**

5 **Q.** And is this a picture taken -- is this
6 a picture taken to demonstrate where you were
7 pointing out the event occurred?

8 **A. That's a picture that was taken when I**
9 **was down with the investigator.**

10 **Q.** Lou?

11 **A. With Lou, and that is when I was**
12 **pointing to the approximation, at that time,**
13 **to where the jet skier was when -- how far out**
14 **he was in the water.**

15 **Q.** When he saved Brandi or when?

16 **A. Yes, but it turned out that that was**
17 **the person I was pointing to. So in other**
18 **words, the same person that I was pointing to**
19 **the investigator and as I was saying, he was**
20 **out about that far, the jet skier was sitting**
21 **still, it turned out to be the very jet skier**
22 **that saved Brandi's life. So he throws his**
23 **arms up and I'm looking at him like, "I cannot**
24 **believe what's going on here."**

25 **Q.** All right. So let me see if I got it

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1 right. Here's a picture of you pointing?

2 **A. Correct.**

3 **Q.** That's called Sunderland-9, right?

4 **A. Yes.**

5 **Q.** And that's a photograph taken of you
6 pointing and you're trying to say to the
7 investigator, Lou DiJoseph at that point, the
8 guy on the jet ski was out there; is that
9 right?

10 **A. I believe what I'm pointing to there**
11 **is the approximate location of where Brad was,**
12 **about that far from me.**

13 **Q.** What were you pointing to?

14 **A. I was pointing to this boat.**

15 **Q.** Oh.

16 **A. There's a boat there. So I was using**
17 **the boat as distance and I was saying that he**
18 **was, you know, not that far off from me, from**
19 **my position.**

20 **Q.** At what point in time?

21 **A. At one point, yes. He was a little**
22 **bit closer to me.**

23 **Q.** That's what I'm asking you. Is that
24 when you first saw him in the water?

25 **A. No, that's the last I saw him. It**

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1 **would have started here and then it would have**
2 **went out.**

3 **Q.** "Started here" meaning further north?

4 **A. Further west.**

5 **Q.** Further west and moved further east?

6 **A. Moved further east. We're getting it**
7 **now.**

8 **Q.** And here's another picture of you
9 pointing called Sunderland-6. Tell us what
10 you were demonstrating there.

11 **A. I don't know.**

12 **Q.** Well, does Sunderland-7, which I show
13 you, does that help you with Sunderland-6,
14 give you any frame of reference?

15 **A. I have no idea. I don't know what I'm**
16 **doing here.**

17 **Q.** Okay. And now I have Sunderland-8, a
18 photograph which was provided to us taken at
19 the same time. This is when you and Mr.
20 DiJoseph were out there, right?

21 **A. Yes.**

22 **Q.** And does that help you refresh your
23 recollection in any way about what you were
24 pointing to in the other two photographs?

25 **A. No, not really. I know what this**

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1 **picture is about.**

2 **Q.** Tell us.

3 **A. Well, that's when we realized, both**
4 **myself and the jet skier that's in this**
5 **picture, that it's kind of crazy; we're both**
6 **on the beach at the same time and I said to**
7 **Lou, "That's the kid that saved my niece's**
8 **life," and I walked down and we hugged and I**
9 **said, "What are you doing here?" He says,**
10 **"This is the first time I've been back." He**
11 **said, "What are you doing here?" I said,**
12 **"First time really I have been back here since**
13 **that week."**

14 MR. BARKER: We're going to take a
15 break now.

16 THE VIDEOGRAPHER: We're going off
17 the record, 12:32.

18 (A lunch recess was taken.)

19 (Report prepared by North Wildwood
20 Investigator Richard Schmidt was marked for
21 purposes of identification as Exhibit
22 Sunderland-12.)

23 THE VIDEOGRAPHER: We're back on
24 the record and the time is 1:17.

25 BY MR. BARKER:

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1 **Q.** Mr. Sunderland, we're going to
2 continue now, having had our lunch break, and
3 I'm going to be asking you some questions
4 based on a report that was prepared by an
5 Investigator Richard Schmidt, S-C-H-M-I-D-T,
6 badge No. 228. It's a supplemental report.
7 It's North Wildwood Exhibit 16 and 17 and in
8 particular, your part of it, appears on 17.
9 And it's been marked as Sunderland-12, and you
10 have had the opportunity to look at that,
11 right, sir?

12 **A. Yes, yes.**

13 **Q.** So I'm just going to, by way of
14 background, mention to you that on 16 it leads
15 in as follows, Schmidt writes, "I then advised
16 Mrs. Smith that I was going to talk to Scott
17 Sunderland who was being treated at the
18 hospital. He was the other adult that fell
19 into the water. I advised her that I would
20 stop back and speak with her."

21 So now on Sunderland-12, he
22 writes, "I then met with Scott Sunderland and
23 asked him what had happened on the beach."

24 So that's the investigator that
25 you -- remember before you said I spoke to

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1 somebody at the hospital?

2 **A. Yeah, at the hospital, I remember.**

3 **Q.** So this must be the man that you spoke to, right?

A. Yeah.

6 **Q.** And he wrote, "He stated that he was walking along the beach with his son Aidan, daughter Ally, Brad Smith, and his daughter Brandi." All that's correct?

10 **A. Correct.**

11 **Q.** "He stated that they went for a walk on the beach along Hereford Inlet." That's correct?

14 **A. Correct.**

15 **Q.** "As they were walking back, they were all walking in knee-deep water along the surf." Is that correct, sir?

18 **A. Yeah, it was a little bit less than that, but yeah.**

20 **Q.** He then writes, "All of a sudden, Sunderland explained that the ground went out from under them and they fell into the water." Is that correct, sir?

24 **A. Yes.**

25 **Q.** He continued, "He did explain" --

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1 talking about you. "He did explain that his son Aidan didn't fall in the water." That's correct also?

4 **A. Correct.**

5 **Q.** He reports about you, "He stated that they walked into a deep gully in the water." Is that correct, sir?

8 **A. Yeah.**

9 **Q.** "He stated," talking about you, "He stated that when he fell in he was unsure if he was carrying his daughter at the time, but when they were in the water, she was hanging onto him around his neck." That's correct?

14 **A. Correct.**

15 **Q.** "He stated that while in the water he could feel a strong current pulling him." Is that correct?

18 **A. Yes.**

19 **Q.** "He stated that he doesn't know how but he was able to dig his hands into the sand and pull him and his daughter onto the beach." Is that correct?

23 **A. Correct.**

24 **Q.** "Once on the beach, he stated that he looked out into the water and saw Brad and

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1 Brandi being swept out by the current." Is that correct?

3 **A. Yes.**

4 **Q.** "He said that at this point Brad was hugging and holding onto Brandi." Is that correct?

7 **A. Yeah, that I don't remember.**

8 **Q.** All right. "He stated" -- strike that. He wrote, "He then stated that while watching the two, they separated and Brandi was treading water and the current continued to carry Brad out further." Was that correct?

13 **A. All but the part -- I don't remember them being together. I don't know if I said that, to be honest.**

16 **Q.** In the next paragraph, the investigator continues -- and he's reporting things that you said to him. You understand that?

20 **A. I do understand that, yeah. I remember talking to him.**

22 **Q.** He then reports, "Sunderland stated that Brad was yelling to him and to Brandi and at this point he stated that he entered the water in an attempt to get out to Brandi." Is

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1 that correct?

2 **A. Yes.**

3 **Q.** "He stated that when he entered the water, again the current was too strong and he exited the water." Was that correct?

6 **A. Yes.**

7 **Q.** "Sunderland stated that when he exited the water, he was trying to keep eye contact on both Brad and Brandi." Was that correct?

10 **A. Correct.**

11 **Q.** "As he was watching them, he stated that he was trying to yell and wave down boats that were in the inlet." Was that correct?

14 **A. Correct.**

15 **Q.** "None of these boats acknowledged him at this time." Was that correct?

17 **A. Correct.**

18 **Q.** "He then stated that he saw a police boat traveling in the inlet." Was that correct?

21 **A. Correct.**

22 **Q.** "At this time, he thought that the police boat was going to see Brad and Brandi in the water." Was that correct?

25 **A. Correct.**

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1 Q. "He said," talking about you, "He said
2 that the police boat went passed them and
3 continued out into the ocean." Was that
correct?

A. Correct.

6 Q. "Sunderland stated that he found out
7 that the police boat was heading out to assist
8 some jet skiers and probably never saw Brad
9 and Brandi in the water." Was that correct?

10 A. Correct.

11 Q. Next paragraph, "Sunderland stated
12 that he then ran down to a couple of people
13 that had jet skis on the beach and told them
14 what was going on." Is that correct?

15 A. No.

16 Q. And the correct statement would be?

17 A. They saw me waving.

18 Q. And then they just left and went off
19 to do the rescue?

20 A. They came towards me. I never left
21 the area.

22 Q. He wrote next, "He," talking about
23 you, "He pointed them out and these two
24 individuals launched the jet skis into the
25 water." Is that correct?

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1 A. They were already in the water and,
2 yes, I did point them out and they went to
3 assist them.

4 Q. "He stated that one of the jet skis
5 approached Brandi." Was that correct?

6 A. Yes.

7 Q. "The driver of this jet ski jumped
8 into the water, placed his life jacket on
9 Brandi and put her onto the jet ski."
10 Correct?

11 A. I believe so. I don't remember him
12 jumping in the water, but yes, everything else
13 is correct.

14 Q. "Sunderland stated that the jet skier,
15 along with Brandi, searched the water for a
16 few minutes. Then Brandi was brought back to
17 shore to be checked by rescue personnel."
18 Correct?

19 A. Yes.

20 Q. "I asked Sunderland if he was still
able to see Brad at that time. He stated that
he was watching as Brandi was being picked up
and lost sight of Brad." Correct or not?

24 A. Yes, correct. I mean, yeah, I saw him
25 after he picked up Brandi, and that's when I

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1 saw Brad go under. So right after he -- those
2 two come together. I didn't see him actually
3 pick her up out of the water because I was
4 watching Brad at that point.

5 Q. Talking about you, "He stated that the
6 last time he saw Brad in the water he was
7 being carried out towards the breakers which
8 he thought was a sand bar." Correct?

9 A. Yes.

10 Q. "After Brandi was brought to shore,
11 Sunderland stated that they were checked by
12 rescue personnel and then transported to the
13 hospital."

14 A. Correct.

15 Q. And that was the end of his interview
16 with you?

17 A. Yes.

18 Q. Did you ever get interviewed by that
19 officer again?

20 A. I would have no idea. I don't think
21 so.

22 Q. Were you ever interviewed by any other
23 law enforcement officials?

24 A. Interviewed, no, I don't think so.

25 Q. Did you speak to any other law

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1 enforcement people?

2 A. They would come to the house and kind
3 of say what was going on, what would happen,
4 what their previous experience was for people
5 who were lost, how they, you know, tried to
6 find them.

7 Q. And do you know who you were speaking
8 to?

9 A. I don't.

10 Q. Do you know what agency they were
11 from?

12 A. Not a hundred percent sure, no.

13 Q. You were interviewed by Mr. DiJoseph
14 at some point, right?

15 A. Yes.

16 Q. We have a report of interview by Mr.
17 DiJoseph, a report of interview, August 16th,
18 2012. Does that sound like the correct date
19 to you?

20 A. I believe that was the day we were on
21 the beach together.

22 Q. Same one that coincides with the
23 photographs we went through before lunch?

24 A. Yes.

25 Q. And you had the opportunity before

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1 this deposition began to look over this report
2 of interview, correct?

3 **A. Yes.**

4 **Q.** In going over the report of interview
5 you marked it up and made corrections?

6 **MR. D'AMATO:** Is that

7 Sunderland-5?

8 **MR. BARKER:** Yes, it is, and we
9 can place that in front of the witness if you
10 don't mind.

11 **MR. D'AMATO:** No.

12 **BY MR. BARKER:**

13 **Q.** On Sunderland-5, I want you to explain
14 to us, if you will just look at every change
15 you made and tell us "I made that change
16 because" and tell us whatever the reason was.

17 **A. The first change was -- it says, "The
18 Sunderland and Smith families established a
19 position on the beach in the area of Surf
20 Avenue which was protected beach in North
21 Wildwood. Sunderland and Smith and their two
22 daughters decided to take a walk on the beach
23 in the north direction."**

24 The only reason I circled that is
25 because our daughters were out playing and, as

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1 I said before, Brad ran after them to scare
2 them and then I followed him. It's not like
3 we all just decided, "Hey, let's go for a
4 walk."

5 The next one, it says --
6 correction says, "Sunderland stated that he
7 and his daughter were walking behind Smith and
8 his daughter," and we were -- I mean at the
9 time of the actual accident when we went in
10 the water, I was in front of Brad.

11 The next correction was, "Suddenly
12 Smith and his daughter fell into the water
13 simultaneously. Sunderland and his daughter
14 also fell into the water."

15 **Q.** You struck through that?

16 **A. I just struck through it and said,
17 "Ally and I fell into the water." I presume
18 that they fell into the water because they
19 were in the water, but I didn't see them fall
20 into the water when I went in.**

21 The next one was "Sunderland's
22 daughter immediately jumped onto his back."
23 She fell onto my back or else I was carrying
24 her prior to falling into the water, but she
25 was on my back when I was in the water. She

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1 didn't climb on my back.

2 **Q.** Down at the bottom of the page there's
3 two or three points of change. Take us
4 through them one at a time.

5 **A. Let's see, "Suddenly a jet ski was
6 launched from the beach's north end and the
7 operator came up to Brandi and pulled her from
8 the water. While the jet ski was pulling
9 Brandi from the water, Sunderland spotted a"
10 -- yeah, the New Jersey -- the Marine Unit.**

11 Yeah, I don't -- that was -- it's
12 just timeline as far as what happened. I saw
13 -- the marine boat was before the jet skier
14 came. So the officer was coming down the
15 inlet before the jet skier saw me wave. So he
16 came down and then he passed by them. And
17 then that's when I started waving, kind of
18 frantically. That's when the jet skier saw
19 me. That's when they came up, and then that's
20 when the rescue happened, took place.

21 **Q.** So in this case --

22 **A. It's just the timeline.**

23 **Q.** -- the interviewer has it reversed?

24 **A. Correct, correct.**

25 **Q.** And there's a change at the bottom,

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1 "Sunderland then told the" --

2 **A. Yeah, I never told them. I just
3 pointed. I mean it's not like I went down to
4 the water's edge and had a conversation with
5 them. You know, I yelled and he went there.
6 That's why I was saying he was out, say,
7 50 feet or 60 feet out in the water and then
8 he kind of came in a little bit so he could
9 kind of hear me, looking at me, but he never,
10 like, came to the beach, stopped, talked and
11 then went out and rescued Brandi. It was all
12 one motion.**

13 **Q.** Okay. We're now on page 6 of this
14 report, and at the top of the page you struck
15 some words and you put in some words?

16 **A. Yeah, as far as the trooper was on the
17 boat when he came back with the jet skier that
18 he rescued. We didn't really have a
19 conversation about Brad at all because he had
20 no idea. And when I say that he had no idea,
21 he wasn't talking about Brad at all. He was
22 just talking about the jet skier right here,
23 "Can you, please, take the rope and pull the
24 jet ski up on the beach to help the jet skier
25 right there?" I don't think he had any clue**

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1 of Brad whatsoever.

2 Q. I'm looking at page 7. There's a
3 photograph there where the investigator wrote,
"Photograph No. 6 illustrates jet ski rescuer,
Rob O'Donnell, and Scott Sunderland standing
6 at the approximate location of the Smith
7 drowning."

8 So is that where you went in, or
9 is that where you're saying that Brad was
10 offshore and went under when you last saw him?

11 A. Well, this picture, I think it's more
12 of not -- I mean we were in the general area
13 because I was telling him what happened. This
14 is more of the surprise that the same jet
15 skier is there now and I was kind of saying to
16 Lou, "This is crazy. This is the same guy."
17 So I think it was that surprise.

18 Q. So this photograph doesn't help you
19 demonstrate where you went in the water?

20 A. No, not necessarily, no.

21 Q. Let's turn to the next page. This is
22 an aerial view. It looks like it's -- I don't
23 know if this is an enlargement of another
24 photograph that we have, but it's on page 8 of
25 this report, and it's referred to as

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1 "Photograph No. 7 illustrates an aerial view
2 of the North Wildwood beach area known as
3 Hereford Inlet and the approximate location of
4 the Smith drowning."

5 There's an X on there with an SAS
6 on it, right?

7 A. Yes.

8 Q. And you put that there this morning?

9 A. I did that.

10 Q. And you did that when you were meeting
11 with Mr. D'Amato?

12 A. Yes.

13 Q. Before the deposition?

14 A. Before, yes.

15 Q. Okay. What conversation did you have
16 with Mr. D'Amato about where and how to put
17 this X?

18 A. He just asked me, "Do you think the
19 arrow is, you know, pretty accurate?" And I
20 said, "Fairly accurate, from what I remember."
And he said, "Can you put an X where you think
it happened?" So I put an X.

23 Q. Did you ever go back to the scene and
24 point out to any other investigator where you
25 went in the water?

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1 A. Just Lou. That was it.

2 Q. Just on August 12, 2012, that one and
3 only time?

4 A. And I think that was the last time I
5 have been there.

6 Q. And when you went with Mr. Lou
7 DiJoseph at the scene on August 12, 2012, did
8 you see Mr. DiJoseph turn around and make
9 observation of any landmarks to help mark the
10 spot that you were telling him where you went
11 in the water?

12 A. Not that I recall.

13 Q. Did you turn around and look at any
14 landmarks up or down the coast or more inland
15 to help you mark the spot where you say you
16 went in the water?

17 A. Not that I can recall.

18 Q. Okay. So if I can get back to the
19 photograph that you marked when Mr. Hunkins
20 was talking to you, I have a follow-up
21 question about that.

22 So just go off the record one
23 minute while we get that exhibit.

24 THE VIDEOGRAPHER: Going off the
25 record and the time is 1:38.

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1 (Discussion off the record.)

2 THE VIDEOGRAPHER: We're back on
3 the record, 1:39.

4 BY MR. BARKER:

5 Q. Remember when you put the circle
6 around on Exhibit 10 there?

7 A. Right.

8 Q. And that was to kind of show the area
9 of the rock wall and --

10 A. The parking lot.

11 Q. -- and the parking lot, right?

12 A. Um-hum.

13 Q. And you referred to the X and you said
14 the X was like halfway between where the ocean
15 was and the inlet was; is that right?

16 A. No. I think I was saying as far as
17 our walk goes, I would say that the X -- it's
18 closer to the ocean side, I would say, a
19 little bit more than halfway.

20 Q. Back towards where --

21 A. Towards east, towards the front.

22 Q. Where you had started on your walk?

23 A. Yeah, we started more south. We
24 started south, walked north, turned west and
25 then came back along the coast towards the

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1 east, and then we would eventually head back
2 south again. So we were still traveling east.

3 Q. All right. The only thing I was
trying to clarify in my mind is when you said
about where the ocean was. Does that
6 photograph No. 10 show you what you perceive
7 to be the ocean versus the inlet?

8 MR. D'AMATO: On the day of the
9 accident?

10 MR. BARKER: Well, even in that
11 photograph, because isn't that a photograph
12 taken -- well, let me just rephrase my
13 question.

14 BY MR. BARKER:

15 Q. I'm showing you this Exhibit 10,
16 because I thought the X was in some way put
17 there because you were estimating based on
18 where the inlet was, where the ocean was, and
19 I know that you got the red circle about where
20 the parking lot was and the rock wall, but
21 does that thing show you where the ocean is?

22 A. Well, I guess this part, that's what I
23 remember being the ocean end. So if you
24 continued it this way, it would just keep
25 going straight down (indicating.)

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1 Q. Can you point an arrow, put a Y, no,
2 some kind of mark on there as to what you are
3 demonstrating to us as the ocean, what you are
4 describing as the ocean?

5 A. So I mean can I keep coming down?

6 Q. Sure.

7 A. So this part, that's --

8 Q. With the red line straight down?

9 A. When I look at this, when I look at
10 this picture, I see this being the inlet.

11 This -- correct? This is the parking lot. So
12 I know in reference to the bay is back here.

13 This is the inlet. The rock wall is all along
14 here. And then this is the stretch, and then
15 this is the ocean. So when we originally sat
16 down, we would be up here somewhere
17 (indicating.)

18 Q. Down there somewhere?

19 A. At or down there at the guarded beach.

20 Q. Right. So the beginning of the red
21 line straight down is more or less where
you're saying --

23 A. Oceanfront.

24 Q. The oceanfront.

25 A. Yeah, that's the oceanfront. So when

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1 I say the State trooper boat, it would have --
2 from what I can see in this picture, I would
3 guess it would be in that area where he came,
4 like along this area. So this is where the
5 emergency vehicles would have been, from my
6 recollection. That's what it looks like to me
7 (indicating.)

8 Q. So the area of where the State trooper
9 came from or --

10 A. Yeah, he would have been out here to
11 rescue the jet skier. Because the breakers
12 were way out here.

13 Q. Okay.

14 A. And then he would have came in, you
15 know -- I didn't see him come in. I see him
16 come up to the shore at approximately this
17 point, but, again, it's --

18 Q. At the top of the red line?

19 A. Yeah, in that approximate area, so
20 when you -- I guess looking at it, if there
21 was a big picture, I would say this whole area
22 out here would all be ocean. This would all
23 be ocean out here (indicating.)

24 Q. Okay. Let's look at this other
25 photograph that's larger.

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1 MR. D'AMATO: Just for the record,
2 the photograph that you were just asking him
3 questions about was taken from Google Earth
4 and just incorporated in the report. So you
5 never really saw this photo before.

6 MR. BARKER: Who didn't?

7 MR. D'AMATO: You didn't.

8 MR. BARKER: Oh, it's different
9 than the March 14th, 2012 one?

10 MR. D'AMATO: Yes. And I don't
11 have a date on it, but I will get a date as to
12 that particular photograph.

13 MR. BARKER: Thank you.

14 BY MR. BARKER:

15 Q. What's that exhibit number, Mr.
16 Sunderland, the bigger photograph there?

17 A. 2B.

18 Q. On that one, does that demonstrate to
19 you where you set up on the beach? Can you
20 tell?

21 A. No, no, it looks different. I mean I
22 can see the parking lot.

23 Q. Right. So if you can't tell where you
24 set up on the beach and you can just see the
25 parking lot, any other landmark you can

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1 recognize there?

2 **A. I can see landmarks here, but the**
3 **beach looks -- it looks different to me.**

4 **Q. Than in the --**

5 **A. Than in this picture (indicating.)**

6 **Q. The number of that is?**

7 **A. Number Sunderland-10. Yeah, okay, I'm**
8 **looking up at the initials, yeah,**
9 **Sunderland-10.**

10 **Q. In looking at this 2B photograph, does**
11 **it demonstrate to you -- can you see from that**
12 **where you think you went in the water?**

13 **A. On this, 2B?**

14 **MR. D'AMATO: In all fairness,**
15 **isn't 2B exactly the same as Sunderland-2?**

16 **MR. BARKER: Yes, 2B is**
17 **Sunderland-2 --**

18 **THE WITNESS: It's just blown up.**
19 **It's just bigger.**

20 **MR. BARKER: -- but it's just an**
21 **enlargement.**

22 **MR. D'AMATO: Okay.**

23 **THE WITNESS: Yeah, on 2B it just**
24 **looks like it's different -- it's kind of like**
25 **a different shape. It's similar, but I feel**

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1 more comfortable with this picture, and I
2 don't know if it's because it's closer, but
3 when I look at this, it doesn't --

4 **BY MR. BARKER:**

5 **Q. 2B?**

6 **A. Yes, sorry. No, on Sunderland-10.**
7 **When I look at Sunderland-10, it looks to me**
8 **more where it was. I don't know if it's the**
9 **size of the picture. I don't know what it is,**
10 **the difference, but there I can kind of see**
11 **how, you know, in a --**

12 **Q. "There" meaning on 10?**

13 **A. Sunderland-10, you know, I can see the**
14 **distance, I guess, the scale of it, by the way**
15 **the buildings are, the size of the cars, about**
16 **where the accident happened. On 2B, it really**
17 **doesn't look the same at all, but it just**
18 **could be, you know, because it's further back,**
19 **it's showing more of the coast.**

20 **Q. So for whatever reason, 2B does not**
21 **help demonstrate your testimony?**

22 **A. No.**

23 **Q. Correct?**

24 **A. Right, correct.**

25 **MR. BARKER: Let's go off the**

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1 record a minute.

2 **THE VIDEOGRAPHER: Going off the**
3 **record, 1:48.**

4 **(Discussion off the record.)**

5 **THE VIDEOGRAPHER: Back on the**
6 **record, 1:50.**

7 **BY MR. BARKER:**

8 **Q. Am I correct, Mr. Sunderland, that you**
9 **and your family had never been to this**
10 **particular beach before?**

11 **A. Correct, no, we hadn't.**

12 **Q. But you and the Smith family had**
13 **vacationed for years together?**

14 **A. Oh, all the time.**

15 **Q. Had you ever been to any North**
16 **Wildwood beaches before?**

17 **A. No.**

18 **Q. Do you recall the address of the house**
19 **that you rented or stayed at that year, 2012?**

20 **A. No. I know where it is. I probably**
21 **would be able to point it out, but I don't**
22 **know the address.**

23 **Q. Was it inland but near where you set**
24 **up on the --**

25 **A. It was further down the inlet in the**

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1 **marina, in the marina.**

2 **Q. Oh. Do you recall what the surf**
3 **conditions were at the time that you started**
4 **off on this little walk?**

5 **A. Out in the ocean where we were, it was**
6 **really -- I don't know if it was rough, but**
7 **there was a real bad -- the bigger boys would**
8 **go out into the water and boogie board and**
9 **then they would come out, like, really far**
10 **down the beach because the current was going**
11 **sideways, I guess, and it was really strong.**

12 **Q. From which direction?**

13 **A. I think they would have been going**
14 **south. So they would drift south and they**
15 **would ride the waves in, because we --**

16 **Q. Is south the same as east?**

17 **A. No, east is east. South is down the**
18 **coast, right? That's how I look at it. So**
19 **south is down the coast. East is straight out**
20 **to the ocean.**

21 **Q. Got you, okay, I'm following you. And**
22 **who are the bigger boys?**

23 **A. Bigger boys would be my son, Jett, and**
24 **Cole, Sandy and Brad's son.**

25 **Q. So you saw them go in the water to**

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1 boogie board and then they would --

2 **A. Yeah, they would get, you know, pulled**
3 **down south along the beach, along the beach,**
4 **because they were riding waves in. That was**
5 **at, you know, whatever avenue it was where the**
6 **lifeguard stands were. But as far as where we**
7 **were, there was nothing. It was perfectly**
8 **flat.**

9 **Q. When you were walking up?**

10 **A. When we were walking. The sun was**
11 **kind of glistening on the water. It was**
12 **beautiful.**

13 **Q. So walking up towards the rock wall**
14 **and walking back were the conditions the same?**

15 **A. Walking back, walking back. Again, we**
16 **kind of walked inland, I would say. We**
17 **walked, you know, in the westerly direction**
18 **toward the rock wall and we walked along the**
19 **coast on the way back, so that's really --**

20 **Q. What I'm asking is when you are**
21 **walking on the way back, are you describing**
22 **those conditions as very slight?**

23 **A. Very flat, very slight, yeah.**

24 **Q. And did you observe any conditions of**
25 **current at that time?**

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1 **A. No, none.**

2 **Q. And on the walk back, none?**

3 **A. None.**

4 **Q. And on the walk up to the rock wall?**

5 **A. Again, not that I recall, because I**
6 **think we were inside, you know, or more on the**
7 **sand. I guess you would say the upper beach,**
8 **the upper part of the beach, more towards**
9 **where the tidal pools form, because the girls**
10 **were playing in the tidal pools.**

11 **Q. Do you remember what the street**
12 **location was where you set up and you said the**
13 **lifeguard was there and the boogie boarding**
14 **was going on?**

15 **A. I really -- I don't. I'm bad with**
16 **directions like that; my wife will be the**
17 **first one to tell you.**

18 **Q. As a result of going in the water, did**
19 **you suffer any injuries?**

20 **A. No.**

21 **Q. As a result of going in the water, did**
22 **your daughter suffer any injuries?**

23 **A. No.**

24 **Q. Do you recall who from the media you**
25 **spoke to about this event?**

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1 **A. I remember we spoke to -- what's the**
2 **name of the program? I'm not sure. I'm not**
3 **sure. If I had a picture, I could tell you.**

4 **Q. Somebody from the media you remember**
5 **speaking to?**

6 **A. Yes, yes.**

7 **Q. Did you speak to more than one person**
8 **from the media or just one person?**

9 **A. No, it was a few people.**

10 **Q. At different times, I take it, or not?**

11 **A. No, it was pretty much all at the same**
12 **time and we just recounted what happened.**

13 **Q. Was the person's name Sam Wood?**

14 **A. Doesn't ring a bell.**

15 **Q. Doesn't ring a bell?**

16 **A. No.**

17 **Q. Did you speak to any female reporter?**

18 **A. I remember a female reporter, yes.**

19 **Q. Do you know who the female reporter**
20 **was reporting for?**

21 **A. I don't.**

22 **Q. Do you know who the gentleman reporter**
23 **was reporting for?**

24 **A. Not off the top of my head, I don't,**
25 **no. Oh, it was Chasing New Jersey.**

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1 **Q. Pardon?**

2 **A. Chasing New Jersey. I think that was**
3 **the program.**

4 **Q. Is that a newspaper or --**

5 **A. I don't know. I'm not really sure.**

6 **Q. You don't know. Here's an article**
7 **that appeared, and on the second page of the**
8 **article it refers to you giving an account.**

9 **Let's see if this refreshes your recollection.**

10 **MR. D'AMATO: Off the record.**

11 **THE VIDEOGRAPHER: Off the record,**
12 **1:57.**

13 **(Newspaper Article was marked for**
14 **purposes of identification as Exhibit**
15 **Sunderland-13.)**

16 **THE VIDEOGRAPHER: We are back on**
17 **the record. The time is 2:02.**

18 **BY MR. BARKER:**

19 **Q. Mr. Sunderland, I put in front of you**
20 **an exhibit which we marked as Sunderland-13.**
21 **It's a media report on an interview with you,**
22 **and I'm only going to ask you about the things**
23 **that they recount which you said --**

24 **A. Okay.**

25 **Q. -- which appears on page 2, it starts.**

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1 You'll see in the bottom third of the page it
2 starts, "Scott Sunderland, Smith's best
3 friend, recounted the event. 'The signs said
no swimming and we weren't. We were just
walking,' Sunderland said." Did you say that
6 to a reporter?

7 **A. Yes.**

8 **Q.** "I took a step and dropped. All of a
9 sudden there was nothing under my feet."
10 That's in quote marks. Did you say that?

11 **A. Yes.**

12 **Q.** The next part is not in quotes. It
13 says, "Sunderland's daughter landed on his
14 back and wrapped her arms tightly around his
15 neck." Did you say that?

16 **A. Like I recounted before, either,
17 again, when we were walking, she was on my
18 back, and when I was in the water, she was on
19 my back. As soon as I was in the water, she
20 was on my back.**

21 **Q.** Next the reporter gives this recount
22 of you making this statement. "'I just
23 started swimming,' Sunderland said. 'It was
24 30 seconds before I realized how far from the
25 shore I was.'" Did you say that?

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1 **A. Yes. I don't remember this
2 conversation, but I mean.**

3 **Q.** Oh, well, if you don't remember,
4 then --

5 **A. Well, I mean I remember giving the
6 interview, but it was a bunch of people. So I
7 don't remember talking specifically to this
8 person.**

9 **Q.** Oh, so there's more than one reporter
10 there?

11 **A. Yes.**

12 **Q.** Oh, and you're just telling me now
13 that what they have reported in this account
14 is something that you would have said; you
15 don't necessarily remember saying it?

16 **A. Exactly, yes, yes, yes.**

17 **Q.** Okay. The last thing I think we've
18 got here from you, "With his daughter hanging
19 on, Sunderland struggled against a vicious
20 undertow. When he finally touched sand, he
fought the rip current to gain his footing.
'It was almost like I was climbing to get onto
the beach.'"

24 **A. Again, I don't remember saying those
25 exact words to this exact person, but...**

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1 **MR. D'AMATO:** But what?

2 **THE WITNESS:** I mean that's
3 basically what happened. Okay?

4 **BY MR. BARKER:**

5 **Q.** Okay. That's all I have on that.
6 Just a second.

7 Did you have any conversations
8 with any lifeguards of North Wildwood or,
9 really, did you have any conversations with
10 any lifeguards about this event?

11 **A. No.**

12 **Q.** Not from the date of the event until
13 now?

14 **A. I don't think ever. I don't think I
15 ever -- unless, you know -- no, not knowingly.**

16 **Q.** The only person that you have spoken
17 to that you can remember, let's see, it would
18 be the policeman that we talked about,
19 Schmidt, right?

20 **A. In the hospital.**

21 **Q.** Right. And then the one policeman
22 before that, you spoke to him, but you don't
23 remember what you said?

24 **A. Right, correct.**

25 **Q.** And then after that you spoke to Lou

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1 DiJoseph on August 12th?

2 **A. Right.**

3 **Q.** And then after that you spoke to Mr.
4 D'Amato earlier today, correct?

5 **A. Correct.**

6 **Q.** Anybody else?

7 **A. Well, I've told a lot of people this
8 story. Everybody I see and I meet I tell this
9 story to. So if I spoke to anybody else, I
10 did not know who they were, other than, you
11 know, casual acquaintance or whatever. So
12 just to be clear.**

13 **Q.** Apart from the one time that you spoke
14 to the media and we see this article
15 appearing, was there any other time when you
16 spoke to the media like a press conference or
17 people coming by to interview you?

18 **A. We did a press conference here, I
19 guess, which is that time.**

20 **Q.** Meaning this article?

21 **A. Yes, I think that was all of it, here.**

22 **Q.** When you say "here," you mean in Mr.
23 D'Amato's office?

24 **A. Yes, yes.**

25 **Q.** Right in this conference room?

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- 1 **A. I believe, yes.**
 2 **Q. Was that recorded?**
 3 **A. I'm sure it was.**
Q. Why do you say that?
A. Well, because there was cameras here
 6 **and, you know, reporters here. That's why I**
 7 **said when you say that reporter, I don't know**
 8 **if it was that reporter, but chances are it**
 9 **probably was because I think there were**
 10 **probably five -- five, six reporters.**
 11 **Q. Was that press conference something**
 12 **that you arranged?**
 13 **A. No, no.**
 14 **Q. Who arranged it?**
 15 **A. I don't know if it was Mr. D'Amato and**
 16 **Sandy, I believe. Sandy asked me if I would**
 17 **come, so I came with her daughter.**
 18 **Q. Sandy Smith?**
 19 **A. Sandy Smith. Sorry.**
 20 **Q. Other than the -- well, let me ask you**
 21 **this: To your knowledge, have you spoken to**
 22 **any North Wildwood personnel about the**
 23 **happening of this event?**
 24 **A. Only right after when we were still**
 25 **staying at the house.**

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- 1 **Q. And who was that?**
 2 **A. Again, I'm not sure who it was, but it**
 3 **was -- I believe it was an officer, police**
 4 **officer, and there were two of them, and they**
 5 **would come a couple of times. I don't know if**
 6 **they were the same gentlemen. But they would**
 7 **ask or, you know, we would ask -- would be**
 8 **asking them, what can we expect -- it's mostly**
 9 **on the recovery of Brad and the rescue of**
 10 **Brad. We were asking, you know, what -- how**
 11 **do you investigate it as far as how they find**
 12 **him. You know, they put the strobe in the**
 13 **water; they were explaining all of that. And**
 14 **they had said that other people have been lost**
 15 **here. And we were asking about that as far as**
 16 **how -- were they lost, like, drowned lost,**
 17 **were the bodies recovered, and they told us**
 18 **about, you know, when somebody is lost at sea,**
 19 **not just in this position, but when people**
 20 **drown, how the bodies come up, sometimes they**
 21 **do show up, sometimes they don't show up. It**
 22 **all depends.**
 23 **Q. Anything else you can remember about**
 24 **the conversations with those two?**
 25 **A. No, that was mostly it, you know.**

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- 1 **They just said that other people have -- it's**
 2 **happened to other people here.**
 3 **Q. Here where?**
 4 **A. Here at that location where we went**
 5 **in.**
 6 **Q. And these people that told you that,**
 7 **you think they were from North Wildwood?**
 8 **A. Yeah, I'm pretty sure, because they**
 9 **were in the investigation of finding him.**
 10 **Q. Was any one of them the same that**
 11 **spoke to you on the beach that day?**
 12 **A. I don't think so. I don't know. I**
 13 **can't say.**
 14 **Q. Was any one of them the same as the**
 15 **person who spoke to you in the hospital?**
 16 **A. I can't say with any certainty. It's**
 17 **possible, but I'm not sure.**
 18 **Q. Do you know what position either one**
 19 **of them held?**
 20 **A. No, I don't.**
 21 **Q. That would mean like rank or**
 22 **responsibility. No idea?**
 23 **A. No, I don't. I know they were in**
 24 **charge of the investigation, so I would think**
 25 **they would be, you know, in that capacity if**

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- 1 **they are doing the investigation of finding**
 2 **him.**
 3 **Q. So they're on the recovery side?**
 4 **A. I believe so, yeah. But it was really**
 5 **about the whole incident. You know what I**
 6 **mean? So they were speaking to us more of**
 7 **what to expect. They were sounding moreso we**
 8 **could ask the questions and they were**
 9 **responding with this is how we -- this is how**
 10 **the -- whether it's that office that does the**
 11 **recovery or not, but they were explaining how**
 12 **the process works. This is how the rescue**
 13 **effort goes or the recovery effort happens.**
 14 **They put out a beacon. The beacon floats in**
 15 **the water and they, you know, that determines**
 16 **where the water is going to move. So chances**
 17 **are if the water is moving that way, that's**
 18 **where Brad will move. So -- and then we would**
 19 **ask, like I said, "Well, what is the recovery**
 20 **rate?" Because I mean he's out at sea. So is**
 21 **it more likely that he will wash up, or is it**
 22 **more likely that we'll never know and he'll**
 23 **just -- because that was one of Sandy's**
 24 **things. She wanted to know that he was at**
 25 **least recovered.**

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1 Q. Had you ever spoken to any personnel
2 from the Coast Guard?

3 A. No.

4 Q. And I'm asking about this incident.

5 A. **No, no, no. I've had them on the
6 boat, but that's all good.**

7 Q. Not about this incident?

8 A. No.

9 Q. Okay. Have you spoken to any New
10 Jersey State Police officials about this
11 incident?

12 A. No.

13 Q. Have you spoken to any New Jersey
14 officials about this incident?

15 A. No.

16 Q. Have you spoken with any witnesses to
17 the incident?

18 A. **We -- I did speak -- where we were
19 staying, there was a family who owned one of
20 the townhomes, and Brad and I had become
21 friendly with them while we were staying there
22 because they were boaters and they had the jet
23 skis, and we would go down there and talk to
24 them, and after it happened, they, of course,
25 came up and offered anything that they could**

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1 **do to help, and the woman had mentioned
2 that -- she said to me just the other night or
3 just the other late afternoon, a group of
4 women were walking along the beach and they
5 fell in.**

6 Q. And who was this person who told you
7 this?

8 A. **This was the -- I don't know her name,
9 but it was the owner of the townhome that was,
10 you know, maybe four, five doors down from
11 where our rental was.**

12 Q. And was that person interviewed by
13 anyone, that you know of?

14 A. **I have no idea.**

15 Q. You don't think maybe Mr. DiJoseph
16 interviewed her, do you?

17 A. **I have no idea. I haven't spoken to
18 her since that time.**

19 Q. Okay. Have you ever spoken to anyone
20 about closing the inlet beach?

21 A. **As far as an authority or -- the only
22 person I spoke to was the Mayor right -- and
23 it might have been the day after, or, you
24 know, two, after the incident, and I asked him
25 if he would --**

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1 Q. That's what I was going to ask you.

2 What did you say to him and what did he say to
3 you?

4 A. **Well, when I spoke to him, he -- first
5 thing he said was, "Well, you shouldn't have
6 been swimming." And that got me -- my hair
7 stood up a little bit, because I felt like I
8 needed to defend ourselves a little bit, and
9 that's when I said, "We weren't swimming, we
10 were walking." And, you know, there was
11 silence. And then he was just defensive and
12 it got me defensive.**

13 So I said, "Well, you need to do
14 something here. You need to put rocks down
15 there. You need to do something to deter
16 people from walking along here." Because it's
17 probably the most beautiful place that I have
18 seen since I have been here, and being down
19 there the next day, there's little kids
20 walking right where we were.

21 And he said, "We can't close the
22 beach. We can't put rocks there because they
23 will be gone the next year." And I said,
24 "Well, isn't that better than somebody's
25 husband, somebody's daughter, somebody's

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1 five-year-old?" I said, "Because if my son
2 would have fell in that water, it would have
3 been all of us." There was absolutely no
4 question about that, because I never would
5 have left my son. And I swam as soon as I hit
6 the water knowing that my daughter was on my
7 back. I didn't gather her. I didn't take
8 time in doing that. I swam from the very
9 second I hit the water.

10 MR. BARKER: I have nothing
11 further. Thank you.

12 MR. HUNKINS: I have a few
13 questions.

14 * * *

15 FURTHER EXAMINATION BY MR. HUNKINS:

16 Q. You have been real patient. Do you
17 need to take a break at all?

18 A. **No. I'm okay.**

19 Q. I don't think I'll be too long, and
20 I'll try to be as efficient as I can.

21 A. **Okay.**

22 Q. I start with an apology. You
23 mentioned that you are a boater, correct?

24 A. **Correct.**

25 Q. But I don't think we've asked you much

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1 about your boating experience; is that
2 correct?

3 **A. No.**

Q. What kind of boat did you own back
when this incident occurred?

6 **A. The one I still have today. It's a
7 25-foot center console. It's a Sea Hunt.**

8 Q. Okay. And when you were down in North
9 Wildwood for this vacation when this incident
10 occurred, did you have your boat with you?

11 **A. Correct.**

12 Q. And I think you might have said this.
13 It was at a marina at the time?

14 **A. The marina right where we stayed, the
15 boat was directly in the backyard, behind the
16 house where we stayed.**

17 Q. So looking at the overview picture,
18 Sunderland-2, the marina would have been south
19 of what's shown in that image?

20 **A. Sunderland-2, the marina would have
21 been up here (indicating.)**

22 Q. Okay. It would have been northwest --
23 MR. D'AMATO: Just twist the
24 photograph.

25 THE WITNESS: Sorry.

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1 BY MR. HUNKINS:

2 Q. The marina would have been northwest
3 of what's shown on Sunderland-2?

4 **A. It would have been back here somewhere
5 (indicating.)**

6 Q. Okay. And I may not be using the
7 right term, but to me the inlet is more or
8 less in the northwest of that image, so would
9 the marina have been -- was it located in the
10 inlet?

11 **A. Yes, adjacent to, you know -- I guess
12 an offshoot of the inlet.**

13 Q. Okay. And in the days that you were
14 in North Wildwood before the incident
15 occurred, had you had your boat out?

16 **A. Oh, yes.**

17 Q. Okay. And had you taken your boat
18 through the inlet?

19 **A. We did.**

20 Q. Okay. As a -- how many years had you
been boating prior to this?

21 **A. At that time, me, probably -- with my
22 boat, probably two years. Brad had, you know,
23 boats, too, and I had boats a long time ago.**

24 Q. All right. From your knowledge -- you

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1 had known Brad for how long?

2 **A. Oh, since probably '84.**

3 Q. And you were both boaters?

4 **A. Yeah. I mean it was my boat. We were
5 actually going to buy a boat together and then
6 I just ended up buying mine.**

7 Q. Would you say that your knowledge and
8 experience with boating was roughly the same
9 as Brad's?

10 **A. I would say so. I probably had a
11 little bit more because I was captain, I
12 guess.**

13 Q. I assume as a boater you were familiar
14 basically with what an ocean is and what an
15 inlet is?

16 **A. A hundred percent.**

17 Q. You were aware at the time of the
18 incident that an inlet is a body of water
19 where the water comes in and out with the
20 tide?

21 **A. Yes.**

22 Q. Have you boated in any other inlets
23 other than Hereford Inlet?

24 **A. Yes.**

25 Q. Just give me an example of where.

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1 **A. Point Pleasant, Belmar, Barnegat.**

2 Q. Okay. Were you familiar from your
3 experience with other inlets at the time of
4 this incident that, generally speaking, inlets
5 involve strong currents?

6 **A. Yes, yeah.**

7 Q. As a boater, are you familiar with the
8 fact that at times it's even difficult to
9 navigate your boat in and out through an inlet
10 depending upon which way the current is going?

11 **A. Well, as soon as we got to the house,
12 we went to the marina and I bought a chart,
13 and I asked the owner of the marina to show us
14 the best way out of the inlet, and he actually
15 drew a line on how to get out. And, you know,
16 I said I just need to know how to get out,
17 because on my boat it has a machine that shows
18 like the bread crumb trail. So once I get
19 out, then I can easily get in and it's just
20 for being shallow, because he said it was
21 shallow.**

22 Q. This conversation you are having and
23 the map that you got, was that before the
24 incident in this case --

25 **A. Yes.**

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- 1 Q. -- or after?
- 2 A. **That was before.**
- 3 Q. Okay. And do you have that map?
- 4 A. **Yes, I do.**
- 5 Q. Have you ever given it to anybody, for
- 6 example, Mr. D'Amato?
- 7 A. **No.**
- 8 Q. Okay. Is that something you could
- 9 provide to Mr. D'Amato so he could give us a
- 10 copy?
- 11 A. **Sure.**
- 12 Q. What kind of map do you call this?
- 13 A. **It's a chart -- it's a chart of the**
- 14 **Hereford Inlet.**
- 15 Q. And by the time you took your walk on
- 16 the beach and this incident occurred, you had
- 17 had this conversation with this person at the
- 18 marina?
- 19 A. **At the marina, yes.**
- 20 Q. And you were familiar generally with
- 21 the fact that the inlet was very shallow?
- 22 A. **Yeah. He basically just said, "You**
- 23 **want to go out" -- I mean the conversation**
- 24 **was, "You basically want to go out this side."**
- 25 **And it was the opposite side of where this is.**

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- 1 **This was on the north side.**
- 2 Q. Okay.
- 3 A. **North side.**
- 4 Q. Obviously, this is for purposes of
- 5 getting the boat through without grounding the
- 6 boat?
- 7 A. **We were going fishing in the ocean.**
- 8 Q. So if I follow you, the channel or
- 9 path that he showed you on the map was not
- 10 along the beach where you were walking?
- 11 A. **No, no, it was the opposite side.**
- 12 Q. Okay. From looking at that chart, if
- 13 you had chosen to do so, could you have found
- 14 the depth of the water along the beach where
- 15 you ended up walking on the day of the
- 16 incident?
- 17 A. **But at a certain time of day or a**
- 18 **certain -- you know, it will have numbers on**
- 19 **it that basically tells you depth or whatever.**
- 20 Q. And I'm not an ocean person at all,
- 21 but from what I gather, the depth of water
- 22 along the beach is going to vary depending on
- 23 whether the tide is in or out?
- 24 A. **Yes.**
- 25 Q. And that's the kind of information you

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- 1 could get from this chart?
- 2 A. **Somewhat, somewhat.**
- 3 Q. As a boater, by the time the incident
- 4 occurred, were you just generally already
- 5 familiar with the fact that the slope of the
- 6 bottom of an inlet or an ocean or the depth of
- 7 the water, either one, can vary?
- 8 A. **Yeah, yes, yes. I mean this is a**
- 9 **little different than what a normal inlet, I**
- 10 **would call it -- a normal inlet would be like**
- 11 **Belmar or Point Pleasant. It's -- it's a true**
- 12 **inlet; it's protected and it's dredged. It's**
- 13 **rocks on either side. So there's only one way**
- 14 **to get out. There's no swimming. There's no**
- 15 **bathing. There's no sand. It's rock.**
- 16 Q. But before the incident occurred in
- 17 this case, were you generally familiar with,
- 18 whether you're in an inlet or an ocean or a
- 19 bay, that the contour of the bottom can change
- 20 as you pass over?
- 21 A. **Sure.**
- 22 Q. And in other words, the depth of the
- 23 water can change?
- 24 A. **Sure, the depth of the water changes,**
- 25 **yes.**

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- 1 Q. And were you aware, as a boater, that
- 2 the depth of the water can be affected by the
- 3 action of current?
- 4 A. **Sure.**
- 5 Q. Based on your knowledge and experience
- 6 as a boater as of the time this happened
- 7 and/or conversations you may have had with
- 8 other people after this happened, is it your
- 9 understanding that this drop-off that you and
- 10 your group stepped into was created by current
- 11 running along the beach?
- 12 A. **I really don't have any idea how. It**
- 13 **just seemed to me it was more like an**
- 14 **instability or where it just dropped out.**
- 15 Q. You have no idea one way or the other?
- 16 A. **Oh, I have no -- I really don't have**
- 17 **any idea on how. I would imagine it --**
- 18 Q. No, I don't want you to guess.
- 19 A. **Okay, okay.**
- 20 Q. As you were walking along the beach
- 21 before the incident occurred, were you looking
- 22 where you were going?
- 23 A. **When we were walking down the beach?**
- 24 Q. Yes.
- 25 A. **Sure.**

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1 **Q.** Okay. Did you notice anything unusual
2 about the sand or the water?

3 **A. No.**

Q. Is it fair to say that there was
nothing unusual -- withdraw.

6 I'm going to ask you a question
7 about the sand that's visible above the water
8 line. Do you follow me?

9 **A. Okay.**

10 **Q.** Did you see anything unusual about the
11 sand above the water line before the incident
12 occurred?

13 **A. No.**

14 **Q.** Did you see anything unusual about the
15 sand above the water line after the incident
16 occurred?

17 **A. No.**

18 **Q.** As you were walking along, I think you
19 said roughly calf-deep water?

20 **A. Um-hum.**

21 **Q.** Is that a yes?

22 **A. Yes, I would say top of my calf.**

23 **Q.** This might be a silly question, but
24 were there waves coming in and out at the
25 time?

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1 **A. No, it was very calm.**

2 **Q.** Was the tide coming in, going out, or
3 something else?

4 **A. I don't know if it was -- well, I
5 would know if it was -- because it carried
6 Brad out, so the tide was going out.**

7 **Q.** But your answer to me a second ago was
8 that as you were walking there were no waves?

9 **A. No, no. Waves out further.**

10 **Q.** Okay.

11 **A. But not at the beach, you know, the
12 water side, beach side.**

13 **Q.** As you were walking along, I assume,
14 correct me if I'm wrong, that you were not
15 making an attempt to draw a direct beeline
16 from point A to point B?

17 **A. No, we were just kind of --**

18 MR. D'AMATO: Objection. What's
19 point A? What's point B?

20 BY MR. HUNKINS:

Q. Were you making any attempt to walk in
an absolute straight path, or were you just
23 ambling along and you fell?

24 **A. We were just walking along the water.**

25 **Q.** Because here's my question. Since you

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1 were not making an attempt to walk in an
2 absolute straight line, is it possible that as
3 you approached the location of the incident
4 you were stepping a little bit to the right
5 here and a little bit to the left there?

6 **A. Yeah, I mean we could have, but we
7 were never deeper than the top of calf.**

8 **Q.** I understand that.

9 **A. And that would have been me. Because,
10 like I said, my daughter either -- I'm not
11 sure, again, if she was on my back or next to
12 me, but my son was not in the water at all.**

13 **Q.** I understand that.

14 **A. Right.**

15 **Q.** And I think you've answered it.

16 As you remember walking along, it
17 was very likely that with each step you took
18 you might have stepped a little bit to the
19 right with one step and a little bit to the
20 left with another step?

21 **A. Sure, sure.**

22 **Q.** Okay. When you went into the water
23 when the incident occurred, I understand that,
24 again, you started swimming and ultimately you
25 got back onto dry land?

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1 **A. Right.**

2 **Q.** When you got out, what was the
3 distance, approximately, between where you got
4 out on dry land and the point where you went
5 into the water?

6 **A. So I understand the question
7 correctly, is it how far off the beach was I
8 before I could get back?**

9 **Q.** No. I'm trying to -- I would like to
10 draw in my mind two points on the beach. One
11 point would be where you went into the water
12 and the other point would be where you crawled
13 out.

14 **A. I would say roughly in the same
15 30-foot section.**

16 **Q.** Okay, just so I can understand that.
17 My impression is that the current -- and you
18 might have said this, the current was running
19 out of the inlet or generally southeast; is
20 that fair to say?

21 **A. There was two.**

22 **Q.** Okay.

23 **A. So in other words, what we fell into
24 pulled us out -- pulled us north. So it
25 pulled us into the inlet. So it pulled us**

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1 away from the beach, away from the inlet
2 beach. What Brad got caught in took him out
3 to the ocean. So it was like two different
currents, I guess.

Q. Okay. So I'll get back to what I was
6 starting to ask you, the point A and point B,
7 when you went in and got out. I was just
8 imagining that you went in and then the tide
9 took you southeast and you got out at a point
10 30 feet southeast. Is that not correct?

11 A. I would not have any idea if it was in
12 either direction. I'm just saying I went in
13 this area and I came back in this general same
14 area I went into.

15 Q. Okay.

16 A. It just took me further -- it just
17 took me off the beach and I had to swim back
18 to the beach.

19 Q. Okay. In the process of being taken
20 off the beach and swimming back to the beach,
21 do you have any impression that you were being
22 taken one way or the other along the beach?

23 A. I was being pulled out into the inlet.
24 So 90 degrees off the beach. So 90 degrees
25 off of where I went in the water, it was

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1 pulling us -- it kind of, you know -- it could
2 have moved us either way, but in that same
3 direction, that's where I got back.

4 Q. After the incident happened, for
5 example, later that evening or the next day,
6 when you went back to the location of the
7 incident, did you go into the water?

8 A. No.

9 Q. In your boating experience or your
10 experience as a beach-goer before this
11 incident, had you ever seen any other
12 locations anywhere where there was any type of
13 drop-off in the bottom?

14 A. Nothing like this.

15 Q. Have you ever seen instances where
16 there was a drop-off but not as drastic?

17 A. Not -- not like this.

18 Q. I know that, but have you ever seen a
19 drop-off before?

20 A. I have seen drop-offs, yes.

Q. Can you describe the type of drop-offs
you have experienced in the past?

23 A. I guess when you walk out into the
24 water and it drops off, you know, as -- it
25 gets deeper fast.

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1 Q. And where had you seen that before the
2 incident in this case?

3 A. I'm not really sure where it was, to
4 be honest.

5 Q. Is it fair to say that you had seen
6 that more than once?

7 A. I probably have, yes.

8 Q. Okay. And I'm saying "seen that," but
9 I guess what I'm asking you --

10 A. Feel that.

11 Q. Yes, you felt that?

12 A. Feel that.

13 Q. You have been in the water before and
14 you had the experience of feeling and not as
15 drastic as this incident was --

16 A. I'm getting deeper in water.

17 Q. -- but an incident where the bottom
18 drops off suddenly?

19 A. It all depends on what you say
20 "suddenly" is.

21 Q. I guess it could be steep or not so
22 steep, but --

23 A. Well --

24 Q. Just wait for my question.

25 A. Okay.

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1 Q. Is it fair to say that before the
2 incident in this case occurred you had
3 experience yourself of walking along in the
4 ocean or at the beach where the bottom dropped
5 off?

6 A. Again, it depends on what you say
7 "drop-off" means.

8 Q. Is that a yes but not as drastic?

9 A. Not as drastic. Yes, but not as
10 drastic.

11 MR. HUNKINS: Okay. That's all I
12 have. Thanks.

13 THE VIDEOGRAPHER: This is the end
14 of tape No. 2. Off the record. The time is
15 2:32.

16 (Discussion off the record.)

17 (Twelve Photographs were marked
18 for purposes of identification as Exhibits
19 Sunderland-14 through Sunderland 25.)

20 THE VIDEOGRAPHER: This is the
21 beginning of tape No. 3. Back on the record.
22 The time is 2:46.

23 * * *

24 EXAMINATION BY MR. D'AMATO:

25 Q. Scott, I'm going to show you a series

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1 of photographs, and they have been marked for
2 identification and I'm going to show them to
3 my colleagues before I hand them to you.

The first one is Sunderland-14.

This photograph was taken on June 20, 2014 of
6 what they call the Moore's Inlet or Moore's
7 Beach. Have you heard that phrase?

8 **A. I've heard it, yes.**

9 **Q.** Okay. Now, let me hand it to you.

10 In looking at that photograph, can
11 you identify generally the area where you and
12 Brad turned around to walk back to your wives?

13 **A. I would say it was probably around**
14 **that area, I would imagine (indicating.)**

15 **Q.** All right. Why don't you get a red
16 marker and make a nice large circle to give us
17 the general area of where that was?

18 **A. (Complies.)**

19 **Q.** Could you hold that up there? There
20 we go, all right.

21 Now, you can put that down but
22 keep the photograph in front of you.

23 **A. Okay.**

24 **Q.** As you walked towards Moore's Beach,
25 did you see people in chairs sunbathing in

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1 that area?

2 **A. Yes.**

3 **Q.** Did you see children playing in the
4 water of the inlet when you were approaching
5 that area?

6 **A. Yes.**

7 **Q.** And you also said you saw people that
8 were fishing?

9 **A. Yes.**

10 **Q.** And were they -- were they standing on
11 the beach or standing in the water when you
12 saw them fishing?

13 **A. A little bit in the water.**

14 **Q.** Now, I'm going to show you another
15 photograph marked for identification as
16 Sunderland-15. I'm going to hold it up for my
17 colleagues here. Again, this was taken
18 June 20, 2014. And let me hand it to you and
19 can you see the rock wall there on the
20 left-hand side of the photograph?

A. Yes.

Q. And right where your left hand is you
23 can see the steps that people would take to
24 get from the parking lot onto the beach?

25 **A. I don't see the steps.**

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1 **Q.** You know what, you're right, it's the
2 next photograph. Sorry. I apologize.

3 But in any event, let me hand this
4 to you. As you're about to turn around, you
5 and Brad and the children, does that
6 photograph accurately depict the number of
7 people and bathers that you saw on the beach
8 area?

9 **A. I would say it was probably a little**
10 **bit less. It wasn't as crowded as this, but I**
11 **mean I remember seeing a lot of umbrellas.**

12 **Q.** You can leave it there.

13 Now let me show you what's been
14 marked for identification as Sunderland-16.
15 This was taken on July 2, 2013, almost a year
16 after Brad's passing. When we have been
17 referring to the rock wall all morning and
18 this afternoon, is this the rock wall that you
19 were referring to?

20 **A. Yes, it seems to be, yes. Part of it**
21 **anyway.**

22 **Q.** All right. Now, as you -- you can put
23 that down. As you and Brad are walking with
24 your children, you're just about to turn
25 around, did you see any jet skis like the one

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1 that we see in Sunderland-17?

2 **A. I mean I don't recall, like, when we**
3 **turned around and all that, but that's kind of**
4 **how it was when I flagged down the jet skier.**
5 **It's kind of where they were. I mean as far**
6 **as the distance from the ocean, it was right**
7 **-- very shallow water. They were just kind of**
8 **sitting on them. They were kind of hanging**
9 **out talking to people on the beach, but as far**
10 **as walking down, I don't remember seeing any**
11 **jet skiers, no.**

12 **Q.** You can put that down.

13 This was the very first time that
14 you and your family and Brad and his family
15 had come to North Wildwood to vacation?

16 **A. For vacation, yes.**

17 **Q.** Do you remember what day of the week
18 it is when Brad drowned?

19 **A. Friday.**

20 **Q.** It was a Friday?

21 **A. Friday, yes.**

22 **Q.** And you had arrived how many days
23 before that?

24 **A. I think we got there the Saturday**
25 **before, I believe.**

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1 **Q.** Now, how many times had you gone to
2 the beach before the day that Brad drowned?
3 The beach meaning, excuse me, to be precise,
North Wildwood.

**A. Right. Maybe two times. I'm not
6 really sure, to be honest.**

7 **Q.** And the two times that you went to the
8 beach, that's you, your wife, your children,
9 Brad, Sandy and their children --

10 **A. Um-hum.**

11 **Q.** -- did you always go to a protected
12 beach, meaning there was a lifeguard there?

13 **A. Yes.**

14 **Q.** And on the day you went to the beach
15 before you decided to take the walk, that was
16 a protected beach, correct?

17 **A. Yes.**

18 **Q.** And there was a lifeguard there?

19 **A. Yes.**

20 **Q.** Now, you were shown an interview where
21 it's referenced that you saw a "no swimming"
22 sign. In fact, I put it in front of you.
23 It's right there. It's Sunderland-13. Do you
24 see that there? And if you look at the bottom
25 of the second page, it says almost about a

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1 third down, "The sign said 'no swimming' and
2 we weren't. We were just walking."

3 Now, here's my question to you:
4 Your children are playing in the tidal water,
5 the tidal pools, correct?

6 **A. Um-hum.**

7 **Q.** Before you decided to take a walk with
8 your family towards the Moore's Inlet beach,
9 had you seen any signs saying "no swimming"?

10 **A. No, not that I can recall, no.**

11 **Q.** Did you learn after Brad's drowning
12 that there were some signs up closer to the
13 area where you access the beach that said "no
14 swimming"?

15 **A. Yes.**

16 **Q.** But before you took the walk and
17 before you fell into the hole, you had not
18 seen any signs that said "no swimming,"
19 correct?

20 **A. Yeah, no, I did not see any.**

21 **Q.** Before Brad drowned, had you ever
22 heard of there being a whirlpool or vortex in
23 the Hereford Inlet at certain points in time
24 during the daytime?

25 **A. No.**

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1 **Q.** When the two police officers came to
2 the residence where you were staying, did they
3 ever talk about any dangers associated with
4 the beach area where you and Brad and your
5 family had been walking?

6 **A. They had said people had fallen in
7 there.**

8 **Q.** You referenced a telephone
9 conversation with the Mayor of Wildwood,
10 correct?

11 **A. Yes.**

12 **Q.** And that you said was the second or
13 third day after Brad was missing?

14 **A. Yes.**

15 **Q.** Did he say anything else about the
16 area where this event took place when you said
17 to him, "We were not swimming, we were
18 walking"?

19 **A. I think he made mention of another
20 incident, I think, where there were two women
21 and they were swimming and, again, that's when
22 I said, "We weren't swimming, we were
23 walking."**

24 **Q.** Now, you had mentioned when Mr. Barker
25 was asking you questions about Sunderland-12,

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1 specifically, there's a reference in this
2 report from Police Officer Richard Schmidt
3 that says, "He then stated that he saw a
4 police boat traveling in the inlet." I want
5 to ask you about that.

6 Let me show you Sunderland-20,
7 which is a photograph that was taken on
8 June 20, 2014. Okay? Does this boat that you
9 see in the photograph look like the boat that
10 you are referring to?

11 **A. Yeah. He was actually -- I think that
12 boat was kept in the marina.**

13 **Q.** Okay.

14 **A. The boat that I saw that day that came
15 out, I had seen the boat previously in the
16 marina before the incident.**

17 **Q.** You used the term "police boat
18 travelling in the inlet" in Sunderland-12.
19 Here's my question: When you said police
20 boat, can you tell me if you knew it was a
21 North Wildwood police boat or New Jersey State
22 Police Marine police boat?

23 **A. No, I'm not a hundred percent sure.**

24 **Q.** Okay. Now, I'm going to show you
25 what's been marked for identification as

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1 Sunderland-21. Now, I want to take you back
2 in time on the date of this event. You now
3 just turned around. And you told my
colleagues that as you are walking back you're
closer to the water this time.

6 **A. Um-hum.**

7 **Q.** Now, from the time you turned around
8 until the time you fell into the hole, were
9 there times that you were walking on just the
10 beach and not in the water as shown in
11 Sunderland-21 --

12 **A. Yes.**

13 **Q.** -- where those people are?

14 **A. Yeah.**

15 **Q.** Okay. After you turned around and
16 you're walking back to the point where you
17 fell in, were there times that all of you were
18 walking in ankle-deep water?

19 **A. Can you repeat that?**

20 **Q.** Yes. You've now turned around, you
21 Brad and the kids.

22 **A. Heading back.**

23 **Q.** You are heading back. And were there
24 times as you are walking back before you fell
25 into the hole that all of you or some of you

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1 were walking in ankle-deep water as opposed to
2 mid-calf water?

3 **A. Yes.**

4 **Q.** Okay. Now, from the time you started
5 walking from the protected beach onto that
6 area that was unprotected -- well, let's go
7 back a little bit.

8 Going back to the day of the
9 accident, before you decided to take the walk,
10 as you have described many times today,
11 towards Moore's Beach or Moore's Inlet, did
12 you know that the area that you are walking --
13 about to walk on was unprotected in the sense
14 that there were no lifeguards down there?

15 **A. No, we didn't.**

16 **Q.** On the day of Brad's drowning, was
17 that the first time that you and Brad had ever
18 walked from the protected beach down towards
19 Moore's Inlet or Moore's Beach?

20 **A. Yes, that was the first time we walked
down there.**

21 **Q.** As you were walking from the protected
22 beach towards Moore's Beach, did you see signs
23 on poles like what is shown in Sunderland-22?

25 **A. No.**

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1 **Q.** Okay. As you are walking from the
2 protected beach to Moore's Beach, did you see
3 any signs like what is shown in Sunderland-23
4 which says "High risk rip current area"?

5 **A. No.**

6 **Q.** As you are walking from the protected
7 beach towards Moore's Beach, did you see any
8 signs like Sunderland-24 that say "Danger,
9 unprotected beach"?

10 **A. No.**

11 **Q.** As you are walking from the protected
12 beach to Moore's Beach, are you seeing any
13 signs like whatever this thing is in
14 Sunderland-25 in the middle of the photograph?

15 **A. No.**

16 **Q.** As you're walking -- strike that.

17 Now, as you're walking from the
18 protected beach towards Moore's Beach and
19 after you turned around to walk back to your
20 wives, did you ever see little children like
21 the ones that are shown in Sunderland-18?

22 **A. I mean not that I can recall. I mean
I saw people, families.**

24 **Q.** In the statement that was marked for
25 identification as Sunderland-13, you were

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1 quoted as saying, "It was 30 seconds before I
2 realized how far from the shore I was." Now,
3 my colleagues touched on it a little bit, but
4 I want to get more specific, if you can.

5 **A. Sure.**

6 **Q.** How far out in the inlet did you go
7 after you had fallen into the hole? Can you
8 estimate for us?

9 **A. Yeah, I would say probably about 30 --
10 30 feet.**

11 **Q.** And that was involuntary, correct? It
12 had pulled you out there?

13 **A. Oh, yes, it had pulled me out, yes.**

14 **Q.** And during that period of time, is
15 your daughter still on your back?

16 **A. The whole time, yes.**

17 **Q.** And describe for us the forces in the
18 water that you're experiencing as you're
19 trying to get back on land. What was it like?

20 **A. Well, so the whole time as soon as I
21 go in, I'm swimming, like I said. So it's
22 taking me out as I'm swimming. So as I said
23 at first, I'm just swimming. I'm, you know --
24 I'm swimming right away, and then after about
25 30 seconds I look up and I see that I'm**

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1 further from shore than I was when I first
2 went in. So now I'm 30 feet from shore and
3 I've been swimming the whole time. So that's
when I really start, as I say, digging in.
I'm going to get to shore. So I started

6 swimming the hardest I could at that point.

7 Q. On this day when you lost your friend
8 Brad, how old were you?

9 A. I guess I was 47.

10 Q. How would you characterize your
11 ability as a swimmer on that day?

12 A. I'm an excellent swimmer. I have a
13 pool in my backyard.

14 Q. And had you ever experienced forces in
15 the water, any body of water, as you did on
16 this day as you are trying to get back to
17 land?

18 A. No. Not just the current, but the way
19 the water -- it felt like you were swimming
20 through air.

21 Q. Listen, you have been very patient and
22 we appreciate the amount of time. You are an
23 eyewitness to what happened, so I have to ask
24 you this. What do you mean it was like
25 swimming in air?

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1 A. It just felt like I couldn't get
2 traction. Like, there was nothing to swim
3 against. It felt like it was a rope holding
4 me back or pulling me out, and it just didn't
5 feel like you're in a pool swimming. It felt
6 like there was, like I said, air or something
7 in there that you couldn't, you know, dig
8 against.

9 Q. Okay. Now, I want to take some time
10 and talk about your friend Brad. You said you
11 met -- was it 1988?

12 A. I said probably '84, '85. I graduated
13 high school in '84. So I would say about '85.

14 Q. How did the two of you meet?

15 A. I bought a car, a '70 GTO, and my dad
16 was desperately trying to talk me out of
17 buying it, so he had me take it to Brad, which
18 he told Brad, "Look at this car that my son
19 bought. Please tell him to take it back."
20 That's how I met Brad.

21 Q. From the time you first met him, how
22 many years went by before you considered him
23 to be your best friend?

24 A. It was probably -- probably another
25 six years or so, maybe seven years, and then

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1 he moved his shop and I ended up renting the
2 space off of him. That's when we really
3 became very close.

4 Q. Did you have any involvement, or your
5 wife, in Brad meeting his wife Sandy?

6 A. Yes.

7 Q. Share that with us.

8 A. I had rented, like I said, space from
9 him for my company, and we were growing and I
10 wanted someone to answer the phones. And
11 Sandy I knew, because it was one of my wife's
12 best friends, and she had worked with her at
13 another job. And Sandy was looking for work
14 and Brad always answered the phones all the
15 time. So I said, "Why don't we hire her? You
16 pay her half, I'll pay her half." And he
17 answered -- she answered the phones for them
18 and answered the phones for me.

19 Q. Sadly, Brad is not here to tell us
20 about his life before he passed. So let me
21 ask you, what kind of guy was he?

22 MR. HUNKINS: Objection to form.

23 MR. D'AMATO: To what kind of guy
24 was he?

25 MR. HUNKINS: Just the preface to

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1 the question. That's all.

2 MR. D'AMATO: Okay.

3 BY MR. D'AMATO:

4 Q. You can go ahead.

5 A. What kind of guy he was?

6 Q. Yes.

7 A. I mean a great guy, a guy, you know --
8 I looked up to him. He was a friend of my
9 brother's first. That's what kept him as a
10 family friend. He was just a -- he was a
11 great guy. Everybody looked up to him. He
12 had a loyal customer base, and I think they
13 went to get their cars fixed more because of
14 him than his, you know, mechanical skills.
15 But a great father, great father, with his
16 older kids, great husband. And just a great
17 friend. He was everyone's best friend. He
18 really was. Everybody loved him.

19 Q. You were close enough to him and
20 Sandy, his wife, to know what kind of
21 relationship they had?

22 A. Oh, yeah, absolutely.

23 Q. So tell us about that relationship.

24 A. It was a great relationship. They
25 were both kind of independent people that they

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1 just -- they just kind of hit it off, and they
2 were very close. I mean we -- my wife and I
3 and them, we were all extremely close. They
4 just joked around with each other all the
5 time. Like you would never get the two on the
6 volleyball court at the same time because they
7 were just competitors to the end. But, no,
8 great couple, great couple.

9 Q. You had told me about, just briefly,
10 his relationship with his older children.
11 What was Sandy's relationship to Brad's
12 children from the first marriage?

13 A. Great. Very -- I mean being a step, I
14 can imagine that it can be very difficult,
15 but, no, they loved her then and they love her
16 now. Sandy is very hard to not like. They
17 both are. But Sandy definitely. She's very
18 outgoing and always would, you know, help Kyle
19 and Nicole in whatever they needed. Never
20 really -- it always amazed me that even when
21 she had Cole, Brad and Sandy's first son, that
22 there was never any, "Well, he's my son." She
23 always incorporated the family, meaning his
24 first -- from his first wife, his daughter
25 Nicole, and Kyle.

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1 Q. And what was Brad's relationship with
2 his children that he had with Sandy?

3 A. Oh, excellent, excellent.

4 Q. What was Brad's health like on the day
5 of this horrible event?

6 A. Great. I mean, you know, we were
7 getting older and a lot of softball, a lot of
8 golf, a lot of skiing. We had -- we would
9 have our aches and pains, but no, he was in
10 good health.

11 Q. How would you characterize Brad's
12 ability to swim?

13 A. Oh, good swimmer. Pool in his
14 backyard. We got pools together.

15 Q. When you fell into the hole as you
16 described so many times before, did you ever
17 try to hit bottom so to push yourself up?

18 A. Yeah.

19 Q. And were you able to?

20 A. No. I never felt bottom whatsoever,
21 never.

22 Q. You were asked questions about the
23 chart that you had received. From the time
24 you arrived in North Wildwood until the day of
25 Brad's drowning, did you have any information,

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1 from whatever source, as to the type of
2 currents that were running through the inlet
3 itself along the beach where you were walking?

4 A. No.

5 Q. Now, early today you were asked -- no,
6 I shouldn't say you were asked questions. You
7 told us about this fisherman that you see
8 before you fall. Now, I want to go over that.

9 You and Brad and the children are
10 walking toward this hole, not knowing that
11 there's a hole there.

12 A. Right.

13 Q. And before you fall into the hole you
14 said you saw a fisherman where?

15 A. I'm not sure when I saw him. When we
16 fell in, it wasn't then because he wasn't
17 there. So it was either on the way down or
18 when we were closer to the rock wall.

19 Q. On the way back or on the way towards
20 Moore's Beach?

21 A. I'm not really sure if I saw him on
22 the way towards the rock wall or the way away
23 from the rock wall. I'm not really sure when,
24 you know. I remember seeing him because I
25 mentioned to Brad, "Look at that guy, he looks

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1 like he's walking on water. He's Jesus."

2 MR. HUNKINS: Just note my
3 objection real quick. Counsel has been using
4 the word "hole" which is really fine with me.

5 MR. D'AMATO: What would you like
6 me to call it? I'll use your word.

7 MR. HUNKINS: I just don't know
8 that the witness ever said that. I think the
9 witness has said gully, that kind of thing,
10 but having said that, just let that be a
11 continuing objection to the form.

12 MR. D'AMATO: No, no, let's see if
13 we can cure this objection.

14 THE WITNESS: Okay.

15 MR. D'AMATO: All right?

16 BY MR. D'AMATO:

17 Q. None of us were there. What do you
18 call what you fell into?

19 A. Well, if I call it a gully, then it
20 means it's high on one side, low in the middle
21 and high on another side. Right? I'm a
22 contractor. I can't help it. I would just
23 call it a drop-off.

24 Q. A drop-off, okay. So now let me try
25 this. Let's say within a couple of seconds

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1 before you fall into the drop-off, can you
2 tell us where this fisherman was standing,
3 whether you saw him before you turned around
or on the way back?

**A. It was on the way back. I know
6 exactly where he was standing when we went in
7 because that's when I said, Well, that's where
8 it is, out there where he was standing. He
9 wasn't there then.**

10 **Q.** I understand.

11 **A. Right.**

12 **Q.** But how far was that -- let me
13 withdraw that question.

14 Right before you fall into the
15 drop-off, where you had seen the fisherman
16 before, how far was that from that point?

17 **A. I would say it was probably maybe a
18 hundred feet, maybe.**

19 **Q.** And if you're looking straight ahead,
20 all right, and your eyes are looking at
21 12 o'clock, 12:00 on a clock, where was he on
22 the clock?

23 **A. If 12 o'clock, he would be out, say,
24 10:00, 11:00, 10:00, 11:00. Probably 11:00, I
25 would imagine. And I would say probably a**

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1 **hundred, a hundred and fifty feet ahead of me.**

2 MR. D'AMATO: I want to go off the
3 record for a second.

4 THE VIDEOGRAPHER: Sure. Going
5 off the record. The time is 3:14.

6 (Discussion off the record.)

7 THE VIDEOGRAPHER: We're back on
8 the record, 3:17.

9 * * *

10 FURTHER EXAMINATION BY MR. BARKER:

11 **Q.** Mr. D'Amato asked you the question
12 after you went in the water whether you ever
13 felt the bottom. Do you remember that?

14 **A. Yes, yes.**

15 **Q.** He might have asked you whether you
16 tried to do something to feel the bottom. I
17 don't remember. But that's really my
18 question. Like while you're there and you're
19 swimming, swimming, swimming and you got your
20 daughter on your back, what did you do, if you
did anything, to try to feel the bottom?

**A. Well, we have the pool and I brought
23 my kids and taught them how to swim, and what
24 we would always do is if you ever get in
25 trouble you try to bounce yourself off the**

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1 **bottom. And during that time I didn't
2 necessarily stop and try to bounce myself off
3 the bottom but I was trying to kick off the
4 bottom. So in other words, you're swimming
5 and you're trying to push off the bottom, too.
6 That's what I was trying to do, and there
7 never was a bottom. I never felt any bottom.**

8 **Q.** With that motion you could not feel a
9 bottom?

10 **A. No.**

11 **Q.** Other than that, did you do anything
12 to test to see if there was a bottom that you
13 could feel?

14 **A. No, never.**

15 MR. BARKER: Okay. Thank you.

16 THE VIDEOGRAPHER: This concludes
17 the videotape deposition. Off the record,
18 3:18.

19 * * *

20 (The deposition concluded at
21 3:18 p.m.)

22

23

24

25

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1 C E R T I F I C A T E

2

3 I, LISA REAGAN, a Certified Court Reporter
4 of the State of New Jersey, do hereby certify
5 that prior to the commencement of the
6 examination,

7 SCOTT SUNDERLAND

8 was duly sworn by me to testify to the truth,
9 the whole truth and nothing but the truth. I
10 do further certify that the foregoing is a
11 true and accurate transcript of the
12 stenographic notes of testimony taken by me at
13 the time, place and on the date hereinbefore
14 set forth. I do further certify that I am
15 neither a relative nor employee nor attorney
16 nor counsel of any of the parties to this
17 action, and that I am neither a relative nor
18 employee of such attorney or counsel and that
19 I am not financially interested in this
20 action.

21

22

23

24

25

Lisa Reagan, CCR

LISA REAGAN, CCR

Certificate No. XI01671

Date: April 1, 2016

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| <p>I</p> <p>'70 [1] - 134:15 '84 [3] - 107:2, 134:12, 134:13 '85 [2] - 134:12, 134:13 'I [1] - 93:22 'it [2] - 93:23, 94:22 'no [1] - 126:1 'the [1] - 93:3</p> | <p>123:15 20 [5] - 39:20, 43:10, 121:5, 122:18, 128:8 200 [2] - 1:15, 2:3 2012 [9] - 6:24, 54:21, 54:22, 55:16, 72:18, 79:2, 79:7, 84:9, 87:19 2013 [1] - 123:15 2014 [3] - 121:5, 122:18, 128:8 2016 [5] - 1:17, 4:5, 6:21, 16:3, 144:25 202 [1] - 1:23 210 [1] - 2:16 22 [1] - 1:16 228 [1] - 64:6 22nd [1] - 4:5 25 [5] - 2:11, 3:5, 3:17, 43:11, 120:19 25-foot [1] - 105:7 2700 [1] - 2:6 27th [2] - 54:22, 55:16 2900 [2] - 1:15, 2:3 2:02 [1] - 92:17 2:32 [1] - 120:15 2:46 [1] - 120:22 2B [9] - 84:17, 85:10, 85:13, 85:15, 85:16, 85:23, 86:5, 86:16, 86:20</p> | <p>5</p> <p>5 [2] - 6:20, 16:2 50 [3] - 43:24, 47:18, 76:7 5:00 [1] - 26:20 5:36 [1] - 55:17</p> | <p>144:17, 144:20 actual [2] - 19:11, 74:9 address [2] - 87:18, 87:22 adjacent [3] - 11:2, 20:1, 106:11 adult [1] - 64:18 advised [7] - 56:9, 57:12, 57:17, 58:1, 58:7, 64:15, 64:19 aerial [7] - 6:23, 7:6, 7:21, 8:11, 9:4, 77:22, 78:1 affected [1] - 112:2 afternoon [2] - 102:3, 123:18 agency [1] - 72:10 agitated [1] - 52:4 ago [2] - 106:24, 114:7 ahead [3] - 136:4, 141:19, 142:1 aid [1] - 56:11 Aidan [13] - 26:14, 34:6, 34:16, 35:18, 35:23, 38:9, 38:10, 41:12, 47:8, 47:13, 47:18, 65:7, 66:2 air [4] - 41:4, 133:20, 133:25, 134:6 Alan [2] - 25:17, 25:18 Ally [17] - 26:13, 30:5, 34:13, 34:17, 34:18, 35:11, 35:21, 37:12, 39:5, 39:18, 41:14, 47:8, 47:13, 47:19, 65:8, 74:17 almost [15] - 14:9, 18:24, 19:4, 22:10, 37:2, 41:4, 42:5, 42:10, 42:17, 46:23, 51:11, 94:22, 123:15, 125:25 amazed [1] - 137:20 ambling [1] - 114:23 ambulance [2] - 51:8, 54:14 amount [1] - 133:22 AND [1] - 2:9 Andrea [1] - 26:7 angle [1] - 12:11 ankle [2] - 129:18, 130:1 ankle-deep [2] - 129:18, 130:1 annoyed [1] - 52:3 answer [8] - 5:8, 5:14, 5:17, 5:21, 6:5, 23:8, 114:7, 135:10 answered [5] - 115:15, 135:14,</p> | <p>135:17, 135:18 anyway [1] - 123:21 apart [2] - 42:1, 96:13 apologize [1] - 123:2 apology [1] - 104:22 appearance [3] - 4:8, 19:11, 19:20 appeared [1] - 92:7 appearing [1] - 96:15 appreciate [1] - 133:22 approached [2] - 70:5, 115:3 approaching [2] - 45:21, 122:4 approximate [10] - 6:5, 9:1, 23:5, 41:23, 42:20, 61:11, 77:6, 78:3, 83:19 approximation [2] - 19:8, 60:12 April [1] - 144:25 area [35] - 6:24, 12:10, 19:6, 20:8, 26:22, 27:1, 27:5, 30:8, 30:18, 44:17, 52:11, 69:21, 73:19, 77:12, 78:2, 80:8, 83:3, 83:4, 83:8, 83:19, 83:21, 117:13, 117:14, 121:11, 121:14, 121:17, 122:1, 122:5, 123:8, 126:13, 127:4, 127:16, 130:6, 130:12, 131:4 arms [4] - 40:20, 40:22, 60:23, 93:14 arranged [2] - 97:12, 97:14 arrival [1] - 55:24 arrived [4] - 56:9, 56:12, 124:22, 138:24 arriving [1] - 56:8 arrow [4] - 14:1, 14:17, 78:19, 82:1 article [4] - 92:6, 92:8, 96:14, 96:20 Article [1] - 92:13 Article.....92 [1] - 3:16 aside [1] - 24:20 assist [2] - 69:7, 70:3 assistance [1] - 56:3 associated [1] - 127:3 assume [6] - 5:16, 9:15, 18:7, 18:11, 107:13, 114:13 attack [1] - 51:12</p> | | |
| <p>O</p> <p>08096 [1] - 1:23 08221 [1] - 2:16 08234 [1] - 2:4 08260 [1] - 2:6 08625 [1] - 2:12</p> | | <p>6</p> <p>6 [3] - 1:22, 76:13, 77:4 60 [1] - 76:7</p> | | | | |
| <p>0</p> | | <p>7</p> <p>7 [2] - 77:2, 78:1</p> | | | | |
| <p>1</p> | <p>1 [1] - 144:25 10 [5] - 15:6, 80:6, 81:6, 81:15, 86:12 104 [1] - 3:4 109 [1] - 3:20 10:00 [2] - 141:24 11:00 [3] - 141:24 11:13 [2] - 1:17, 4:7 12 [4] - 79:2, 79:7, 141:21, 141:23 120 [2] - 3:5, 41:24 12:00 [1] - 141:21 12:03 [1] - 48:7 12:11 [1] - 48:11 12:21 [1] - 55:6 12:24 [1] - 55:11 12:32 [1] - 63:17 12th [1] - 96:1 1383 [1] - 25:23 142 [1] - 3:5 14th [2] - 6:24, 84:9 16 [2] - 64:7, 64:14 16th [1] - 72:17 17 [2] - 64:7, 64:8 17:36 [1] - 55:17 180 [2] - 16:10, 17:3 1988 [1] - 134:11 1:17 [1] - 63:24 1:38 [1] - 79:25 1:39 [1] - 80:3 1:48 [1] - 87:3 1:50 [1] - 87:6 1:57 [1] - 92:12</p> | <p>3</p> <p>3 [3] - 26:17, 26:19, 120:21 30 [9] - 39:21, 45:15, 93:24, 117:10, 132:1, 132:9, 132:10, 132:25, 133:2 30-foot [1] - 116:15 31 [1] - 54:21 384-2770 [1] - 1:24 384-2779 [1] - 1:24 3:14 [1] - 142:5 3:17 [1] - 142:8 3:18 [2] - 143:18, 143:21</p> | <p>8</p> <p>8 [2] - 3:20, 77:24 856 [2] - 1:24, 1:24</p> | <p>9</p> <p>90 [2] - 117:24</p> | <p>A</p> <p>A-L-A-N [1] - 25:19 a.m [2] - 1:17, 4:7 ABC [1] - 1:8 ability [2] - 133:11, 138:12 able [12] - 6:5, 11:11, 15:14, 15:16, 15:19, 17:6, 22:20, 58:1, 66:20, 70:21, 87:21, 138:19 abrupt [2] - 18:24, 18:25 absolute [2] - 114:22, 115:2 absolutely [4] - 19:13, 104:3, 136:22 access [1] - 126:13 accident [5] - 29:8, 74:9, 81:9, 86:16, 130:9 account [2] - 92:8, 94:13 accurate [3] - 78:19, 78:20, 144:11 accurately [3] - 8:17, 11:12, 123:6 aches [1] - 138:9 acknowledged [1] - 68:15 acquaintance [1] - 96:11 action [3] - 112:3,</p> | |
| <p>1</p> | <p>4</p> <p>4 [2] - 3:4, 26:17 4/24/65 [1] - 25:21 40 [4] - 43:23, 45:8, 45:16, 47:18 47 [1] - 133:9 4:00 [1] - 26:20</p> | | | | | |
| <p>2</p> | | | | | | |
| <p>2 [5] - 19:1, 48:10, 92:25, 120:14,</p> | | | | | | |

attempt [4] - 67:25,
114:15, 114:21,
115:1
attention [2] - 16:1,
39:17
attorney [3] - 25:2,
144:15, 144:18
Attorney [1] - 4:23
Attorneys [3] - 2:7,
2:12, 2:17
August [4] - 72:17,
79:2, 79:7, 96:1
authority [1] - 102:21
avenue [1] - 89:5
Avenue [2] - 2:6,
73:20
aware [2] - 107:17,
112:1

B

background [2] -
56:4, 64:14
backyard [3] - 105:15,
133:13, 138:14
bad [2] - 88:7, 90:15
badge [1] - 64:6
bar [2] - 46:8, 71:8
BARKER [34] - 2:15,
2:15, 3:5, 19:14,
25:7, 33:11, 33:14,
36:9, 36:15, 48:12,
55:2, 55:12, 55:19,
63:14, 63:25, 73:8,
73:12, 80:4, 81:10,
81:14, 84:6, 84:8,
84:13, 84:14, 85:16,
85:20, 86:4, 86:25,
87:7, 92:18, 95:4,
104:10, 142:10,
143:15
Barker [1] - 25:9
barker [1] - 127:24
Barnegat [1] - 108:1
BARRY [1] - 2:5
base [1] - 136:12
based [5] - 19:12,
36:17, 64:4, 81:17,
112:5
bathers [1] - 123:7
bathing [1] - 111:15
bay [2] - 82:12, 111:19
beach [111] - 6:20,
6:24, 7:7, 9:6, 9:19,
10:8, 16:9, 18:12,
19:6, 19:11, 20:5,
22:9, 23:15, 24:11,
24:16, 26:11, 26:13,
26:16, 26:18, 28:13,
28:14, 40:10, 40:15,

41:23, 45:9, 45:17,
46:19, 47:12, 47:13,
47:16, 48:18, 50:23,
51:5, 52:19, 53:16,
54:17, 57:4, 57:7,
63:6, 64:23, 65:7,
65:12, 66:21, 66:24,
69:13, 72:21, 73:19,
73:20, 73:22, 76:10,
76:24, 78:2, 82:19,
84:19, 84:24, 85:3,
87:10, 88:10, 89:3,
90:7, 90:8, 94:23,
99:11, 102:4,
102:20, 103:22,
109:16, 110:10,
110:14, 110:22,
112:11, 112:20,
112:23, 114:11,
114:12, 116:7,
116:10, 117:1,
117:2, 117:17,
117:18, 117:20,
117:22, 117:24,
118:10, 120:4,
122:11, 122:24,
123:7, 124:9, 125:2,
125:3, 125:8,
125:12, 125:14,
125:16, 126:8,
126:13, 127:4,
129:10, 130:5,
130:18, 130:23,
131:2, 131:7, 131:9,
131:12, 131:18,
139:3
Beach [10] - 121:7,
121:24, 130:11,
130:19, 130:23,
131:2, 131:7,
131:12, 131:18,
139:20
beach's [1] - 75:6
beach-goer [1] -
118:10
beaches [1] - 87:16
beacon [2] - 100:14
beautiful [2] - 89:12,
103:17
became [1] - 135:3
become [1] - 101:20
beeline [1] - 114:15
began [1] - 73:1
beginning [3] - 48:10,
82:20, 120:21
behind [6] - 13:23,
30:15, 34:8, 38:15,
74:7, 105:15
belabor [1] - 15:13
bell [2] - 91:14, 91:15

belly [1] - 41:16
Belmar [2] - 108:1,
111:11
best [6] - 5:17, 93:2,
108:14, 134:23,
135:12, 136:17
better [1] - 103:24
between [6] - 15:8,
21:20, 21:23, 48:20,
80:14, 116:3
big [1] - 83:21
bigger [5] - 84:16,
85:19, 88:7, 88:22,
88:23
birth [1] - 25:20
bit [18] - 9:22, 45:12,
55:14, 61:22, 65:18,
76:8, 80:19, 103:7,
103:8, 107:11,
115:4, 115:5,
115:18, 115:19,
122:13, 123:10,
130:7, 132:3
black [1] - 14:18
blends [1] - 49:23
blown [1] - 85:18
blur [1] - 56:21
board [2] - 88:8, 89:1
boarding [1] - 90:13
boat [38] - 43:8, 44:7,
52:8, 52:18, 53:10,
61:14, 61:16, 61:17,
68:19, 68:23, 69:2,
69:7, 75:13, 76:17,
83:1, 101:6, 105:4,
105:10, 105:15,
106:15, 106:17,
106:23, 107:4,
107:5, 108:9,
108:17, 110:5,
110:6, 128:4, 128:8,
128:9, 128:12,
128:14, 128:15,
128:17, 128:20,
128:21, 128:22
boated [1] - 107:22
boater [8] - 52:5, 52:7,
104:23, 107:13,
108:7, 111:3, 112:1,
112:6
boaters [2] - 101:22,
107:3
boating [4] - 105:1,
106:21, 107:8, 118:9
boats [6] - 52:9,
52:10, 68:12, 68:15,
106:24
bodies [2] - 98:17,
98:20
body [2] - 107:18,

133:15
boogie [3] - 88:8,
89:1, 90:13
bothered [1] - 51:25
bottom [25] - 39:15,
39:16, 42:23, 75:2,
75:25, 93:1, 111:6,
111:19, 118:13,
119:17, 120:4,
125:24, 138:17,
138:20, 142:13,
142:16, 142:21,
143:1, 143:3, 143:4,
143:5, 143:7, 143:9,
143:12
bought [3] - 108:12,
134:15, 134:19
bounce [2] - 142:25,
143:2
boys [3] - 88:7, 88:22,
88:23
Brad [92] - 20:25,
27:21, 28:1, 30:9,
30:21, 31:19, 34:8,
38:14, 38:15, 38:21,
40:2, 41:19, 41:25,
42:2, 42:9, 43:13,
43:17, 43:23, 44:19,
45:10, 45:23, 45:24,
45:25, 46:14, 46:16,
46:22, 47:25, 48:25,
49:1, 49:6, 49:16,
49:18, 50:17, 52:5,
52:23, 53:22, 54:7,
57:12, 58:10, 61:11,
65:8, 66:25, 67:4,
67:12, 67:23, 68:9,
68:23, 69:8, 70:21,
70:23, 71:1, 71:4,
71:6, 74:1, 74:10,
76:19, 76:21, 77:1,
77:9, 98:9, 98:10,
100:18, 101:20,
106:23, 107:1,
114:6, 117:2,
121:12, 123:5,
123:23, 124:14,
124:18, 125:2,
125:9, 126:21,
127:4, 127:13,
129:21, 130:17,
133:8, 134:10,
134:17, 134:18,
134:20, 135:5,
135:14, 135:19,
137:21, 139:9,
139:25
Brad's [11] - 20:24,
88:24, 107:9,
123:16, 126:11,
130:16, 137:11,

138:1, 138:4,
138:11, 138:25
Bradley [1] - 1:4
Brandi [49] - 30:5,
38:14, 38:25, 41:19,
41:24, 42:2, 42:3,
42:6, 42:14, 43:16,
43:24, 44:20, 45:10,
45:21, 46:14, 46:17,
46:18, 46:19, 47:3,
47:6, 47:15, 48:17,
49:6, 50:6, 51:19,
52:21, 59:7, 59:8,
59:25, 60:15, 65:9,
67:1, 67:5, 67:10,
67:23, 67:25, 68:9,
68:23, 69:9, 70:5,
70:9, 70:15, 70:16,
70:22, 70:25, 71:10,
75:7, 75:9, 76:11
Brandi's [1] - 60:22
bread [1] - 108:18
break [6] - 6:11, 48:4,
48:14, 63:15, 64:2,
104:17
breakers [2] - 71:7,
83:11
breath [1] - 51:12
Brian [1] - 4:22
BRIAN [1] - 2:10
briefly [1] - 137:9
bring [1] - 46:17
bringing [1] - 47:4
BROAD [1] - 1:22
broken [1] - 55:23
broken-down [1] -
55:23
brother [1] - 20:24
brother's [1] - 136:9
brought [5] - 46:19,
51:7, 70:16, 71:10,
142:22
buddy [2] - 43:14,
45:20
buildings [3] - 17:14,
17:15, 86:15
bunch [1] - 94:6
but.. [1] - 94:25
buy [1] - 107:5
buying [2] - 107:6,
134:17
BY [35] - 2:3, 2:5, 2:15,
3:4, 3:5, 3:5, 4:18,
10:2, 11:20, 13:2,
14:12, 19:17, 23:10,
25:7, 33:14, 36:15,
48:12, 55:12, 55:19,
63:25, 73:12, 80:4,
81:14, 84:14, 86:4,
87:7, 92:18, 95:4,

| | | | | | | |
|---|---|---|---|---|----------|---|
| 104:15, 106:1, 114:20, 120:24, 136:3, 140:16, 142:10 | | | | | | |
| C | | | | | | |
| calf [5] - 35:10, 113:19, 113:22, 115:7, 130:2 calf-deep [1] - 113:19 calm [1] - 114:1 camera [5] - 16:10, 16:18, 17:12, 17:18, 33:9 cameras [1] - 97:5 cannot [4] - 38:20, 38:23, 38:24, 60:23 capacity [1] - 99:25 CAPE [1] - 1:1 captain [1] - 107:11 car [2] - 134:15, 134:18 carefully [1] - 8:16 carried [2] - 71:7, 114:5 carry [1] - 67:12 carrying [2] - 66:11, 74:23 cars [2] - 86:15, 136:13 case [6] - 5:21, 75:21, 108:24, 111:17, 119:2, 120:2 casual [1] - 96:11 caught [2] - 42:10, 117:2 CCR [2] - 1:18, 144:23 center [1] - 105:7 certain [6] - 13:10, 29:18, 47:10, 110:17, 110:18, 126:23 certainty [1] - 99:16 Certificate [1] - 144:24 CERTIFIED [1] - 1:22 Certified [1] - 144:3 certify [3] - 144:4, 144:10, 144:14 chairs [1] - 121:25 chance [1] - 16:3 chances [2] - 97:8, 100:16 change [9] - 19:12, 19:19, 73:14, 73:15, 73:17, 75:3, 75:25, 111:19, 111:23 changes [2] - 7:20, 111:24 channel [1] - 110:8 | characterize [2] - 133:10, 138:11 charge [1] - 99:24 chart [6] - 108:12, 109:13, 110:12, 111:1, 138:23 chase [1] - 8:10 Chasing [2] - 91:25, 92:2 checked [2] - 70:17, 71:11 checking [1] - 54:4 children [14] - 20:24, 26:8, 26:10, 122:3, 123:5, 123:24, 125:8, 125:9, 126:4, 131:20, 137:10, 137:12, 138:2, 139:9 chitchat [1] - 52:15 chosen [1] - 110:13 chronology [1] - 55:13 circle [5] - 14:14, 14:18, 80:5, 81:19, 121:16 circled [1] - 73:24 circling [1] - 52:11 City [1] - 2:17 CITY [1] - 1:7 clarify [1] - 81:4 clarity [1] - 38:20 clear [3] - 25:11, 28:25, 96:12 clearly [1] - 45:23 climb [1] - 75:1 climbed [2] - 41:15, 43:2 climbing [1] - 94:22 clock [2] - 141:21, 141:22 close [8] - 23:1, 23:21, 49:20, 103:21, 135:3, 136:19, 137:2, 137:3 closer [15] - 30:8, 31:4, 32:18, 32:20, 33:19, 41:24, 41:25, 45:11, 61:22, 80:18, 86:2, 126:12, 129:5, 139:18 closest [3] - 32:21, 34:3, 34:11 closing [1] - 102:20 clue [2] - 53:21, 76:25 coast [10] - 27:17, 27:20, 35:4, 50:13, 79:14, 80:25, 86:19, 88:18, 88:19, 89:19 Coast [1] - 101:2 coincides [1] - 72:22 | Cole [3] - 30:7, 88:24, 137:21 colleagues [4] - 121:3, 122:17, 129:4, 132:3 color [2] - 6:23, 14:13 colored [1] - 14:18 comfortable [1] - 86:1 coming [10] - 32:12, 43:12, 43:15, 45:9, 48:16, 75:14, 82:5, 96:17, 113:24, 114:2 commenced [2] - 27:25, 28:17 commencement [1] - 144:5 commencing [1] - 1:17 company [1] - 135:9 compare [2] - 10:23, 17:25 comparing [1] - 11:8 competitors [1] - 137:7 Complex [1] - 2:11 complies [2] - 14:16, 121:18 concentrated [1] - 40:21 concluded [1] - 143:20 concludes [1] - 143:16 conditions [4] - 88:3, 89:14, 89:22, 89:24 condos [1] - 17:15 conference [4] - 96:16, 96:18, 96:25, 97:11 confusion [1] - 23:9 consider [1] - 33:21 considered [1] - 134:22 console [1] - 105:7 contact [3] - 44:17, 44:19, 68:8 continue [1] - 64:2 continued [4] - 65:25, 67:11, 69:3, 81:24 continues [1] - 67:17 continuing [1] - 140:11 contour [1] - 111:19 contractor [1] - 140:22 conversation [12] - 37:19, 48:20, 49:4, 57:14, 76:4, 76:19, 78:15, 94:2, 108:22, 109:17, 109:23, | 127:9 conversations [4] - 95:7, 95:9, 98:24, 112:7 cop [1] - 53:21 copies [1] - 55:1 copy [1] - 109:10 corner [1] - 13:20 CORPORATIONS [1] - 1:9 CORRADO [1] - 2:5 correct [85] - 7:4, 7:22, 8:8, 8:13, 8:23, 9:12, 13:6, 19:10, 20:13, 20:15, 26:3, 31:7, 37:8, 38:23, 39:6, 60:3, 60:4, 61:2, 65:9, 65:10, 65:13, 65:14, 65:17, 65:23, 66:3, 66:4, 66:7, 66:13, 66:14, 66:17, 66:22, 66:23, 67:2, 67:6, 67:12, 68:1, 68:5, 68:9, 68:10, 68:13, 68:14, 68:16, 68:17, 68:20, 68:21, 68:24, 68:25, 69:4, 69:5, 69:9, 69:10, 69:14, 69:16, 69:25, 70:5, 70:10, 70:13, 70:18, 70:23, 70:24, 71:8, 71:14, 72:18, 73:2, 75:24, 82:11, 86:23, 86:24, 87:8, 87:11, 95:24, 96:4, 96:5, 104:23, 104:24, 105:2, 105:11, 114:14, 117:10, 125:16, 126:5, 126:19, 127:10, 132:11 correction [2] - 74:6, 74:11 corrections [2] - 7:16, 73:5 correctly [4] - 14:19, 18:3, 19:23, 116:7 counsel [4] - 4:8, 140:3, 144:16, 144:18 COUNTY [1] - 1:1 couple [6] - 28:19, 69:12, 98:5, 137:8, 140:25 course [1] - 101:24 court [2] - 4:9, 137:6 Court [1] - 144:3 COURT [2] - 1:1, 1:22 CPM-L-331-14 [1] - 1:2 | crawled [1] - 116:12 crazy [2] - 63:5, 77:16 created [1] - 112:10 crowded [1] - 123:10 crumb [1] - 108:18 cure [1] - 140:13 current [16] - 42:6, 52:25, 66:16, 67:1, 67:11, 68:4, 88:10, 89:25, 94:21, 108:10, 112:3, 112:10, 116:17, 116:18, 131:4, 133:18 currents [5] - 41:1, 41:2, 108:5, 117:4, 139:2 curve [5] - 11:2, 11:5, 12:10, 19:24, 20:4 customer [1] - 136:12 cut [1] - 8:9 | D | D'AMATO [36] - 2:2, 2:3, 3:5, 9:24, 11:17, 12:5, 12:12, 12:15, 14:10, 23:4, 36:7, 48:5, 54:25, 55:3, 55:18, 73:6, 73:11, 81:8, 84:1, 84:7, 84:10, 85:14, 85:22, 92:10, 95:1, 105:23, 114:18, 120:24, 135:23, 136:2, 136:3, 140:5, 140:12, 140:15, 140:16, 142:2 D'Amato [8] - 1:14, 78:11, 78:16, 96:4, 97:15, 109:6, 109:9, 142:11 D'Amato's [1] - 96:23 dad [1] - 134:15 DAG [1] - 2:10 Dan [1] - 59:17 Danger [1] - 131:8 dangers [1] - 127:3 Daniel [8] - 58:9, 59:1, 59:2, 59:4, 59:5, 59:6, 59:10 date [8] - 25:20, 54:20, 72:18, 84:11, 95:12, 129:2, 144:13 Date [1] - 144:25 daughter [26] - 34:6, 40:14, 57:18, 57:19, 58:1, 58:3, 58:11, 65:8, 66:11, 66:21, 74:7, 74:8, 74:12, |

| | | | | |
|--|---|---|---|--|
| <p>74:13, 74:22, 90:22, 93:13, 94:18, 97:17, 103:25, 104:6, 115:10, 132:15, 137:24, 142:20</p> <p>daughters [2] - 73:22, 73:25</p> <p>days [2] - 106:13, 124:22</p> <p>daytime [1] - 126:24</p> <p>decided [5] - 73:22, 74:3, 125:15, 126:7, 130:9</p> <p>decision [2] - 31:5, 31:8</p> <p>deep [7] - 35:8, 42:21, 65:16, 66:6, 113:19, 129:18, 130:1</p> <p>deeper [3] - 115:7, 118:25, 119:16</p> <p>defend [1] - 103:8</p> <p>Defendant [2] - 2:12, 2:17</p> <p>Defendants [1] - 1:9</p> <p>defensive [2] - 103:11, 103:12</p> <p>definitely [2] - 42:19, 137:17</p> <p>degrees [4] - 16:10, 17:3, 117:24</p> <p>demonstrate [5] - 60:6, 77:19, 84:18, 85:11, 86:21</p> <p>demonstrating [2] - 62:10, 82:3</p> <p>DEPARTMENT [1] - 2:9</p> <p>Department [2] - 3:12, 55:7</p> <p>depict [1] - 123:6</p> <p>Deposition [1] - 1:13</p> <p>deposition [7] - 4:6, 4:24, 58:21, 73:1, 78:13, 143:17, 143:20</p> <p>depth [8] - 36:1, 110:14, 110:19, 110:21, 111:6, 111:22, 111:24, 112:2</p> <p>Deputy [1] - 4:22</p> <p>describe [7] - 36:17, 38:21, 38:23, 38:24, 41:5, 118:21, 132:17</p> <p>described [6] - 36:10, 37:6, 38:8, 48:18, 130:10, 138:16</p> <p>describing [2] - 82:4, 89:21</p> <p>DESCRIPTION [1] -</p> | <p>3:10</p> <p>desperately [1] - 134:16</p> <p>details [1] - 6:2</p> <p>deter [1] - 103:15</p> <p>determines [1] - 100:15</p> <p>difference [1] - 86:10</p> <p>different [9] - 12:11, 84:8, 84:21, 85:3, 85:24, 85:25, 91:10, 111:9, 117:3</p> <p>difficult [2] - 108:8, 137:14</p> <p>dig [2] - 66:20, 134:7</p> <p>digging [1] - 133:4</p> <p>DiJoseph [11] - 2:20, 21:12, 21:15, 61:7, 62:20, 72:13, 72:17, 79:7, 79:8, 96:1, 102:15</p> <p>DiJoseph's [1] - 7:2</p> <p>direct [2] - 16:1, 114:15</p> <p>direction [12] - 27:8, 31:14, 32:17, 33:24, 34:20, 43:20, 47:11, 73:23, 88:12, 89:17, 117:12, 118:3</p> <p>directions [1] - 90:16</p> <p>directly [2] - 42:2, 105:15</p> <p>discussion [1] - 7:3</p> <p>Discussion [4] - 80:1, 87:4, 120:16, 142:6</p> <p>dispatched [1] - 55:22</p> <p>distance [8] - 17:14, 21:20, 21:23, 21:25, 61:17, 86:14, 116:3, 124:6</p> <p>distract [1] - 47:19</p> <p>distress [1] - 56:2</p> <p>dive [2] - 42:18, 42:19</p> <p>DIVISION [2] - 1:1, 2:10</p> <p>DOCKET [1] - 1:2</p> <p>document [1] - 54:19</p> <p>DOE [2] - 1:8</p> <p>done [1] - 48:1</p> <p>doors [1] - 102:10</p> <p>dot [3] - 9:5, 9:9, 9:12</p> <p>down [60] - 19:7, 20:24, 21:3, 21:15, 23:2, 24:11, 26:18, 26:19, 30:23, 36:11, 39:22, 41:12, 43:21, 44:13, 44:22, 44:25, 50:11, 51:4, 51:22, 53:3, 53:6, 53:17, 55:23, 60:9, 63:8,</p> | <p>68:12, 69:12, 75:2, 75:14, 75:16, 76:3, 79:14, 81:25, 82:5, 82:8, 82:16, 82:18, 82:19, 82:21, 87:25, 88:10, 88:17, 88:19, 89:3, 101:23, 102:10, 103:14, 103:18, 105:8, 112:23, 121:21, 123:23, 124:4, 124:10, 124:12, 126:1, 130:14, 130:18, 130:21, 139:17</p> <p>drastic [5] - 118:16, 119:15, 120:8, 120:9, 120:10</p> <p>draw [6] - 14:13, 14:17, 15:4, 15:16, 114:15, 116:10</p> <p>drawing [2] - 15:12, 47:19</p> <p>dredged [1] - 111:12</p> <p>drew [2] - 14:20, 108:15</p> <p>drift [1] - 88:14</p> <p>driver [1] - 70:7</p> <p>driving [1] - 43:11</p> <p>drop [11] - 112:9, 118:13, 118:16, 118:19, 118:20, 118:21, 120:7, 140:23, 140:24, 141:1, 141:15</p> <p>drop-off [9] - 112:9, 118:13, 118:16, 118:19, 120:7, 140:23, 140:24, 141:1, 141:15</p> <p>drop-offs [2] - 118:20, 118:21</p> <p>dropped [4] - 36:22, 93:8, 112:14, 120:4</p> <p>drops [2] - 118:24, 119:18</p> <p>drown [2] - 47:23, 98:20</p> <p>drowned [4] - 98:16, 124:18, 125:2, 126:21</p> <p>drowning [5] - 77:7, 78:4, 126:11, 130:16, 138:25</p> <p>dry [2] - 115:25, 116:4</p> <p>duly [2] - 4:12, 144:8</p> <p>during [4] - 21:8, 126:24, 132:14, 143:1</p> <p>duty [1] - 28:5</p> | <p>DVD [1] - 6:21</p> <p>E</p> <p>E-A-S-T-E-R-V-I-L-L-E [1] - 26:1</p> <p>early [1] - 139:5</p> <p>earth [1] - 29:19</p> <p>Earth [1] - 84:3</p> <p>easily [1] - 108:19</p> <p>east [17] - 33:21, 33:23, 34:20, 34:21, 35:2, 36:11, 62:5, 62:6, 80:21, 81:1, 81:2, 88:16, 88:17, 88:19</p> <p>edge [3] - 47:13, 47:17, 76:4</p> <p>edits [2] - 7:11, 22:7</p> <p>efficient [1] - 104:20</p> <p>effort [3] - 8:15, 100:13</p> <p>efforts [1] - 18:8</p> <p>Egg [2] - 1:15, 2:4</p> <p>eighths [2] - 24:12, 24:15</p> <p>either [8] - 93:16, 99:18, 111:7, 111:13, 115:10, 117:12, 118:2, 139:17</p> <p>elapsed [2] - 28:18, 29:9</p> <p>email [1] - 1:25</p> <p>emergency [2] - 50:22, 83:5</p> <p>employee [2] - 144:15, 144:18</p> <p>EMS [6] - 51:1, 51:2, 51:7, 52:12, 54:3, 54:10</p> <p>end [6] - 30:22, 71:15, 75:6, 81:23, 120:13, 137:7</p> <p>ended [3] - 107:6, 110:15, 135:1</p> <p>energy [1] - 44:10</p> <p>enforcement [2] - 71:23, 72:1</p> <p>Enlarged [1] - 3:17</p> <p>enlargement [2] - 77:23, 85:21</p> <p>entered [2] - 67:24, 68:3</p> <p>equidistant [1] - 16:15</p> <p>equivalent [1] - 8:11</p> <p>ESQUIRE [3] - 2:3, 2:5, 2:15</p> <p>established [1] - 73:18</p> | <p>Estate [1] - 1:4</p> <p>estimate [8] - 6:6, 22:20, 22:25, 23:6, 24:8, 24:21, 28:16, 132:8</p> <p>estimate.. [1] - 22:24</p> <p>estimated [1] - 24:15</p> <p>estimates [2] - 6:7, 6:9</p> <p>estimating [1] - 81:17</p> <p>evening [2] - 21:1, 118:5</p> <p>event [11] - 24:20, 60:7, 90:25, 93:3, 95:10, 95:12, 97:23, 123:3, 127:16, 129:2, 138:5</p> <p>eventually [3] - 46:16, 54:9, 81:1</p> <p>exact [3] - 6:4, 94:25</p> <p>exactly [4] - 59:22, 85:15, 94:16, 141:6</p> <p>EXAMINATION [5] - 3:4, 25:7, 104:15, 120:24, 142:10</p> <p>examination [2] - 4:18, 144:6</p> <p>examined [1] - 4:12</p> <p>example [4] - 22:18, 107:25, 109:6, 118:5</p> <p>excellent [3] - 133:12, 138:3</p> <p>except [1] - 52:5</p> <p>excuse [2] - 39:2, 125:3</p> <p>Executrix [1] - 1:3</p> <p>exhausted [2] - 41:17, 49:25</p> <p>Exhibit [7] - 4:2, 55:9, 63:21, 64:7, 80:6, 81:15, 92:14</p> <p>exhibit [5] - 7:25, 9:2, 79:23, 84:15, 92:20</p> <p>exhibits [1] - 12:18</p> <p>Exhibits [1] - 120:18</p> <p>exist [1] - 16:22</p> <p>exited [2] - 68:5, 68:7</p> <p>expect [2] - 98:8, 100:7</p> <p>experience [9] - 72:4, 105:1, 107:8, 108:3, 112:5, 118:9, 118:10, 119:14, 120:3</p> <p>experienced [2] - 118:22, 133:14</p> <p>experiencing [1] - 132:18</p> <p>explain [3] - 65:25, 66:1, 73:13</p> |
|--|---|---|---|--|

| | | | | |
|---|---|---|--|---|
| <p>explained [1] - 65:21 explaining [2] - 98:13, 100:11 extremely [1] - 137:3 extremity [1] - 36:2 eye [4] - 21:24, 48:16, 50:2, 68:8 eyes [3] - 43:18, 45:22, 141:20 eyewitness [1] - 133:23</p> | <p>23:25, 41:7, 41:24, 43:24, 45:8, 45:15, 45:16, 47:18, 76:7, 93:9, 117:10, 132:10, 133:2, 141:18, 142:1 fell [21] - 37:15, 39:12, 64:18, 65:22, 66:10, 74:12, 74:14, 74:17, 74:18, 74:23, 102:5, 104:2, 114:23, 116:23, 126:17, 129:8, 129:17, 129:24, 138:15, 139:16, 140:18 felt [14] - 36:19, 41:3, 41:8, 41:10, 41:11, 103:7, 119:11, 133:19, 134:1, 134:3, 134:5, 138:20, 142:13, 143:7 female [4] - 56:11, 91:17, 91:18, 91:19 few [4] - 6:18, 70:16, 91:9, 104:12 fifty [1] - 142:1 fighting [1] - 41:3 figure [3] - 15:9, 18:21, 29:23 finally [1] - 94:20 financially [1] - 144:19 fine [3] - 10:13, 14:3, 140:4 finger [1] - 13:17 fingertips [1] - 41:10 finish [1] - 12:7 Fire [2] - 1:15, 2:3 first [33] - 4:12, 6:19, 28:12, 28:14, 30:20, 30:21, 38:5, 39:13, 39:19, 39:20, 45:6, 47:6, 54:8, 59:2, 59:4, 61:24, 63:10, 73:17, 90:17, 103:4, 121:4, 124:13, 130:17, 130:20, 132:23, 133:1, 134:21, 136:9, 137:12, 137:21, 137:24 First [1] - 63:12 fisherman [8] - 32:2, 32:5, 40:2, 46:7, 139:7, 139:14, 141:2, 141:15 fishing [3] - 110:7, 122:8, 122:12 five [5] - 7:5, 97:10,</p> | <p>102:10, 104:1 five-year-old [1] - 104:1 fixed [1] - 136:13 flagged [1] - 124:4 flat [3] - 46:24, 89:8, 89:23 float [1] - 40:24 floats [1] - 100:14 flying [1] - 45:7 focused [1] - 17:19 follow [3] - 79:20, 110:8, 113:8 follow-up [1] - 79:20 followed [1] - 74:2 following [1] - 88:21 follows [2] - 4:13, 64:15 foot [1] - 42:20 footage [4] - 16:13, 16:17, 17:1, 17:9 footing [1] - 94:21 FOR [2] - 1:21, 3:19 forces [2] - 132:17, 133:14 foregoing [1] - 144:10 form [3] - 90:9, 135:22, 140:11 formations [1] - 46:4 forth [1] - 144:14 fought [1] - 94:21 four [1] - 102:10 frame [2] - 53:5, 62:14 Frank [1] - 26:1 frantically [1] - 75:18 Friday [3] - 124:19, 124:20, 124:21 friend [8] - 93:3, 133:7, 134:10, 134:23, 136:8, 136:10, 136:17 friendly [1] - 101:21 friends [1] - 135:12 front [10] - 30:20, 33:7, 52:21, 53:8, 73:9, 74:10, 80:21, 92:19, 121:22, 125:22 full [1] - 25:16 FURTHER [2] - 104:15, 142:10</p> | <p>77:12, 117:13, 121:17 General [1] - 4:23 generalization [1] - 21:21 generally [8] - 9:20, 11:21, 108:4, 109:20, 111:4, 111:17, 116:19, 121:11 gentleman [2] - 56:16, 91:22 gentlemen [1] - 98:6 George [1] - 1:4 GIBSON [1] - 2:5 girl [2] - 45:19, 58:18 girls [6] - 30:5, 30:10, 30:20, 31:11, 31:19, 90:9 given [2] - 46:18, 109:5 glancing [1] - 46:13 glistening [1] - 89:11 go-to [1] - 40:10 goer [1] - 118:10 golf [1] - 138:8 Google [1] - 84:3 Grab [1] - 41:14 grab [3] - 41:15, 53:12, 53:15 grabbing [1] - 41:13 graduated [1] - 134:12 GRASSI [2] - 2:5, 2:5 great [11] - 136:7, 136:11, 136:15, 136:16, 136:24, 137:8, 137:13, 138:6 green [3] - 9:5, 9:9, 9:12 ground [1] - 65:21 grounding [1] - 110:5 group [5] - 22:8, 31:13, 32:17, 102:3, 112:10 growing [1] - 135:9 GTO [1] - 134:15 Guard [1] - 101:2 guarded [2] - 22:9, 82:19 guess [22] - 5:24, 22:23, 23:3, 23:5, 25:13, 42:18, 51:7, 81:22, 83:3, 83:20, 86:14, 88:11, 90:7, 96:19, 106:11, 107:12, 112:18, 117:4, 118:23, 119:9, 119:21, 133:9 guesstimate [1] - 22:22</p> | <p>guesstimated [1] - 21:22 gully [4] - 37:7, 66:6, 140:9, 140:19 gunning [1] - 45:7 guy [10] - 59:3, 61:8, 77:16, 135:21, 135:23, 136:5, 136:7, 136:11, 139:25</p> |
| <p>F</p> <p>facing [1] - 42:3 fact [6] - 6:3, 52:4, 108:8, 109:21, 111:5, 125:22 facts [1] - 6:2 fair [4] - 113:4, 116:20, 119:5, 120:1 Fairly [1] - 78:20 fairness [1] - 85:14 fall [6] - 66:2, 74:19, 139:8, 139:13, 141:1, 141:14 fallen [2] - 127:6, 132:7 falling [1] - 74:24 familiar [6] - 107:13, 108:2, 108:7, 109:20, 111:5, 111:17 families [2] - 73:18, 131:23 family [9] - 87:9, 87:12, 101:19, 124:14, 126:8, 127:5, 136:10, 137:23 far [27] - 17:24, 22:16, 23:8, 42:25, 44:5, 45:17, 49:24, 60:13, 60:20, 61:12, 61:18, 75:12, 76:16, 80:16, 88:9, 89:6, 93:24, 98:11, 98:15, 102:21, 116:7, 124:5, 124:9, 132:2, 132:6, 141:12, 141:16 fashion [1] - 36:16 fast [2] - 43:12, 118:25 father [2] - 136:15 FAX [1] - 1:24 Feasterville [2] - 25:24, 25:25 February [2] - 6:20, 16:2 feet [19] - 22:2, 23:24,</p> | <p>female [4] - 56:11, 91:17, 91:18, 91:19 few [4] - 6:18, 70:16, 91:9, 104:12 fifty [1] - 142:1 fighting [1] - 41:3 figure [3] - 15:9, 18:21, 29:23 finally [1] - 94:20 financially [1] - 144:19 fine [3] - 10:13, 14:3, 140:4 finger [1] - 13:17 fingertips [1] - 41:10 finish [1] - 12:7 Fire [2] - 1:15, 2:3 first [33] - 4:12, 6:19, 28:12, 28:14, 30:20, 30:21, 38:5, 39:13, 39:19, 39:20, 45:6, 47:6, 54:8, 59:2, 59:4, 61:24, 63:10, 73:17, 90:17, 103:4, 121:4, 124:13, 130:17, 130:20, 132:23, 133:1, 134:21, 136:9, 137:12, 137:21, 137:24 First [1] - 63:12 fisherman [8] - 32:2, 32:5, 40:2, 46:7, 139:7, 139:14, 141:2, 141:15 fishing [3] - 110:7, 122:8, 122:12 five [5] - 7:5, 97:10,</p> | <p>G</p> <p>gain [1] - 94:21 gas [1] - 51:22 gather [2] - 104:7, 110:21 GELFAND [1] - 2:15 general [4] - 30:8,</p> | <p>H</p> <p>hair [1] - 103:6 half [5] - 24:13, 42:20, 54:11, 135:16 halfway [4] - 22:18, 24:6, 80:14, 80:19 hand [7] - 8:10, 121:3, 121:9, 122:18, 122:20, 122:22, 123:3 hands [2] - 59:15, 66:20 hanging [4] - 59:22, 66:12, 94:18, 124:8 happy [1] - 25:12 Harbor [2] - 1:15, 2:4 hard [5] - 40:13, 40:17, 44:1, 44:6, 137:16 harder [1] - 39:25 hardest [1] - 133:6 Harkins [2] - 56:8 head [5] - 39:22, 42:21, 43:20, 81:1, 91:24 heading [3] - 69:7, 129:22, 129:23 health [2] - 138:4, 138:10 hear [7] - 19:15, 45:12, 49:12, 49:15, 49:19, 49:20, 76:9 heard [4] - 4:25, 121:7, 121:8, 126:22 heart [1] - 51:11 height [2] - 19:12, 19:15 held [2] - 1:14, 99:19 help [12] - 53:3, 55:25, 62:13, 62:22, 76:24, 77:18, 79:9, 79:15, 86:21, 102:1, 137:18, 140:22 helped [2] - 15:11, 58:18 helpless [1] - 44:15 hereby [1] - 144:4 Hereford [6] - 55:22,</p> | |

| | | | | |
|---|--|--|---|--|
| <p>65:12, 78:3, 107:23, 109:14, 126:23 <i>hereinbefore</i> [1] - 144:13</p> <p><i>High</i> [1] - 131:4 <i>high</i> [3] - 134:13, 140:20, 140:21 <i>hire</i> [1] - 135:15 <i>hit</i> [5] - 40:24, 104:5, 104:9, 137:1, 138:17 <i>hold</i> [3] - 33:8, 121:19, 122:16 <i>holding</i> [3] - 59:13, 67:5, 134:3 <i>hole</i> [9] - 126:17, 129:8, 129:25, 132:7, 138:15, 139:10, 139:11, 139:13, 140:4 <i>honest</i> [4] - 33:21, 67:15, 119:4, 125:6 <i>hook</i> [1] - 46:6 <i>horrible</i> [1] - 138:5 <i>hospital</i> [11] - 54:5, 54:7, 54:12, 54:15, 57:3, 64:18, 65:1, 65:2, 71:13, 95:20, 99:15 <i>hour</i> [4] - 29:10, 43:11, 54:11 <i>hours</i> [3] - 28:19, 28:22 <i>house</i> [5] - 72:2, 87:18, 97:25, 105:16, 108:11 <i>hugged</i> [2] - 48:22, 63:8 <i>hugging</i> [1] - 67:5 <i>Hughes</i> [1] - 2:11 <i>hum</i> [5] - 80:12, 113:20, 125:10, 126:6, 129:6 <i>hundred</i> [11] - 21:9, 23:24, 23:25, 35:13, 41:24, 72:12, 107:16, 128:23, 141:18, 142:1 <i>HUNKINS</i> [27] - 2:10, 3:4, 4:18, 10:1, 10:2, 11:18, 11:20, 12:6, 12:13, 13:1, 13:2, 14:12, 19:16, 19:17, 23:7, 23:10, 25:1, 48:3, 104:12, 104:15, 106:1, 114:20, 120:11, 135:22, 135:25, 140:2, 140:7 <i>Hunkins</i> [2] - 4:22, 79:19</p> | <p><i>Hunt</i> [1] - 105:7 <i>husband</i> [3] - 1:4, 103:25, 136:16</p> <p style="text-align: center;">I</p> <p><i>idea</i> [15] - 9:13, 18:1, 23:18, 31:9, 62:15, 71:20, 76:20, 99:22, 102:14, 102:17, 112:12, 112:15, 112:17, 117:11 <i>identification</i> [10] - 4:2, 55:9, 63:21, 92:14, 120:18, 121:2, 122:15, 123:14, 128:25, 131:25 <i>identified</i> [2] - 8:25, 58:9 <i>identify</i> [8] - 12:17, 16:14, 27:1, 59:16, 59:24, 121:11 <i>identifying</i> [2] - 13:5, 15:12 <i>ignore</i> [2] - 9:9, 9:15 <i>illustrates</i> [2] - 77:4, 78:1 <i>image</i> [2] - 105:19, 106:8 <i>images</i> [1] - 16:8 <i>imagine</i> [7] - 12:1, 19:18, 27:9, 112:17, 121:14, 137:14, 141:25 <i>imagining</i> [1] - 117:8 <i>immediately</i> [7] - 13:21, 37:14, 39:10, 45:20, 55:24, 56:2, 74:22 <i>impression</i> [2] - 116:17, 117:21 <i>incident</i> [58] - 6:3, 7:3, 8:16, 8:19, 10:19, 11:10, 14:22, 15:23, 17:5, 18:4, 18:17, 18:20, 20:2, 20:17, 20:18, 20:21, 21:1, 21:16, 22:5, 22:8, 22:14, 22:17, 22:19, 24:14, 28:10, 36:13, 36:14, 100:5, 101:4, 101:7, 101:11, 101:14, 101:17, 102:24, 105:5, 105:9, 106:14, 107:18, 108:4, 108:24, 109:16, 110:16, 111:3, 111:16, 112:21, 113:11, 113:15,</p> | <p>115:3, 115:23, 118:4, 118:7, 118:11, 119:2, 119:15, 119:17, 120:2, 127:20, 128:16 <i>incorporated</i> [2] - 84:4, 137:23 <i>independent</i> [1] - 136:25 <i>indicating</i> [14] - 9:7, 13:20, 14:8, 15:10, 33:25, 47:9, 81:25, 82:17, 83:7, 83:23, 85:5, 105:21, 106:5, 121:14 <i>indication</i> [1] - 24:24 <i>Individually</i> [1] - 1:3 <i>individuals</i> [1] - 69:24 <i>information</i> [3] - 51:14, 110:25, 138:25 <i>informational</i> [1] - 15:15 <i>initial</i> [1] - 18:8 <i>initials</i> [4] - 8:7, 8:8, 8:12, 85:8 <i>injuries</i> [2] - 90:19, 90:22 <i>inland</i> [5] - 35:1, 79:14, 87:23, 89:16 <i>Inlet</i> [10] - 55:23, 65:12, 78:3, 107:23, 109:14, 121:6, 126:8, 126:23, 130:11, 130:19 <i>inlet</i> [37] - 20:10, 41:25, 42:4, 43:12, 68:13, 68:19, 75:15, 80:15, 81:7, 81:18, 82:10, 82:13, 87:25, 102:20, 106:7, 106:10, 106:12, 106:18, 107:15, 107:18, 108:9, 108:14, 109:21, 111:6, 111:9, 111:10, 111:12, 111:18, 116:19, 116:25, 117:1, 117:23, 122:4, 128:4, 128:18, 132:6, 139:2 <i>inlets</i> [3] - 107:22, 108:3, 108:4 <i>inside</i> [2] - 41:25, 90:6 <i>instability</i> [1] - 112:14 <i>instances</i> [1] - 118:15 <i>instead</i> [1] - 5:10 <i>instructions</i> [1] - 4:25</p> | <p><i>interested</i> [1] - 144:19 <i>interrupt</i> [1] - 12:17 <i>interview</i> [9] - 71:15, 72:16, 72:17, 73:2, 73:4, 92:21, 94:6, 96:17, 125:20 <i>interviewed</i> [6] - 71:18, 71:22, 71:24, 72:13, 102:12, 102:16 <i>interviewer</i> [1] - 75:23 <i>introduced</i> [1] - 4:21 <i>investigate</i> [1] - 98:11 <i>investigation</i> [3] - 99:9, 99:24, 100:1 <i>investigator</i> [9] - 7:14, 21:11, 60:9, 60:19, 61:7, 64:24, 67:17, 77:3, 78:24 <i>Investigator</i> [5] - 2:20, 3:14, 7:2, 63:20, 64:5 <i>involuntary</i> [1] - 132:11 <i>involve</i> [1] - 108:5 <i>involved</i> [1] - 56:4 <i>involvement</i> [1] - 135:4 <i>itself</i> [2] - 6:3, 139:3</p> <p style="text-align: center;">J</p> <p><i>jacket</i> [1] - 70:8 <i>JAMES</i> [1] - 2:15 <i>January</i> [1] - 37:21 <i>JERSEY</i> [4] - 1:1, 1:7, 1:23, 2:9 <i>Jersey</i> [14] - 1:16, 1:18, 2:4, 2:6, 2:12, 2:13, 2:16, 75:10, 91:25, 92:2, 101:10, 101:13, 128:21, 144:4 <i>Jesus</i> [2] - 40:4, 140:1 <i>jet</i> [56] - 44:23, 45:3, 45:6, 46:13, 46:15, 46:20, 47:3, 48:16, 48:21, 48:24, 50:7, 51:18, 51:19, 52:5, 52:18, 52:19, 52:20, 52:23, 53:8, 53:9, 53:11, 53:13, 53:24, 58:24, 58:25, 59:15, 60:13, 60:20, 60:21, 61:8, 63:4, 69:8, 69:13, 69:24, 70:4, 70:7, 70:9, 70:14, 75:5, 75:8, 75:13, 75:15, 75:18, 76:17, 76:22, 76:24, 77:4,</p> | <p>77:14, 83:11, 101:22, 123:25, 124:4, 124:11 <i>Jett</i> [6] - 26:14, 30:7, 50:16, 51:13, 54:13, 88:23 <i>job</i> [1] - 135:13 <i>JOHN</i> [1] - 1:8 <i>joked</i> [2] - 40:3, 137:4 <i>JOSEPH</i> [1] - 2:5 <i>July</i> [4] - 54:21, 54:22, 55:16, 123:15 <i>jumped</i> [3] - 48:24, 70:7, 74:22 <i>jumping</i> [2] - 44:14, 70:12 <i>June</i> [3] - 121:5, 122:18, 128:8 <i>Justice</i> [1] - 2:11 <i>juts</i> [2] - 9:21, 10:22</p> <p style="text-align: center;">K</p> <p><i>keep</i> [4] - 68:8, 81:24, 82:5, 121:22 <i>kept</i> [12] - 40:19, 40:21, 44:9, 44:18, 46:13, 46:15, 50:24, 51:4, 53:25, 54:4, 128:12, 136:9 <i>kick</i> [1] - 143:3 <i>kid</i> [1] - 63:7 <i>kids</i> [6] - 48:2, 50:9, 103:19, 129:21, 136:16, 142:23 <i>kind</i> [67] - 8:9, 9:20, 10:8, 15:8, 18:22, 18:24, 18:25, 19:4, 19:8, 20:4, 30:10, 30:23, 31:13, 31:16, 39:13, 40:3, 40:8, 41:15, 41:16, 42:4, 42:16, 42:17, 42:18, 44:14, 45:2, 45:11, 45:17, 46:5, 46:9, 46:10, 49:23, 49:25, 51:4, 52:10, 52:11, 52:13, 53:20, 63:5, 72:2, 75:17, 76:8, 76:9, 77:15, 80:8, 82:2, 85:24, 86:10, 89:11, 89:16, 105:4, 109:12, 110:25, 114:17, 118:1, 124:3, 124:5, 124:7, 124:8, 135:21, 135:23, 136:5, 136:20, 136:25, 137:1, 140:9 <i>knee</i> [1] - 65:16</p> |
|---|--|--|---|--|

knee-deep [1] - 65:16
knowing [2] - 104:6,
 139:10
knowingly [1] - 95:15
knowledge [4] -
 97:21, 106:25,
 107:7, 112:5
known [2] - 78:2,
 107:1
knows [1] - 31:12
Kyle [2] - 137:18,
 137:25

L

laid [1] - 41:16
Lake [1] - 25:23
land [8] - 10:9, 16:11,
 32:19, 38:10,
 115:25, 116:4,
 132:19, 133:17
landed [1] - 93:13
landmark [5] - 14:21,
 15:3, 17:22, 20:8,
 84:25
landmarks [10] -
 10:25, 13:10, 15:1,
 15:17, 16:21, 17:7,
 17:8, 79:9, 79:14,
 85:2
landward [1] - 34:14
large [1] - 121:16
larger [1] - 83:25
last [9] - 7:6, 7:20,
 46:21, 47:1, 61:25,
 71:6, 77:10, 79:4,
 94:17
late [2] - 1:4, 102:3
laughing [1] - 39:13
launched [2] - 69:24,
 75:6
law [2] - 71:23, 71:25
LAW [4] - 1:1, 2:2, 2:9,
 2:10
Law [1] - 1:14
laying [2] - 45:2, 46:1
leads [1] - 64:14
learn [1] - 126:11
learned [1] - 56:15
least [3] - 9:9, 27:15,
 100:25
leave [2] - 44:16,
 123:12
left [17] - 16:18, 16:22,
 17:13, 18:12, 27:4,
 27:21, 27:25, 29:21,
 36:22, 36:23, 69:18,
 69:20, 104:5, 115:5,
 115:20, 122:20,
 122:22

left-hand [1] - 122:20
leg [3] - 36:22, 36:23,
 37:4
less [6] - 24:18, 24:19,
 65:18, 82:21, 106:8,
 123:10
level [1] - 42:25
life [6] - 46:18, 48:23,
 60:22, 63:8, 70:8,
 135:20
lifeguard [4] - 89:6,
 90:13, 125:12,
 125:18
lifeguarded [3] -
 26:22, 27:1, 27:4
lifeguards [7] - 27:5,
 28:4, 50:12, 56:12,
 95:8, 95:10, 130:14
likely [3] - 100:21,
 100:22, 115:17
line [9] - 14:9, 82:8,
 82:21, 83:18,
 108:15, 113:8,
 113:11, 113:15,
 115:2
LINE [1] - 3:20
Linwood [1] - 2:16
LISA [2] - 144:3,
 144:23
Lisa [1] - 1:17
listen [1] - 133:21
literally [2] - 41:15,
 43:22
live [1] - 25:22
LLC [1] - 1:21
locate [1] - 14:22
located [2] - 21:15,
 106:9
location [25] - 6:3,
 8:16, 8:20, 9:2, 9:20,
 10:19, 13:5, 15:8,
 15:12, 15:19, 15:23,
 16:22, 18:17, 18:18,
 18:20, 20:2, 20:18,
 20:21, 61:11, 77:6,
 78:3, 90:12, 99:4,
 115:3, 118:6
locations [1] - 118:12
locked [2] - 43:18,
 46:14
look [27] - 9:2, 10:3,
 10:4, 10:7, 10:17,
 10:24, 11:4, 13:9,
 16:3, 38:12, 43:21,
 52:23, 53:4, 64:10,
 73:1, 73:14, 79:13,
 82:9, 83:24, 86:3,
 86:7, 86:17, 88:18,
 125:24, 128:9,
 132:25

Look [2] - 134:18,
 139:25
look.. [1] - 12:4
looked [11] - 15:2,
 16:25, 19:4, 28:8,
 30:13, 39:21, 43:20,
 43:21, 66:25, 136:8,
 136:11
looking [28] - 11:13,
 12:18, 13:3, 13:16,
 14:19, 17:9, 18:23,
 40:13, 40:20, 42:3,
 48:24, 49:8, 49:9,
 49:11, 52:5, 60:23,
 76:9, 77:2, 83:20,
 85:8, 85:10, 105:17,
 110:12, 112:21,
 121:10, 135:13,
 141:19, 141:20
looks [16] - 8:6, 11:25,
 12:2, 12:11, 14:9,
 16:10, 17:2, 17:3,
 77:22, 83:6, 84:21,
 85:3, 85:24, 86:7,
 139:25
lose [1] - 44:17
lost [9] - 39:2, 57:13,
 70:23, 72:5, 98:14,
 98:16, 98:18, 133:7
Lou [9] - 2:20, 60:10,
 60:11, 61:7, 63:7,
 77:16, 79:1, 79:6,
 95:25
love [1] - 137:15
loved [2] - 136:18,
 137:15
low [1] - 140:20
lower [1] - 36:1
loyal [1] - 136:12
lunch [3] - 63:18,
 64:2, 72:23
lying [1] - 46:23

M

machine [1] - 108:17
male [1] - 56:10
man [1] - 65:3
map [4] - 108:23,
 109:3, 109:12, 110:9
March [4] - 1:16, 4:5,
 6:24, 84:9
marina [14] - 88:1,
 105:13, 105:14,
 105:18, 105:20,
 106:2, 106:9,
 108:12, 108:13,
 109:18, 109:19,
 128:12, 128:16
Marine [2] - 75:10,

128:22
marine [1] - 75:13
mark [7] - 8:1, 8:3,
 8:15, 14:11, 79:9,
 79:15, 82:2
marked [21] - 4:1,
 6:18, 6:21, 6:22, 7:7,
 7:24, 10:19, 20:11,
 55:8, 63:20, 64:9,
 73:5, 79:19, 92:13,
 92:20, 120:17,
 121:1, 122:15,
 123:14, 128:25,
 131:24
marker [3] - 14:11,
 14:13, 121:16
Market [1] - 2:11
markings [2] - 7:9,
 7:11
marks [1] - 93:10
marriage [1] - 137:12
married [2] - 26:4,
 26:6
MARY [1] - 1:8
MAY [1] - 1:1
Mayor [2] - 102:22,
 127:9
mean [41] - 8:19, 9:23,
 10:22, 11:24, 21:20,
 21:24, 22:2, 22:21,
 28:12, 36:23, 45:6,
 49:19, 54:18, 59:9,
 70:24, 74:8, 76:3,
 77:12, 82:5, 84:21,
 94:2, 94:5, 95:2,
 96:22, 99:21, 100:6,
 100:20, 107:4,
 109:23, 111:8,
 115:6, 123:11,
 124:2, 124:5,
 131:22, 133:24,
 136:7, 137:2,
 137:13, 138:6
meandering [2] -
 31:17, 31:18
meaning [7] - 29:8,
 62:3, 86:12, 96:20,
 125:3, 125:12,
 137:23
means [3] - 9:16,
 120:7, 140:20
meant [2] - 20:3
mechanical [1] -
 136:14
media [6] - 90:24,
 91:4, 91:8, 92:21,
 96:14, 96:16
Meenan [1] - 58:10
meet [3] - 20:10, 96:8,
 134:14

meeting [3] - 7:2,
 78:10, 135:5
memory [4] - 13:10,
 21:25, 36:18, 38:3
mention [2] - 64:14,
 127:19
mentioned [4] - 102:1,
 104:23, 127:24,
 139:25
met [5] - 21:10, 64:22,
 134:11, 134:20,
 134:21
method [1] - 15:17
MICHAEL [1] - 2:15
Michael [1] - 25:8
mid [1] - 130:2
mid-calf [1] - 130:2
middle [3] - 40:5,
 131:14, 140:20
might [14] - 16:6, 21:7,
 25:3, 28:24, 30:20,
 30:21, 52:9, 53:10,
 102:23, 105:12,
 113:23, 115:18,
 116:18, 142:15
mike [1] - 39:2
miles [2] - 43:10,
 43:11
mind [5] - 22:3, 44:9,
 73:10, 81:4, 116:10
mind's [3] - 21:24,
 48:16, 50:2
mine [1] - 107:6
minute [5] - 39:20,
 41:17, 55:4, 79:23,
 87:1
minutes [4] - 16:7,
 17:2, 40:19, 70:16
missing [1] - 127:13
MK'D [1] - 3:10
mode [1] - 40:9
monster [1] - 30:11
Moore's [14] - 121:6,
 121:24, 126:8,
 130:11, 130:19,
 130:23, 131:2,
 131:7, 131:12,
 131:18, 139:20
moreso [1] - 100:7
morning [5] - 4:19,
 4:20, 37:20, 78:8,
 123:17
most [1] - 103:17
mostly [2] - 98:8,
 98:25
mother [1] - 50:10
motion [2] - 76:12,
 143:8
mouth [1] - 43:5
move [3] - 19:19,

100:16, 100:18
moved [4] - 62:5,
 62:6, 118:2, 135:1
moving [3] - 43:9,
 45:1, 100:17
MR [92] - 3:4, 3:5, 3:5,
 4:18, 9:24, 10:1,
 10:2, 11:17, 11:18,
 11:20, 12:5, 12:6,
 12:12, 12:13, 12:15,
 13:1, 13:2, 14:10,
 14:12, 19:14, 19:16,
 19:17, 23:4, 23:7,
 23:10, 25:1, 25:7,
 33:11, 33:14, 36:7,
 36:9, 36:15, 48:3,
 48:5, 48:12, 54:25,
 55:2, 55:3, 55:12,
 55:18, 55:19, 63:14,
 63:25, 73:6, 73:8,
 73:11, 73:12, 80:4,
 81:8, 81:10, 81:14,
 84:1, 84:6, 84:7,
 84:8, 84:10, 84:13,
 84:14, 85:14, 85:16,
 85:20, 85:22, 86:4,
 86:25, 87:7, 92:10,
 92:18, 95:1, 95:4,
 104:10, 104:12,
 104:15, 105:23,
 106:1, 114:18,
 114:20, 120:11,
 120:24, 135:22,
 135:23, 135:25,
 136:2, 136:3, 140:2,
 140:5, 140:7,
 140:12, 140:15,
 140:16, 142:2,
 142:10, 143:15
must [4] - 52:24,
 52:25, 53:1, 65:3

N

name [10] - 4:22, 25:8,
 25:16, 26:25, 51:15,
 59:21, 59:23, 91:2,
 91:13, 102:8
names [1] - 26:10
navigate [1] - 108:9
near [1] - 87:23
necessarily [5] - 30:1,
 40:13, 77:20, 94:15,
 143:2
neck [2] - 66:13, 93:15
need [12] - 40:11,
 44:10, 54:5, 54:6,
 54:7, 54:8, 54:12,
 103:13, 103:14,
 103:15, 104:17,
 108:16

needed [3] - 40:15,
 103:8, 137:19
never [22] - 38:10,
 38:16, 38:17, 42:22,
 47:25, 69:8, 69:20,
 76:2, 76:9, 84:5,
 87:9, 100:22, 104:4,
 115:7, 137:5,
 137:19, 137:22,
 138:20, 138:21,
 143:7, 143:14
NEW [4] - 1:1, 1:7,
 1:23, 2:9
New [15] - 1:16, 1:18,
 2:4, 2:6, 2:12, 2:13,
 2:16, 2:16, 75:10,
 91:25, 92:2, 101:9,
 101:13, 128:21,
 144:4
Newspaper [2] - 3:16,
 92:13
newspaper [1] - 92:4
next [29] - 13:21,
 18:14, 18:15, 18:19,
 21:6, 21:10, 35:11,
 35:14, 35:20, 35:21,
 45:5, 54:3, 57:16,
 57:25, 58:7, 67:16,
 69:11, 69:22, 74:5,
 74:11, 74:21, 77:21,
 93:12, 93:21,
 103:19, 103:23,
 115:11, 118:5, 123:2
nice [1] - 121:16
Nicole [2] - 137:19,
 137:25
niece's [2] - 48:23,
 63:7
night [2] - 20:23,
 102:2
nine [1] - 35:24
NO [1] - 1:2
noise [1] - 43:6
none [8] - 52:2, 68:15,
 90:1, 90:2, 90:3,
 140:17
nonstop [1] - 31:20
normal [2] - 111:9,
 111:10
NORTH [2] - 1:7, 1:22
north [16] - 27:10,
 27:11, 27:15, 29:11,
 29:12, 29:16, 32:12,
 50:13, 62:3, 73:23,
 75:6, 80:24, 110:1,
 110:3, 116:24
North [19] - 2:17, 3:12,
 3:14, 54:20, 55:7,
 63:19, 64:7, 73:20,
 78:2, 87:15, 95:8,

97:22, 99:7, 105:8,
 106:14, 124:15,
 125:4, 128:21,
 138:24
northbound [1] -
 31:23
northerly [1] - 27:8
northwest [3] -
 105:22, 106:2, 106:8
note [2] - 9:4, 140:2
noted [1] - 4:8
notes [1] - 144:12
nothing [10] - 9:14,
 37:2, 42:21, 89:7,
 93:9, 104:10, 113:5,
 118:14, 134:2, 144:9
notice [6] - 10:25,
 31:21, 34:22, 35:25,
 56:1, 113:1
noticed [4] - 19:23,
 28:8, 32:3, 55:25
number [3] - 84:15,
 85:6, 123:6
NUMBER [1] - 3:10
Number [1] - 85:7
numbers [1] - 110:18

O

o'clock [4] - 26:17,
 26:19, 141:21,
 141:23
O'Connell [1] - 58:9
O'Donnell [1] - 77:5
objection [8] - 12:5,
 12:12, 12:16,
 114:18, 135:22,
 140:3, 140:11,
 140:13
observation [2] -
 41:21, 79:9
observations [2] -
 36:8, 36:9
observe [2] - 35:18,
 89:24
observed [1] - 32:8
obviously [3] - 41:2,
 50:21, 110:4
occurred [19] - 11:10,
 17:5, 22:14, 22:17,
 22:19, 24:14, 24:24,
 60:7, 105:5, 105:10,
 106:15, 109:16,
 111:4, 111:16,
 112:21, 113:12,
 113:16, 115:23,
 120:2
ocean [38] - 9:22,
 17:3, 32:18, 32:20,
 32:21, 33:20, 33:22,

33:23, 40:5, 42:1,
 43:22, 50:11, 51:21,
 52:22, 69:3, 80:14,
 80:18, 81:5, 81:7,
 81:18, 81:21, 81:23,
 82:3, 82:4, 82:15,
 83:22, 83:23, 88:5,
 88:20, 107:14,
 110:7, 110:20,
 111:6, 111:18,
 117:3, 120:4, 124:6
oceanfront [10] -
 13:15, 15:6, 18:23,
 20:9, 20:10, 21:19,
 51:24, 82:23, 82:24,
 82:25
OF [8] - 1:1, 1:7, 1:7,
 2:9, 2:9, 2:10
offered [1] - 101:25
office [2] - 96:23,
 100:10
office@word4word.
net [1] - 1:25
officer [7] - 43:18,
 54:17, 58:14, 71:19,
 75:14, 98:3, 98:4
Officer [1] - 128:2
officers [4] - 52:2,
 52:3, 52:13, 127:1
Offices [1] - 1:15
OFFICES [1] - 2:2
officials [3] - 71:23,
 101:10, 101:14
offs [2] - 118:20,
 118:21
offshoot [1] - 106:12
offshore [1] - 77:10
old [6] - 35:23, 56:11,
 57:19, 58:10, 104:1,
 133:8
older [5] - 20:24,
 50:16, 136:16,
 137:10, 138:7
once [4] - 42:23,
 66:24, 108:18, 119:6
one [45] - 7:24, 9:6,
 14:5, 15:1, 41:8,
 45:6, 51:24, 52:4,
 56:10, 58:23, 59:6,
 59:10, 61:21, 70:4,
 72:22, 74:5, 74:21,
 75:4, 76:12, 79:2,
 79:22, 84:9, 84:18,
 90:17, 91:7, 91:8,
 94:9, 95:21, 96:13,
 99:10, 99:14, 99:18,
 100:23, 101:19,
 105:6, 111:7,
 111:13, 112:15,
 115:19, 116:10,

117:22, 121:4,
 123:25, 135:11,
 140:20
ones [1] - 131:21
open [1] - 43:5
operator [1] - 75:7
opportunity [3] -
 38:12, 64:10, 72:25
opposed [1] - 130:1
opposite [2] - 109:25,
 110:11
Oral [1] - 1:13
order [1] - 12:9
orient [1] - 9:18
originally [2] - 24:10,
 82:15
otherwise [1] - 27:2
ourselves [2] - 9:18,
 103:8
outer [1] - 42:9
outgoing [1] - 137:18
outlined [1] - 46:6
overall [2] - 14:23,
 14:24
overview [1] - 105:17
own [2] - 11:14, 105:4
owned [1] - 101:19
owner [2] - 102:9,
 108:13

P

P.C [1] - 2:5
p.m [2] - 55:17, 143:21
Pacific [1] - 2:6
page [12] - 7:6, 7:20,
 75:2, 76:13, 76:14,
 77:2, 77:21, 77:24,
 92:7, 92:25, 93:1,
 125:25
PAGE [2] - 3:4, 3:20
pages [1] - 7:5
pains [1] - 138:9
panicked [2] - 39:11,
 43:25
panned [2] - 17:13,
 17:19
panning [2] - 16:18,
 16:21
paragraph [3] - 57:10,
 67:16, 69:11
pardon [1] - 92:1
parked [1] - 50:23
parking [13] - 13:14,
 13:22, 14:1, 14:4,
 14:14, 14:21, 80:10,
 80:11, 81:20, 82:11,
 84:22, 84:25, 122:24
part [8] - 10:20, 64:8,
 67:13, 81:22, 82:7,

| | | | | |
|--|--|--|--|--|
| <p>139:21, 139:23, 140:4, 142:17 reason [6] - 23:19, 25:11, 52:24, 73:16, 73:24, 86:20 reasonably [1] - 15:18 received [1] - 138:23 recess [2] - 48:8, 63:18 recognize [5] - 17:7, 17:16, 17:22, 17:23, 85:1 recognized [1] - 17:9 recollection [4] - 28:7, 62:23, 83:6, 92:9 record [30] - 4:7, 6:17, 9:5, 38:20, 48:7, 48:10, 55:6, 55:11, 63:17, 63:24, 79:22, 79:25, 80:1, 80:3, 84:1, 87:1, 87:3, 87:4, 87:6, 92:10, 92:11, 92:17, 120:14, 120:16, 120:21, 142:3, 142:5, 142:6, 142:8, 143:17 recorded [1] - 97:2 recount [2] - 92:23, 93:21 recounted [3] - 91:12, 93:3, 93:16 recounting [1] - 54:21 recovered [2] - 98:17, 100:25 recovery [6] - 40:9, 98:9, 100:3, 100:11, 100:13, 100:19 red [5] - 81:19, 82:8, 82:20, 83:18, 121:15 refer [2] - 10:11, 33:7 reference [3] - 62:14, 82:12, 128:1 referenced [2] - 125:21, 127:8 referred [5] - 13:18, 27:14, 37:20, 77:25, 80:13 referring [3] - 123:17, 123:19, 128:10 refers [1] - 92:8 refresh [1] - 62:22 refreshed [1] - 38:3 refreshes [1] - 92:9 regarding [1] - 55:23 relationship [7] - 15:5, 136:21, 136:23, 136:24, 137:10, 137:11, 138:1 relative [2] - 144:15,</p> | <p>144:17 remember [58] - 17:20, 26:21, 28:3, 28:4, 28:6, 29:12, 29:14, 31:24, 32:2, 32:14, 32:15, 36:18, 40:23, 41:14, 43:4, 44:4, 47:21, 50:15, 52:15, 56:19, 56:25, 57:2, 57:14, 57:22, 58:4, 58:6, 58:12, 58:16, 58:22, 64:25, 65:2, 67:7, 67:13, 67:21, 70:11, 78:20, 80:5, 81:23, 90:11, 91:1, 91:4, 91:18, 94:1, 94:3, 94:5, 94:7, 94:15, 94:24, 95:17, 95:23, 98:23, 115:16, 123:11, 124:10, 124:17, 139:24, 142:13, 142:17 remembered [2] - 37:17, 40:1 rendered [1] - 56:3 rental [1] - 102:11 rented [2] - 87:19, 135:8 renting [1] - 135:1 repeat [3] - 5:1, 27:23, 129:19 rephrase [5] - 5:11, 10:1, 11:19, 25:13, 81:12 Report [2] - 3:14, 55:8 report [18] - 7:1, 7:14, 7:17, 23:11, 54:20, 55:15, 63:19, 64:4, 64:6, 72:16, 72:17, 73:1, 73:4, 76:14, 77:25, 84:4, 92:21, 128:2 Report..... 55 [1] - 3:13 reported [1] - 94:13 reporter [10] - 4:9, 91:17, 91:18, 91:19, 91:22, 93:6, 93:21, 94:9, 97:7, 97:8 Reporter [1] - 144:3 reporters [2] - 97:6, 97:10 REPORTERS [1] - 1:22 reporting [3] - 67:17, 91:20, 91:23 REPORTING [1] - 1:21 reports [2] - 66:5, 67:22</p> | <p>represent [1] - 4:23 REQUESTS [1] - 3:19 rescue [10] - 18:8, 51:20, 56:3, 69:19, 70:17, 71:12, 75:20, 83:11, 98:9, 100:12 rescued [4] - 53:9, 59:6, 76:11, 76:18 rescuer [1] - 77:4 rescuing [1] - 53:24 residence [1] - 127:2 responding [2] - 25:14, 100:9 responsibility [1] - 99:22 result [2] - 90:18, 90:21 return [1] - 22:13 reversed [1] - 75:23 Richard [4] - 3:15, 63:20, 64:5, 128:2 ride [3] - 41:1, 41:2, 88:15 ridiculous [1] - 30:13 riding [1] - 89:4 ring [2] - 91:14, 91:15 rip [2] - 94:21, 131:4 risk [1] - 131:4 river [1] - 42:11 road [3] - 19:3, 19:24, 20:4 Road [4] - 1:15, 2:3, 2:16, 25:23 roadway [3] - 11:2, 11:6, 19:1 Rob [1] - 77:5 rock [46] - 13:13, 13:18, 13:19, 13:25, 14:4, 14:6, 14:7, 14:8, 14:14, 14:21, 17:19, 17:24, 21:19, 22:10, 23:1, 23:13, 23:20, 23:22, 27:16, 29:15, 29:25, 30:24, 30:25, 31:1, 31:4, 31:22, 32:1, 33:3, 33:4, 33:5, 44:22, 44:24, 44:25, 80:9, 81:20, 82:13, 89:13, 89:18, 90:4, 111:15, 122:19, 123:17, 123:18, 139:18, 139:22, 139:23 rocks [4] - 14:9, 103:14, 103:22, 111:13 room [1] - 96:25 rope [8] - 41:6, 53:7, 53:12, 53:15, 53:16, 76:23, 134:3</p> | <p>rough [1] - 88:6 roughly [5] - 16:15, 20:1, 107:8, 113:19, 116:14 runner [3] - 58:17, 58:23, 59:15 runners [2] - 55:23, 58:8 running [3] - 112:11, 116:18, 139:2</p> | <p>131:23, 139:14, 139:15, 139:21, 141:3 scale [1] - 86:14 scare [2] - 30:10, 74:1 scene [9] - 18:8, 21:16, 48:17, 56:9, 56:12, 57:6, 60:2, 78:23, 79:7 Schmidt [5] - 63:20, 64:5, 64:15, 95:19, 128:2 SCHMIDT [1] - 64:5 Schmidt..... 63 [1] - 3:15 school [1] - 134:13 SCOTT [4] - 1:14, 3:3, 4:11, 144:7 Scott [9] - 4:6, 25:17, 42:14, 57:11, 64:16, 64:22, 77:5, 93:2, 120:25 scrambling [1] - 41:12 scream [3] - 44:8, 44:9, 44:10 Sea [1] - 105:7 sea [4] - 44:12, 57:21, 98:18, 100:20 searched [1] - 70:15 searching [1] - 49:18 seated [1] - 24:10 second [8] - 58:17, 92:7, 95:6, 104:9, 114:7, 125:25, 127:12, 142:3 seconds [6] - 39:20, 39:21, 93:24, 132:1, 132:25, 140:25 section [1] - 116:15 see [63] - 7:21, 8:25, 9:6, 10:8, 10:20, 30:4, 33:11, 35:17, 38:14, 41:20, 45:24, 45:25, 46:2, 46:3, 46:7, 46:8, 46:9, 47:19, 48:15, 49:8, 56:1, 60:25, 68:23, 70:21, 71:2, 74:19, 75:5, 79:8, 82:10, 83:2, 83:15, 84:22, 84:24, 85:2, 85:11, 86:10, 86:13, 92:9, 93:1, 95:17, 96:8, 96:14, 113:10, 113:14, 121:25, 122:3, 122:19, 122:23, 122:25, 123:25, 124:1, 125:24, 126:20, 128:9, 130:23,</p> |
|--|--|--|--|--|

| | | | | |
|---|--|--|---|--|
| <p>131:2, 131:7, 131:20, 132:25, 139:7, 140:12, 143:12 seeing [9] - 31:24, 32:2, 44:5, 47:21, 50:15, 123:11, 124:10, 131:12, 139:24 seem [1] - 10:14 sense [2] - 12:2, 130:13 sentence [2] - 57:16, 57:25 separate [2] - 7:25, 58:25 separated [2] - 41:22, 67:10 Sergeant [2] - 56:8 series [1] - 120:25 set [5] - 84:19, 84:24, 87:23, 90:12, 144:14 Set [1] - 3:17 seven [4] - 56:11, 57:19, 58:10, 134:25 seven-year-old [3] - 56:11, 57:19, 58:10 several [1] - 52:9 shallow [6] - 40:7, 45:1, 108:20, 108:21, 109:21, 124:7 shape [3] - 10:15, 20:5, 85:25 share [1] - 135:7 shop [1] - 135:1 shore [14] - 39:23, 44:3, 45:4, 46:16, 53:13, 58:2, 70:17, 71:10, 83:16, 93:25, 132:2, 133:1, 133:2, 133:5 shoreline [1] - 57:20 short [2] - 46:4, 48:8 shortly [2] - 27:21, 27:24 shoulder [7] - 9:21, 10:12, 10:15, 10:21, 11:16, 11:22, 11:25 shouting [1] - 55:25 show [16] - 9:3, 16:18, 33:8, 62:12, 80:8, 81:6, 81:21, 98:21, 108:13, 120:25, 121:2, 122:14, 123:13, 128:6, 128:24 showed [1] - 110:9 showing [2] - 81:15, 86:19</p> | <p>shown [7] - 105:19, 106:3, 125:20, 129:10, 130:24, 131:3, 131:21 shows [2] - 16:21, 108:17 side [26] - 11:15, 32:18, 32:19, 32:20, 32:22, 34:10, 34:14, 42:9, 48:13, 50:11, 51:24, 52:22, 80:18, 100:3, 109:24, 109:25, 110:1, 110:3, 110:11, 111:13, 114:12, 122:20, 140:20, 140:21 side-tracked [1] - 48:13 sideways [1] - 88:11 sight [2] - 57:13, 70:23 sign [2] - 125:22, 126:1 signs [8] - 93:3, 126:9, 126:12, 126:18, 130:23, 131:3, 131:8, 131:13 silence [1] - 103:11 silly [1] - 113:23 similar [1] - 85:25 similarly [1] - 17:18 simultaneously [1] - 74:13 sirens [4] - 49:13, 49:15, 49:19 site [2] - 6:20, 16:2 sitting [8] - 30:9, 30:12, 45:1, 49:25, 60:20, 124:8 six [2] - 97:10, 134:25 size [2] - 86:9, 86:15 ski [18] - 46:20, 48:21, 48:24, 51:21, 52:18, 52:19, 52:23, 53:8, 53:11, 53:13, 59:15, 61:8, 70:7, 70:9, 75:5, 75:8, 76:24, 77:4 skier [26] - 45:6, 46:13, 46:15, 47:3, 48:16, 50:7, 51:18, 51:19, 52:21, 53:9, 53:24, 60:13, 60:20, 60:21, 63:4, 70:14, 75:13, 75:15, 75:18, 76:17, 76:22, 76:24, 77:15, 83:11, 124:4 skiers [5] - 44:23, 52:6, 58:24, 69:8,</p> | <p>124:11 skiing [1] - 138:8 skills [1] - 136:14 skis [8] - 44:23, 45:3, 58:25, 69:13, 69:24, 70:4, 101:23, 123:25 slid [1] - 37:2 slide [2] - 42:17 sliding [1] - 53:17 slight [2] - 89:22, 89:23 slipped [2] - 37:3, 57:20 slope [1] - 111:5 small [3] - 46:5, 47:1 SMITH [1] - 1:3 Smith [15] - 1:4, 57:12, 57:18, 58:2, 64:16, 65:8, 73:18, 73:21, 74:7, 74:12, 77:6, 78:4, 87:12, 97:18, 97:19 Smith's [2] - 58:10, 93:2 softball [1] - 138:7 someone [3] - 31:5, 56:15, 135:10 sometimes [2] - 98:20, 98:21 somewhat [5] - 10:9, 10:14, 19:19, 111:2 somewhere [3] - 82:16, 82:18, 106:4 son [18] - 30:7, 34:6, 35:18, 50:16, 51:13, 51:14, 54:13, 65:7, 66:2, 88:23, 88:24, 104:1, 104:5, 115:12, 134:18, 137:21, 137:22 soon [6] - 39:9, 49:5, 93:19, 104:5, 108:11, 132:20 Sorry [1] - 105:25 sorry [3] - 86:6, 97:19, 123:2 sort [3] - 11:8, 11:15, 23:15 sound [1] - 72:18 sounding [1] - 100:7 sounds [2] - 43:6, 44:1 source [1] - 139:1 south [12] - 33:2, 33:17, 80:23, 80:24, 81:2, 88:14, 88:16, 88:17, 88:19, 89:3, 105:18 southeast [3] - 116:19, 117:9,</p> | <p>117:10 southerly [2] - 31:14, 32:17 space [2] - 135:2, 135:8 speaking [10] - 9:20, 11:22, 54:16, 54:23, 56:25, 57:2, 72:7, 91:5, 100:6, 108:4 specific [1] - 132:4 specifically [3] - 54:18, 94:7, 128:1 spell [2] - 25:18, 25:25 spoken [11] - 37:16, 56:15, 56:18, 95:16, 97:21, 101:1, 101:9, 101:13, 101:16, 102:17, 102:19 spot [4] - 40:6, 41:8, 79:10, 79:15 spotted [1] - 75:9 standing [9] - 32:5, 32:7, 40:4, 77:5, 122:10, 122:11, 141:2, 141:6, 141:8 stands [1] - 89:6 staring [1] - 42:2 start [5] - 6:15, 30:3, 53:17, 104:22, 133:4 started [37] - 6:19, 16:4, 24:9, 26:15, 26:22, 27:7, 29:3, 29:12, 30:14, 30:19, 33:6, 39:16, 39:24, 39:25, 40:12, 40:16, 40:25, 41:11, 42:24, 43:4, 43:25, 44:8, 44:11, 44:13, 44:21, 62:1, 62:3, 75:17, 80:22, 80:23, 80:24, 88:3, 93:23, 115:24, 130:4, 133:5 starting [5] - 17:1, 22:18, 24:7, 24:16, 117:6 starts [2] - 92:25, 93:2 State [15] - 1:18, 2:13, 4:23, 43:8, 51:17, 52:17, 53:6, 53:7, 53:11, 53:21, 83:1, 83:8, 101:10, 128:21, 144:4 STATE [2] - 1:7, 2:9 statement [7] - 7:8, 7:11, 7:13, 27:15, 69:16, 93:22, 131:24 stay [2] - 43:15, 44:19 stayed [3] - 87:19, 105:14, 105:16 staying [4] - 97:25,</p> | <p>101:19, 101:21, 127:2 steep [2] - 119:21, 119:22 stenographic [1] - 144:12 step [6] - 36:21, 93:8, 115:17, 115:19, 115:20, 137:13 stepped [3] - 37:1, 112:10, 115:18 stepping [2] - 34:23, 115:4 steps [2] - 122:23, 122:25 still [13] - 27:5, 30:11, 45:15, 45:18, 56:10, 56:16, 57:12, 60:21, 70:20, 81:2, 97:24, 105:6, 132:15 stood [2] - 43:3, 103:7 stop [4] - 23:7, 25:12, 64:20, 143:2 stopped [1] - 76:10 story [3] - 9:10, 96:8, 96:9 straight [7] - 81:25, 82:8, 82:21, 88:19, 114:22, 115:2, 141:19 street [1] - 90:11 STREET [1] - 1:22 Street [1] - 2:11 stretch [1] - 82:14 strike [2] - 67:8, 131:16 strobe [1] - 98:12 strong [4] - 66:16, 68:4, 88:11, 108:5 struck [3] - 74:15, 74:16, 76:14 struggled [1] - 94:19 stuck [1] - 42:7 stunned [3] - 47:7, 47:8, 50:20 subject [2] - 59:14, 59:16 subjects [1] - 58:8 sudden [2] - 65:20, 93:9 suddenly [3] - 8:21, 119:18, 119:20 Suddenly [2] - 74:11, 75:5 suffer [2] - 90:19, 90:22 suggest [1] - 14:10 suggests [1] - 23:8 Suite [2] - 1:15, 2:3 SUITE [1] - 1:23</p> |
|---|--|--|---|--|

| | | | | |
|---|---|---|--|---|
| <p><i>summary</i> [1] - 7:2 <i>sun</i> [1] - 89:10 <i>sunbathing</i> [1] - 121:25 SUNDERLAND [4] - 1:14, 3:3, 4:11, 144:7 <i>Sunderland</i> [37] - 4:6, 4:19, 12:20, 19:25, 25:8, 25:17, 26:7, 57:11, 57:17, 57:25, 58:7, 64:1, 64:17, 64:22, 65:21, 67:22, 68:7, 69:6, 69:11, 70:14, 70:20, 71:11, 73:18, 73:21, 74:6, 74:13, 75:9, 76:1, 77:5, 84:16, 87:8, 92:19, 93:2, 93:5, 93:23, 94:19, 120:19 <i>Sunderland's</i> [2] - 74:21, 93:13 <i>Sunderland-1</i> [3] - 6:21, 16:1, 17:10 <i>Sunderland-10</i> [25] - 3:11, 4:3, 7:25, 8:10, 10:18, 10:21, 10:24, 11:1, 11:5, 11:13, 12:21, 13:4, 13:8, 13:16, 14:20, 15:7, 15:22, 19:25, 20:12, 24:22, 85:7, 85:9, 86:6, 86:7, 86:13 <i>Sunderland-11</i> [3] - 3:12, 55:9, 55:16 <i>Sunderland-12</i> [6] - 3:14, 63:22, 64:9, 64:21, 127:25, 128:18 <i>Sunderland-13</i> [5] - 3:16, 92:15, 92:20, 125:23, 131:25 <i>Sunderland-14</i> [3] - 3:17, 120:19, 121:4 <i>Sunderland-15</i> [1] - 122:16 <i>Sunderland-16</i> [1] - 123:14 <i>Sunderland-17</i> [1] - 124:1 <i>Sunderland-18</i> [1] - 131:21 <i>Sunderland-2</i> [17] - 6:22, 9:3, 9:5, 10:3, 10:5, 10:24, 11:9, 12:21, 12:24, 15:16, 19:2, 20:1, 85:15, 85:17, 105:18, 105:20, 106:3 <i>Sunderland-20</i> [1] -</p> | <p>128:6 <i>Sunderland-21</i> [2] - 129:1, 129:11 <i>Sunderland-22</i> [1] - 130:24 <i>Sunderland-23</i> [1] - 131:3 <i>Sunderland-24</i> [1] - 131:8 <i>Sunderland-25</i> [1] - 131:14 <i>Sunderland-3</i> [4] - 6:25, 7:5, 7:9, 22:6 <i>Sunderland-4</i> [1] - 7:7 <i>Sunderland-5</i> [5] - 7:8, 7:16, 7:21, 73:7, 73:13 <i>Sunderland-6</i> [2] - 62:9, 62:13 <i>Sunderland-7</i> [1] - 62:12 <i>Sunderland-8</i> [2] - 59:14, 62:17 <i>Sunderland-9</i> [1] - 61:3 SUPERIOR [1] - 1:1 <i>supplemental</i> [1] - 64:6 <i>Supplemental</i> [2] - 3:12, 55:8 <i>Surf</i> [1] - 73:19 <i>surf</i> [2] - 65:17, 88:2 <i>surface</i> [1] - 29:19 <i>surprise</i> [2] - 77:14, 77:17 <i>swallowed</i> [1] - 54:6 <i>swam</i> [2] - 104:5, 104:8 <i>swear</i> [1] - 4:10 <i>swept</i> [1] - 67:1 <i>swerved</i> [2] - 45:11, 45:17 <i>swim</i> [7] - 39:16, 42:24, 44:3, 117:17, 134:2, 138:12, 142:23 <i>swimmer</i> [3] - 133:11, 133:12, 138:13 <i>swimmers</i> [1] - 56:1 <i>swimming</i> [35] - 39:18, 39:22, 39:25, 40:12, 40:18, 40:21, 41:4, 43:25, 93:4, 93:23, 103:6, 103:9, 111:14, 115:24, 117:20, 125:21, 126:9, 126:14, 126:18, 127:17, 127:21, 127:22, 132:21, 132:22,</p> | <p>132:23, 132:24, 133:3, 133:6, 133:19, 133:25, 134:5, 142:19, 143:4 <i>swimming</i> [1] - 126:1 <i>Sworn</i> [1] - 1:13 <i>sworn</i> [3] - 4:12, 5:4, 144:8</p> <p style="text-align: center;">T</p> <p><i>talks</i> [1] - 56:7 <i>tape</i> [3] - 48:10, 120:14, 120:21 <i>taught</i> [1] - 142:23 <i>telephone</i> [1] - 127:8 <i>tended</i> [1] - 56:11 <i>term</i> [3] - 9:21, 106:7, 128:17 <i>test</i> [1] - 143:12 <i>testified</i> [1] - 4:13 <i>testify</i> [1] - 144:8 <i>testimony</i> [2] - 86:21, 144:12 <i>thankfully</i> [1] - 18:5 THE [29] - 4:4, 4:15, 12:9, 12:25, 25:5, 33:13, 36:12, 48:6, 48:9, 55:5, 55:10, 63:16, 63:23, 79:24, 80:2, 85:18, 85:23, 87:2, 87:5, 92:11, 92:16, 95:2, 105:25, 120:13, 120:20, 140:14, 142:4, 142:7, 143:16 <i>themselves</i> [1] - 52:14 <i>thinking</i> [3] - 40:9, 40:25, 44:9 <i>third</i> [4] - 57:10, 93:1, 126:1, 127:13 <i>Thomas</i> [1] - 58:9 <i>three</i> [9] - 16:15, 17:4, 21:8, 24:12, 24:15, 26:9, 28:20, 28:21, 75:3 <i>three-eighths</i> [2] - 24:12, 24:15 <i>throwing</i> [2] - 40:19, 40:22 <i>throws</i> [1] - 60:22 <i>tidal</i> [5] - 30:6, 90:9, 90:10, 126:4, 126:5 <i>tide</i> [8] - 19:12, 107:20, 110:23, 114:2, 114:6, 117:8 <i>Tide</i> [1] - 19:16 <i>tied</i> [1] - 53:8 <i>tightly</i> [1] - 93:14 <i>timeline</i> [2] - 75:12,</p> | <p>75:22 <i>today</i> [8] - 4:4, 4:24, 5:15, 16:4, 96:4, 105:6, 130:10, 139:5 <i>today's</i> [1] - 9:8 <i>together</i> [12] - 30:1, 30:2, 30:23, 47:16, 49:23, 67:14, 71:2, 72:21, 87:13, 107:5, 138:14 <i>tom</i> [1] - 2:20 <i>Tom</i> [1] - 33:12 <i>took</i> [16] - 20:23, 21:14, 29:9, 36:21, 41:14, 45:22, 75:20, 93:8, 109:15, 115:17, 117:2, 117:9, 117:16, 117:17, 126:16, 127:16 <i>top</i> [11] - 11:15, 11:22, 17:23, 27:12, 29:15, 37:15, 76:14, 83:18, 91:24, 113:22, 115:7 <i>toppled</i> [2] - 37:10, 37:11 <i>touched</i> [3] - 42:23, 94:20, 132:3 <i>toward</i> [2] - 89:18, 139:10 <i>towards</i> [41] - 23:2, 27:15, 29:14, 29:25, 30:24, 30:25, 31:1, 31:22, 31:25, 33:3, 36:4, 42:4, 42:24, 43:13, 44:12, 44:22, 44:24, 44:25, 45:13, 45:14, 46:6, 46:15, 50:14, 50:15, 69:20, 71:7, 80:20, 80:21, 80:25, 89:13, 90:8, 121:24, 126:8, 130:11, 130:18, 130:23, 131:7, 131:18, 139:19, 139:22 <i>towers</i> [2] - 16:15, 17:4 <i>towing</i> [1] - 53:9 <i>townhome</i> [1] - 102:9 <i>townhomes</i> [1] - 101:20 <i>Township</i> [2] - 1:16, 2:4 <i>track</i> [1] - 13:3 <i>tracked</i> [1] - 48:13 <i>traction</i> [2] - 41:5, 134:2 <i>trail</i> [1] - 108:18 <i>transcript</i> [4] - 4:9,</p> | <p>12:19, 12:22, 144:11 <i>transported</i> [1] - 71:12 <i>travelling</i> [3] - 68:19, 81:2, 128:4 <i>travelling</i> [1] - 128:18 <i>treading</i> [4] - 44:2, 44:4, 44:6, 67:11 <i>treated</i> [1] - 64:17 <i>Trenton</i> [1] - 2:12 <i>tried</i> [3] - 39:10, 72:5, 142:16 <i>trip</i> [1] - 22:13 <i>trooper</i> [9] - 43:8, 51:18, 52:17, 53:6, 53:7, 53:12, 76:16, 83:1, 83:8 <i>trouble</i> [1] - 142:25 <i>true</i> [2] - 111:11, 144:11 <i>truth</i> [4] - 5:4, 144:8, 144:9 <i>try</i> [6] - 104:20, 138:17, 140:24, 142:21, 142:25, 143:2 <i>trying</i> [21] - 12:1, 12:16, 17:25, 29:23, 43:4, 44:3, 47:19, 52:18, 52:22, 53:2, 61:6, 68:8, 68:12, 81:4, 116:9, 132:19, 133:16, 134:16, 143:3, 143:5, 143:6 Tuesday [1] - 1:16 <i>turn</i> [7] - 7:20, 31:5, 77:21, 79:8, 79:13, 123:4, 123:24 <i>turned</i> [24] - 22:10, 24:2, 24:5, 24:17, 27:22, 28:1, 41:18, 42:7, 43:1, 43:19, 44:12, 45:20, 56:13, 60:16, 60:21, 80:24, 121:12, 124:3, 129:3, 129:7, 129:15, 129:20, 131:19, 141:3 <i>turns</i> [4] - 16:10, 17:3, 19:3, 31:13 Twelve [1] - 120:17 <i>twist</i> [1] - 105:23 <i>two</i> [37] - 11:8, 15:8, 16:7, 17:1, 21:8, 21:20, 21:24, 23:24, 28:19, 28:21, 31:11, 40:19, 41:10, 44:23, 58:8, 58:24, 62:24, 67:10, 69:23, 71:2, 73:21, 75:3, 98:4,</p> |
|---|---|---|--|---|

| | | | | |
|--|--|---|---|---|
| 98:24, 102:24, 106:23, 116:10, 116:21, 117:3, 125:5, 125:7, 127:1, 127:20, 134:14, 137:5 type [4] - 44:10, 118:12, 118:21, 139:1 typed [1] - 6:25 | 82:16, 83:16, 84:19, 84:24, 85:8, 85:18, 87:24, 89:9, 89:13, 90:4, 90:12, 98:20, 98:21, 100:21, 101:25, 103:7, 105:21, 107:6, 110:15, 121:19, 122:16, 126:12, 132:25, 135:1, 136:8, 136:11, 138:17 upper [2] - 90:7, 90:8 | 80:22, 88:4, 90:2, 90:4, 109:15, 114:21, 115:1, 118:23, 121:12, 125:15, 126:7, 126:16, 130:9, 130:13, 131:19 walked [18] - 22:9, 24:2, 24:5, 27:7, 30:23, 34:24, 34:25, 37:7, 50:19, 63:8, 66:6, 80:24, 89:16, 89:17, 89:18, 121:24, 130:18, 130:20 walking [76] - 19:7, 26:15, 28:21, 29:11, 29:12, 29:25, 30:14, 30:19, 31:25, 32:16, 33:1, 33:4, 33:5, 33:6, 33:10, 33:16, 34:19, 34:23, 35:2, 36:16, 36:21, 36:25, 50:11, 50:13, 51:4, 57:19, 65:7, 65:15, 65:16, 74:7, 89:9, 89:10, 89:13, 89:14, 89:15, 89:21, 93:5, 93:17, 102:4, 103:10, 103:16, 103:20, 110:10, 110:15, 112:20, 112:23, 113:18, 114:8, 114:13, 114:24, 115:16, 120:3, 123:23, 124:10, 126:2, 127:5, 127:18, 127:23, 129:4, 129:9, 129:16, 129:18, 129:24, 130:1, 130:5, 130:12, 130:22, 131:1, 131:6, 131:11, 131:16, 131:17, 139:3, 139:10, 140:1 wall [47] - 13:13, 13:18, 13:19, 13:25, 14:4, 14:6, 14:7, 14:8, 14:14, 14:21, 17:20, 17:24, 21:20, 22:10, 23:1, 23:13, 23:17, 23:20, 23:22, 27:16, 29:15, 30:1, 30:24, 30:25, 31:2, 31:4, 31:22, 32:1, 33:4, 33:6, 44:12, 44:22, 44:24, 44:25, 80:9, 81:20, 82:13, 89:13, 89:18, 90:4, | 122:19, 123:17, 123:18, 139:18, 139:22, 139:23 wash [1] - 100:21 watched [1] - 46:12 watching [6] - 45:23, 46:3, 67:10, 68:11, 70:22, 71:4 water [141] - 8:21, 18:4, 23:16, 28:18, 29:6, 32:6, 32:7, 34:3, 34:11, 35:5, 35:8, 35:9, 35:19, 36:1, 36:3, 36:6, 36:20, 38:8, 38:22, 38:25, 39:5, 39:9, 39:12, 42:15, 42:16, 42:22, 44:2, 44:4, 44:6, 45:1, 47:15, 47:22, 47:24, 52:23, 53:4, 53:16, 54:6, 55:24, 55:25, 56:2, 56:10, 56:16, 57:13, 57:20, 58:11, 60:14, 61:24, 64:19, 65:16, 65:22, 66:2, 66:6, 66:12, 66:15, 66:25, 67:11, 67:25, 68:4, 68:5, 68:8, 68:24, 69:9, 69:25, 70:1, 70:8, 70:12, 70:15, 71:3, 71:6, 74:10, 74:12, 74:14, 74:17, 74:18, 74:19, 74:20, 74:24, 74:25, 75:8, 75:9, 76:7, 77:19, 78:25, 79:11, 79:16, 85:12, 88:8, 88:25, 89:11, 90:18, 90:21, 93:18, 93:19, 98:13, 100:15, 100:16, 100:17, 104:2, 104:6, 104:9, 107:18, 107:19, 110:14, 110:21, 111:7, 111:23, 111:24, 112:2, 113:2, 113:7, 113:11, 113:15, 113:19, 114:12, 114:24, 115:12, 115:22, 116:5, 116:11, 117:25, 118:7, 118:24, 119:13, 119:16, 122:4, 122:11, 122:13, 124:7, 126:4, 129:5, 129:10, 129:18, 130:1, 130:2, 132:18, 133:15, | 133:19, 140:1, 142:12 water's [3] - 47:12, 47:17, 76:4 wave [9] - 46:3, 46:24, 55:23, 58:8, 58:17, 58:23, 59:15, 68:12, 75:15 waved [3] - 27:22, 28:2, 58:25 waves [11] - 16:9, 46:5, 46:9, 46:25, 53:1, 88:15, 89:4, 113:24, 114:8, 114:9 waving [8] - 43:4, 43:15, 43:16, 44:11, 44:14, 44:21, 69:17, 75:17 week [3] - 21:8, 63:13, 124:17 west [3] - 62:4, 62:5, 80:24 westerly [1] - 89:17 whatsoever [2] - 77:1, 138:20 whirlpool [2] - 42:8, 126:22 whole [9] - 14:23, 47:14, 51:16, 83:21, 100:5, 132:16, 132:20, 133:3, 144:9 wife [10] - 27:22, 28:2, 50:18, 90:16, 125:8, 135:5, 136:20, 137:2, 137:24 wife's [1] - 135:11 WILDWOOD [1] - 1:7 Wildwood [20] - 2:6, 2:17, 3:12, 3:14, 55:7, 63:19, 64:7, 73:21, 78:2, 87:16, 95:8, 97:22, 99:7, 105:9, 106:14, 124:15, 125:4, 127:9, 128:21, 138:24 Wildwood-8 [1] - 54:20 withdraw [5] - 12:7, 12:8, 12:14, 113:5, 141:13 WITNESS [10] - 3:3, 12:9, 12:25, 25:5, 36:12, 85:18, 85:23, 95:2, 105:25, 140:14 witness [4] - 4:10, 73:9, 140:8, 140:9 witnesses [1] - 101:16 wives [2] - 121:12, 131:20 |
| U | | | | |
| ultimately [1] - 115:24 um-hum [5] - 80:12, 113:20, 125:10, 126:6, 129:6 umbrellas [1] - 123:11 unaccounted [1] - 56:10 under [8] - 18:8, 29:10, 39:19, 49:21, 65:22, 71:1, 77:10, 93:9 underneath [1] - 37:5 understood [3] - 5:16, 27:19, 28:25 undertow [2] - 57:21, 94:20 unfortunate [1] - 29:8 Unit [1] - 75:10 unless [1] - 95:15 unprotected [3] - 130:6, 130:13, 131:9 unsuccessful [1] - 58:3 unsure [1] - 66:10 unusual [8] - 31:21, 34:22, 113:1, 113:5, 113:10, 113:14 up [88] - 16:14, 18:3, 22:10, 23:12, 27:17, 27:19, 30:9, 30:10, 30:13, 30:23, 30:25, 31:1, 31:22, 31:25, 33:8, 33:18, 34:24, 34:25, 39:7, 39:22, 40:14, 40:22, 41:15, 43:2, 43:3, 43:15, 45:7, 45:9, 46:24, 47:8, 47:10, 47:12, 47:15, 47:18, 48:22, 49:6, 50:6, 50:8, 50:13, 50:19, 51:8, 52:17, 53:1, 53:2, 54:3, 55:13, 59:1, 59:2, 59:13, 60:23, 70:22, 70:25, 71:3, 73:5, 75:7, 75:19, 76:24, 79:14, 79:20, | V | | | |
| vacation [3] - 105:9, 124:15, 124:16 vacationed [1] - 87:13 vary [2] - 110:22, 111:7 vehicles [4] - 50:22, 56:23, 56:24, 83:5 version [1] - 22:6 versus [1] - 81:7 vest [1] - 46:18 vicious [1] - 94:19 video [5] - 6:19, 16:2, 16:8, 16:25, 33:9 Videographer [1] - 2:20 VIDEOGRAPHER [20] - 4:4, 4:15, 33:13, 48:6, 48:9, 55:5, 55:10, 63:16, 63:23, 79:24, 80:2, 87:2, 87:5, 92:11, 92:16, 120:13, 120:20, 142:4, 142:7, 143:16 Videotape [1] - 1:13 videotape [2] - 4:5, 143:17 view [3] - 16:9, 77:22, 78:1 visible [1] - 113:7 visit [2] - 6:20, 16:2 volleyball [1] - 137:6 vortex [1] - 126:22 vs [1] - 1:6 | | | | |
| W | | | | |
| wait [3] - 33:1, 119:24 Wait [1] - 33:11 walk [34] - 23:12, 23:20, 26:11, 26:20, 26:22, 27:7, 27:25, 28:17, 28:23, 29:3, 30:2, 31:16, 31:22, 32:13, 36:10, 65:11, 73:22, 74:4, 80:17, | | | | |

woman [2] - 50:8,
 102:1
women [2] - 102:4,
 127:20
Wood [1] - 91:13
WOODBURY [1] -
 1:23
word [2] - 140:4,
 140:6
WORD [2] - 1:21
words [12] - 11:14,
 13:25, 16:14, 17:12,
 59:18, 60:18, 76:15,
 94:25, 111:22,
 116:23, 143:4
works [1] - 100:12
wow [1] - 39:14
wrapped [1] - 93:14
write [1] - 13:25
writes [7] - 56:7,
 57:10, 57:16, 58:7,
 64:15, 64:22, 65:20
written [1] - 57:6
wrote [7] - 24:21,
 54:23, 55:15, 65:6,
 67:9, 69:22, 77:3

X

XI01671 [1] - 144:24
XYZ [1] - 1:9

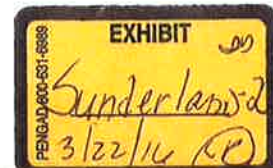
Y

yammering [1] - 31:20
yards [1] - 22:2
year [8] - 37:23, 56:11,
 57:19, 58:10, 87:19,
 103:23, 104:1,
 123:15
years [6] - 87:13,
 106:20, 106:23,
 134:22, 134:25
yell [2] - 43:4, 68:12
yelled [5] - 42:13,
 43:13, 45:19, 53:18,
 76:5
yelling [4] - 53:12,
 53:20, 53:25, 67:23
yourself [4] - 36:20,
 120:3, 138:17,
 142:25

Z

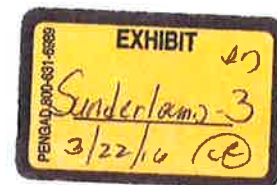
Zanaras [1] - 2:20

March 14, 2012



1 inch = 500 feet

Provided by the Cape May County Planning Department
Aerial Flown by the State of NJ



August 16, 2012

On this date Investigator DiJoseph traveled to the Smith drowning scene and met with witness, Scott Sunderland, (215-669-4391). Sunderland was walking along the surf with George Smith and their daughters at the time of the July 27, 2012 drowning. The meeting with Sunderland was coordinated with low tide at 1:50pm which represented a similar tidal condition that existed on the date of the date of the Smith drowning. Scott Sunderland provided the following information regarding his observations that occurred on the day of the Smith drowning:

- Sunderland stated that he and Smith have been friends for several years. Sunderland introduced Smith to his wife and every summer for the past ten years Sunderland and Smith along with their family's vacation together. The families usually vacation in Ocean City, NJ but this year they decided to rent a beach front condominium in North Wildwood, NJ.
- Earlier in the day of July 27, 2012 Sunderland and Smith had been out fishing in Sunderland's boat. Sunderland advised that he docked his boat at the condominium complex marina for the week. After the fishing trip, Sunderland and Smith returned to their condominium in the afternoon then decided to walk to the beach.
- The Sunderland and Smith families established a position on the beach in the area of Surf Avenue which is a protected beach in North Wildwood. Sunderland, Smith and their two daughters decided to take a walk on the beach in a north direction toward the condominiums while the rest of the family members remained at Surf Avenue beach.

- Sunderland stated the four walked almost to the end of the beach where a rock wall meets the Hereford Inlet and turned around proceeded back toward the Surf Avenue beach.
- Sunderland stated that he and his daughter were walking behind Smith and his daughter side by side in ankle deep water. Approximately 100 feet in front of them was a man fishing. The fisherman was standing in knee deep water approximately 25 feet from shore.
- Suddenly Smith and his daughter fell into the water. Simultaneously Sunderland and his daughter also fell into the water. Sunderland stated that the current was very strong and quickly pulled all four subjects out further into the ocean from the beach.
- Sunderland's daughter immediately jumped on his back and he was eventually able to swim to shore, but couldn't get back up on the beach due to an extreme drop off between the beach and the collapsed sand. Sunderland eventually reached the beach and began looking for Smith and his daughter.
- Sunderland stated that he observed Brandi (Smith's daughter) swimming so hard in the current that he could see her entire bathing suit top was out of the water. Sunderland also observed Smith swimming approximately 50 yards in front of Brandi.
- Sunderland stated he was extremely tired from swimming for approximately five minutes with his daughter on his back. Sunderland began to yell and wave for help but there weren't many people in the immediate area. Suddenly a jet ski was launched from the beach's north end and the operator came up to Brandi and pulled her from the water. While the Jet Ski was pulling Brandi from the water, Sunderland spotted a NJSP Marine Unit boat headed in his direction. Sunderland began yelling and pointing in the area of George Smith to the Trooper. Sunderland thought that the Trooper saw Smith and was going to rescue him. Unbeknown to Sunderland, the NJSP Trooper allegedly received a Jet Ski rescue call in the same vicinity and passed by the area where Smith was swimming. Sunderland then told the Jet Ski operator to go rescue Smith. The Jet Ski operator raced out the area where Smith was last seen but was unable to locate Smith.

- Moments later rescue personnel arrived at the drowning scene and began administering first aid to the two girls and Sunderland. The NJSP Marine Unit boat came back to beach towing a jet ski that apparently was involved in an incident where the operator was separated from his ski in the breakers of Hereford Inlet. The NJSP Trooper told Sunderland he had no idea George Smith was still in the water when he passed by traveling to the Jet Ski rescue assignment.
- Sunderland and Smith's family members arrived on the scene and they began yelling into the water for George Smith. On July 30 at 1:13 AM the body of George Smith was observed in the surf at 21st Street in North Wildwood. George Smith was pronounced dead at the scene.

During the Sunderland interview Investigator DiJoseph noticed that since the City of North Wildwood O.P.R.A. request was filed on August 10, 2012 six (6) large concrete barriers were placed in the area of the Smith drowning. Each concrete barrier had a three foot round red floating mooring ball attached to it with the words "No Swimming or Wading" emblazoned on each side of the ball in bold black letters. The barriers were placed in the water's edge and on the beach.

Photograph # 5 illustrates the concrete mooring ball with 'No Swimming or Wading' warning.



While interviewing Sunderland at the proximate area of the Smith drowning, the jet skier that rescued Smith's daughter, Brandi Smith observed Sunderland standing on the beach and stopped to converse. The Jet Ski operator identified himself as Rob O'Donnell a student at Stockton College, Galloway, NJ.

Photograph # 6 illustrates Jet Ski rescuer Rob O'Donnell and Scott Sunderland standing at the approximate location of the Smith drowning.



Photograph # 7 illustrates an Aerial View of the North Wildwood NJ beach area known as Hereford Inlet and the approximate location of the Smith drowning.

Estimated area where Sunderland and Smith were walking in the surf moments before the Smith drowning.



Curve in the roadway of Central Avenue between E. Spruce Avenue and E. Walnut Avenue, North Wildwood, Cape May County NJ.

R. Kirvay

C. Atkinson

L. DiJoseph

A & K Investigations of New Jersey



August 16, 2012

On this date Investigator DiJoseph traveled to the Smith drowning scene and met with witness, Scott Sunderland, (215-669-4391). Sunderland was walking along the surf with George Smith and their daughters at the time of the July 27, 2012 drowning. The meeting with Sunderland was coordinated with low tide at 1:50pm which represented a similar tidal condition that existed on the date of the date of the Smith drowning. Scott Sunderland provided the following information regarding his observations that occurred on the day of the Smith drowning:

- Sunderland stated that he and Smith have been friends for several years. Sunderland introduced Smith to his wife and every summer for the past ten years Sunderland and Smith along with their family's vacation together. The families usually vacation in Ocean City, NJ but this year they decided to rent a beach front condominium in North Wildwood, NJ.
- Earlier in the day of July 27, 2012 Sunderland and Smith had been out fishing in Sunderland's boat. Sunderland advised that he docked his boat at the condominium complex marina for the week. After the fishing trip, Sunderland and Smith returned to their condominium in the afternoon then decided to walk to the beach.
- The Sunderland and Smith families established a position on the beach in the area of Surf Avenue which is a protected beach in North Wildwood. Sunderland, Smith and their two daughters decided to take a walk on the beach in a north direction toward the condominiums while the rest of the family members remained at Surf Avenue beach.



- Sunderland stated the four walked almost to the end of the beach where a rock wall meets the Hereford Inlet and turned around proceeded back toward the Surf Avenue beach.

In front of Beach

- Sunderland stated that he and his daughter were walking behind Smith and his daughter side by side in ankle deep water. Approximately 100 feet in front of them was a man fishing. The fisherman was standing in knee deep water approximately 25 feet from shore.

- Suddenly ~~Smith and his daughter~~ *me & Ally* fell into the water. Simultaneously ~~Sunderland and his daughter~~ also fell into the water. Sunderland stated that the current was very strong and quickly pulled all four subjects out further into the ocean from the beach.

In the

- Sunderland's daughter ~~immediately jumped on his back~~ and he was eventually able to swim to shore, but couldn't get back up on the beach due to an extreme drop off between the beach and the collapsed sand. Sunderland eventually reached the beach and began looking for Smith and his daughter.

- Sunderland stated that he observed Brandi (Smith's daughter) swimming so hard in the current that he could see her entire bathing suit top was out of the water. Sunderland also observed Smith swimming approximately 50 yards in front of Brandi.

- Sunderland stated he was extremely tired from swimming for approximately five minutes with his daughter on his back. Sunderland began to yell and wave for help but there weren't many people in the immediate area. Suddenly a jet ski was launched from the beach's north end and the operator came up to Brandi and pulled her from the water. While the Jet Ski was pulling Brandi from the water, Sunderland spotted a NJSP Marine Unit boat headed in his direction. Sunderland began yelling and pointing in the area of George Smith to the Trooper. Sunderland thought that the Trooper saw Smith and was going to rescue him. Unbeknown to Sunderland, the NJSP Trooper allegedly received a Jet Ski rescue call in the same vicinity and passed by the area where Smith was swimming. Sunderland then ~~told~~ the Jet Ski operator to go rescue Smith. The Jet Ski operator raced out the area where Smith was last seen but was unable to locate Smith.

Sela

Pointed

- Moments later rescue personnel arrived at the drowning scene and began administering first aid to the two girls and Sunderland. The NJSP Marine Unit boat came back to beach towing a jet ski that apparently was involved in an incident where the operator was separated from his ski in the breakers of Hereford Inlet. The NJSP Trooper told Sunderland ~~he had no idea George Smith was still in the water when he passed by traveling to the Jet Ski rescue assignment.~~ *To help him with the Jet Ski.*
- Sunderland and Smith's family members arrived on the scene and they began yelling into the water for George Smith. On July 30 at 1:13 AM the body of George Smith was observed in the surf at 21st Street in North Wildwood. George Smith was pronounced dead at the scene.

During the Sunderland interview Investigator DiJoseph noticed that since the City of North Wildwood O.P.R.A. request was filed on August 10, 2012 six (6) large concrete barriers were placed in the area of the Smith drowning. Each concrete barrier had a three foot round red floating mooring ball attached to it with the words "No Swimming or Wading" emblazoned on each side of the ball in bold black letters. The barriers were placed in the water's edge and on the beach.

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Estimated area where Sunderland and Smith were walking in the surf moments before the Smith drowning.

Rock wall and parking lot



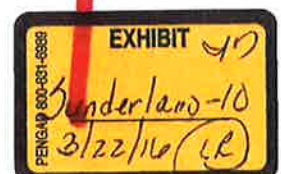
Curve in the roadway of Central Avenue between E. Spruce Avenue and E. Walnut Avenue, North Wildwood, Cape May County NJ.

R. Kirvay

C. Atkinson

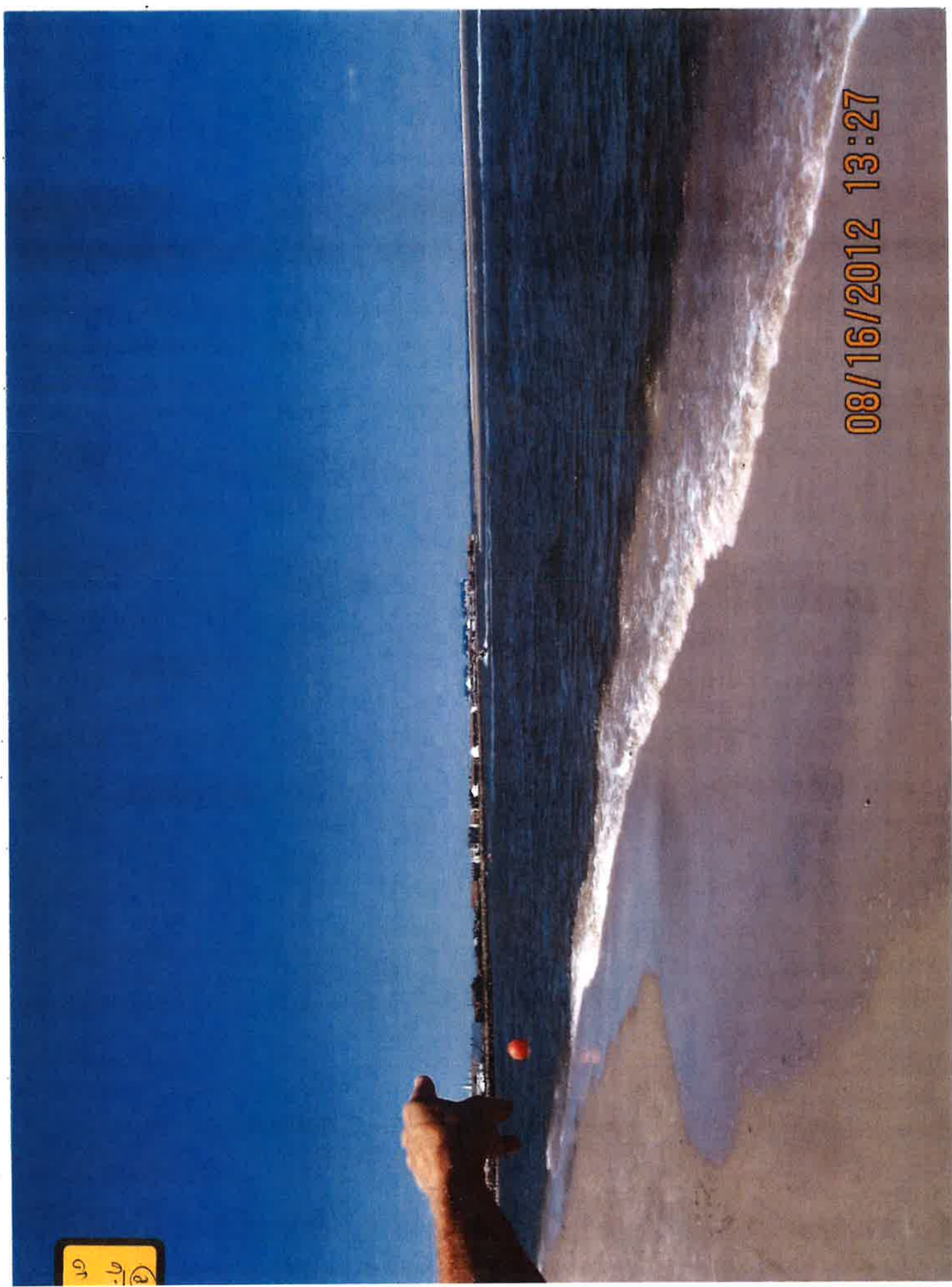
L. DiJoseph

A & K Investigations of New Jersey



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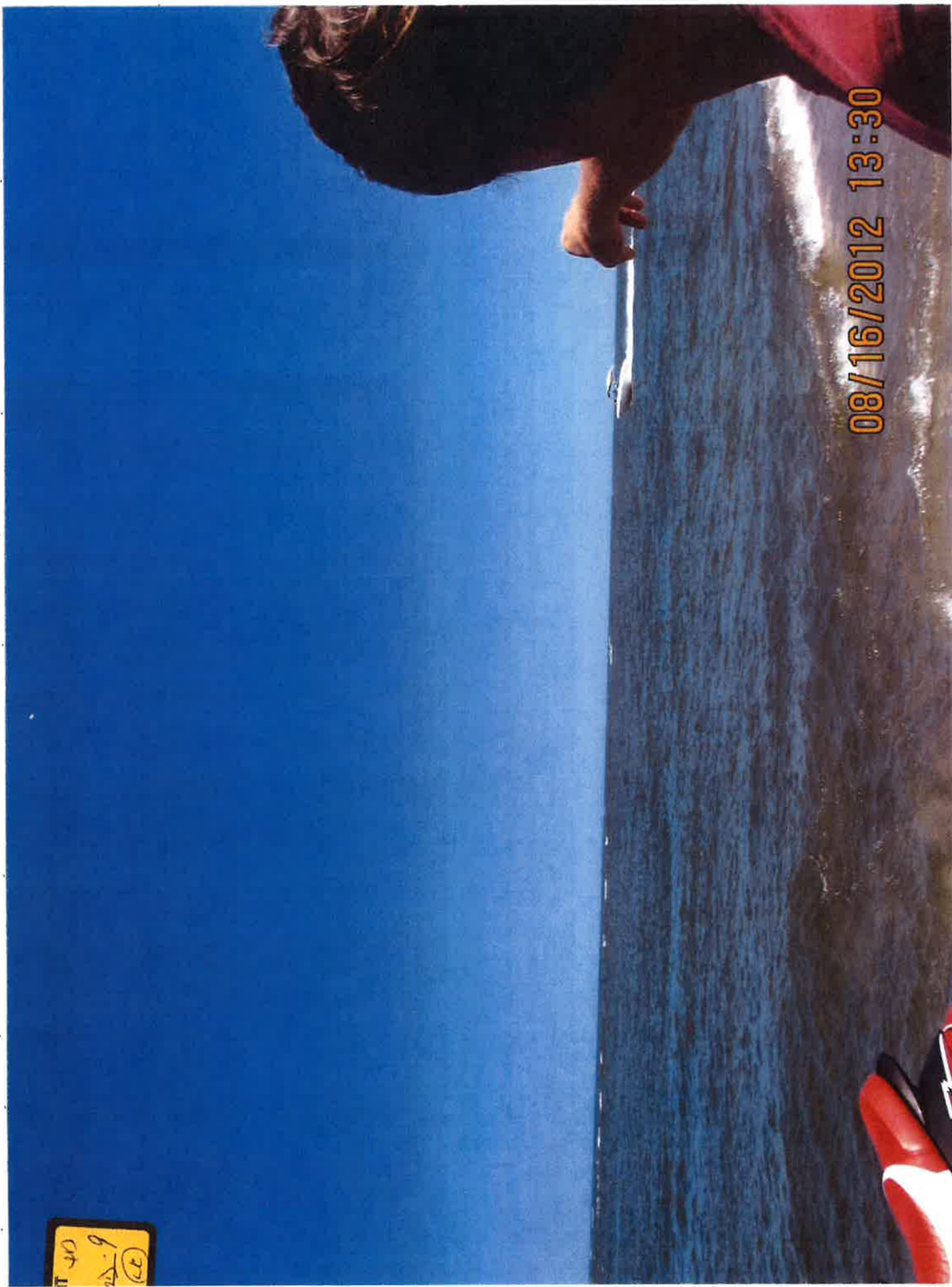




08/16/2012 13:28

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(27)
at 11

08/16/2012 13:30





North Wildwood Police Department
 901 Atlantic Avenue, North Wildwood, NJ 08260
 Phone: 609-522-2411 Fax: 609-522-0412 Mun. Code: 0507
Supplemental Report



| Incident Details: | | Incident Location: | Incident Type: |
|-------------------|----------------|----------------------------------|--------------------|
| Case Number | Date of Report | Call Location | Call FBI Code |
| 12-0019472 | 07/31/12 04:13 | 1 Herefordav, North Wildwood, Nj | Assist Medical Res |

Narrative: Officer Breland, Scott

Supplemental Investigative Report

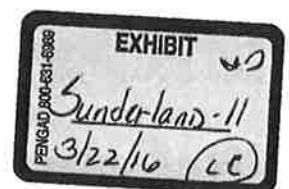
On 7/27/2012 at approximately 1736 I was dispatched to the Hereford Inlet regarding broken down wave runners in the water. Upon arrival I immediately noticed people shouting for help in the water and upon further notice I could see swimmers in distress. I immediately called for water rescue over the radio and rendered assistance to parties involved.

Sergeant Harkins arrived on scene and I advised him there was one male still unaccounted for in the water. I tended aid to the seven-year old female until lifeguards arrived on scene. I then turned her over to them.

I then spoke with a Scott Sunderland who advised me that Brad Smith was still in the water and that he lost sight of him. Sunderland advised me that he and his daughter along with Smith and his seven-year old daughter were walking along the shoreline when they slipped into the water and were pulled out to sea by the undertow. Sunderland advised that he and his daughter were able to make it back to shore but Smith and his daughter were unsuccessful. Sunderland advised that two subjects on wave runners later identified as Daniel O'Connell and Thomas Meenan saved Brad Smith's seven-year old girl in the water.

I spoke with O'Connell and Meenan who advised me that when they recovered the seven-year old girl they turned back but were unable to locate Smith anymore. They continuously checked the area even after lifeguards and North Wildwood Fire boats were on scene searching the area.

I remained on scene for crowd control keeping persons not involved with the search out of the area. After search teams cleared the area I kept a close watch on the shore line searching for Smith until the end of my shift.





NORTH WILDWOOD

901 Atlantic Ave.

NORTH WILDWOOD, NJ 08260

Phone: (609) 522-2411 Fax: (609) 522-2531

Case Mgmt# : CM-12-000090

Case # : 12-0019472

at the hospital. He was the other adult that fell into the water. I advised her that I would stop back and speak with her.

I then met with Scott Sunderland and I asked him what had happened on the beach. He stated that he was walking along the beach with his son (Aidan), daughter (Ally), Brad Smith and his daughter (Brandy). He stated that they went for a walk on the beach along Hereford Inlet. As they were walking back, they all were walking in knee deep water along the surf. All of the sudden, Sunderland explained that the ground went out from under them and they fell into the water. He did explain that his son, Aidan didn't fall into the water. He stated that they walked into a deep gully in the water. He stated that when he fell in, he was unsure if he was carrying his daughter at the time, but when they were in the water she was hanging onto him around his neck. He stated that while in the water, he could feel a strong current pulling him. He stated that he doesn't know how, but he was able to dig his hands into the sand and pull him and his daughter onto the beach. Once on the beach, he stated that he looked out into the water and saw Brad and Brandy being swept out by the current. He said that at this point, Brad was hugging and holding onto Brandy. He then stated that while watching the two, they separated and Brandy was treading water and the current continued to carry Brad out further.

Sunderland stated that Brad was yelling to him and to Brandy and at this point he stated he entered the water in an attempt to get out to Brandy. He stated that when he entered the water, again the current was too strong and he exited the water. Sunderland stated that when he exited the water, he was trying to keep eye contact on both Brad and Brandy. As he was watching them, he stated that he was trying to yell and wave down boats that were in the inlet. None of these boats acknowledged him at this time. He then stated that he saw a police boat traveling in the inlet. At this time he thought that the police boat was going to see Brad and Brandy in the water. He said that the police boat went past them and continued out into the ocean. Sunderland stated that he found out that the police boat was heading out to assist some jet skiers and probably never saw Brad and Brandy in the water.

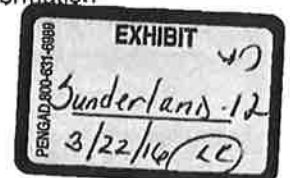
Sunderland stated that he then ran down to a couple of people that had jet skis on the beach and told them what was going on. He pointed them out and these two individuals launched the jet skis into the water. He stated that one of the jet skis approached Brandy. The driver of this jet ski jumped into the water, placed his life jacket on Brandy and put her onto the jet ski. Sunderland stated that the jet skier, along with Brandy searched the water for a few minutes, then Brandy was brought back to shore to be checked by Rescue personnel. I asked Sunderland if he was still able to see Brad at that time. He stated that he was watching as Brandy was being picked up and lost sight of Brad. He stated that the last time he saw Brad in the water, he was being carried out towards the breakers, which he thought was a sand bar. After Brandy was brought to shore, Sunderland stated that they were checked by Rescue personnel and then transported to the hospital.

After speaking with Sunderland, I went back and spoke with Mrs. Smith. I advised her that at this time the search for her husband would continue and that I would keep her informed of any information that I received.

I then cleared the hospital and returned to North Wildwood to continue the investigation.

Investigator : SCHMIDT, RICHARD-228

Case Report Date : 08/01/2012



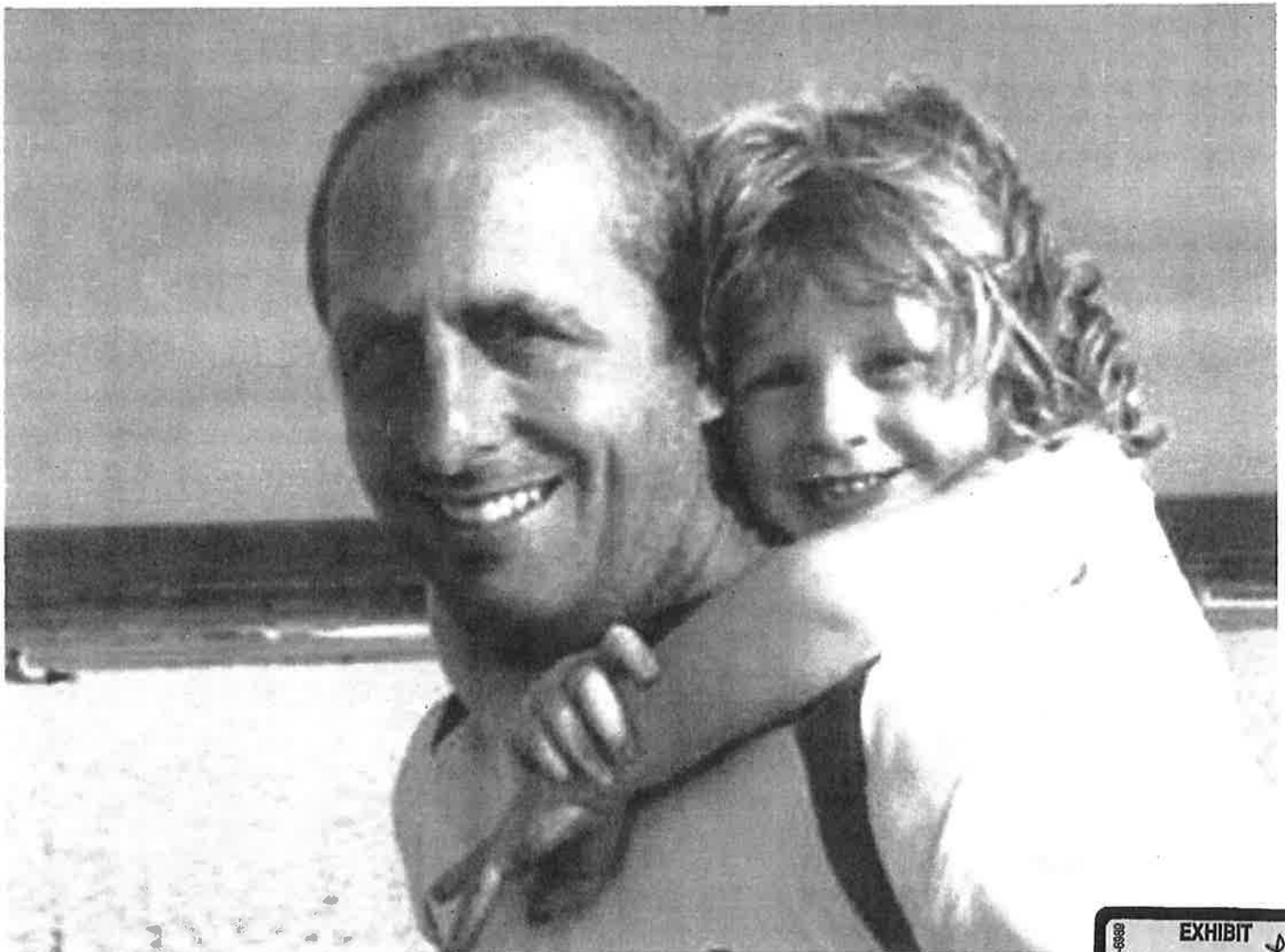
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News ([Http://Www.Philly.Com/News](http://www.philly.com/news))

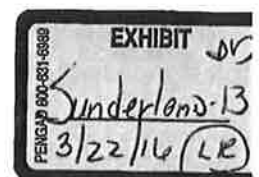
— New Jersey (http://www.philly.com/philly/news/new_jersey)

Family of drowned man wants Shore beach closed

Updated: JULY 24, 2014 — 3:26 PM EDT



Brad Smith, of Horsham, with his daughter.



by **Sam Wood**, Philly.com [@SamWoodiii](https://twitter.com/SamWoodiii) (<http://twitter.com/SamWoodiii>)

The drowning of a man who was swept out to sea from a beach at the Jersey Shore could have been prevented, his family said, if only the town had posted adequate warnings and prohibited access to the beach.

The family of George Bradley Smith filed suit today, alleging that negligence caused the Montgomery County man's death two years ago. The suit, filed in New Jersey Superior Court, names as defendants North Wildwood, Cape May County, and the state of New Jersey.

The suit, which claims the unprotected beach had a well-known "steep and unobservable drop-off at the area of the accident," asks the court to order the immediate closing of the beach and seeks unspecified damages.

Smith, 54, of Horsham, his young daughter, and another father-daughter pair were strolling along the shoreline in ankle-deep water near Hereford Inlet in North Wildwood about 5:30 p.m. on July 27, 2012. The beach was "unprotected," meaning it was not monitored by lifeguards.

As they walked in the surf near 2nd Street and Ocean Avenue, the sand gave way.

Scott Sunderland, Smith's best friend, recounted the event.

"The signs said 'No Swimming,' and we weren't, we were just walking," Sunderland said. "I took a step and dropped. All of a sudden, there was nothing under my feet."

Sunderland's daughter landed on his back and wrapped her arms tightly around his neck.

"I just started swimming," Sunderland said. "It was 30 seconds before I realized how far from the shore I was."

With his daughter hanging on, Sunderland struggled against a vicious undertow. When he finally touched sand, he fought the rip current to gain his footing. "It was almost like I was climbing to get onto the beach."

Meanwhile, Smith and his daughter had been swept by the current into the inlet. A strong swimmer, Smith reached his daughter and kept her head above water. A boy on a Jet Ski spotted them, pulled the girl onto his personal watercraft, and returned her to dry land.

Minutes later, Smith slipped under the surface and disappeared. His body would not be found for three days.

The unprotected inlet beach long had a reputation for being dangerous, according to the Smith family's attorney, Paul D'Amato of Egg Harbor.

Seven people had drowned there over a nine year period, according to D'Amato.

In a recorded interview, D'Amato said, a lieutenant on the North Wildwood Beach Patrol said the Hereford Inlet beach was "anything but safe to swim" and predicted drownings would happen again.

According to D'Amato, the lieutenant said that "closure, not simply posting warning signs, was necessary, but would not happen due to concerns about the economic impact on local commercial businesses, primarily oceanfront bars."

In a statement, North Wildwood Mayor Patrick T. Rosenello said he could not comment on the specifics of the lawsuit. "The City of North Wildwood takes its beach protection responsibilities quite seriously," Rosenello said. "In fact, there has never been a drowning incident at a protected beach in the City of North Wildwood in its 100+ years of existence."

D'Amato said his efforts to discover if there had been any drownings at the inlet beach since Smith's had been stonewalled by local authorities.

At a morning press conference in Egg Harbor Township, Smith's widow said she had been shocked to learn of the beach's dangerous reputation, which according to local law enforcement officials she spoke to, was well known by the local population.

“Why weren’t we - or others - warned before we went to North Wildwood on a family vacation for the first time?” she said. “Why did we have to read news accounts, quoting local authorities, talking about unsafe conditions all after Brad’s death.”

She said that while her husband was missing, police would come by the house on the marina where they were staying every day and tell them of others who had been saved from drowning in the same area.

“We don’t want this to happen to another family,” she said, “and we wish that someone that knew of this dangerous area would have done what was right so that we would have never lost Brad in the first place.”

Contact Sam Wood at 215-854-2796 or samwood@phillynews.com (<mailto:samwood@phillynews.com>). Follow [@samwoodiii](https://twitter.com/samwoodiii)

(<http://twitter.com/samwoodiii>) on Twitter.

Contact the Breaking News Desk at 215-854-2443; BreakingNewsDesk@philly.com (<mailto:BreakingNewsDesk@philly.com>). Follow [@phillynews](https://twitter.com/phillynews)

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Published: July 24, 2014 — 4:29 PM EDT

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3/22/16 (LP)
PENNSA 800-631-6888

EXHIBIT 40
Sunderland-16
3/22/16 (R)
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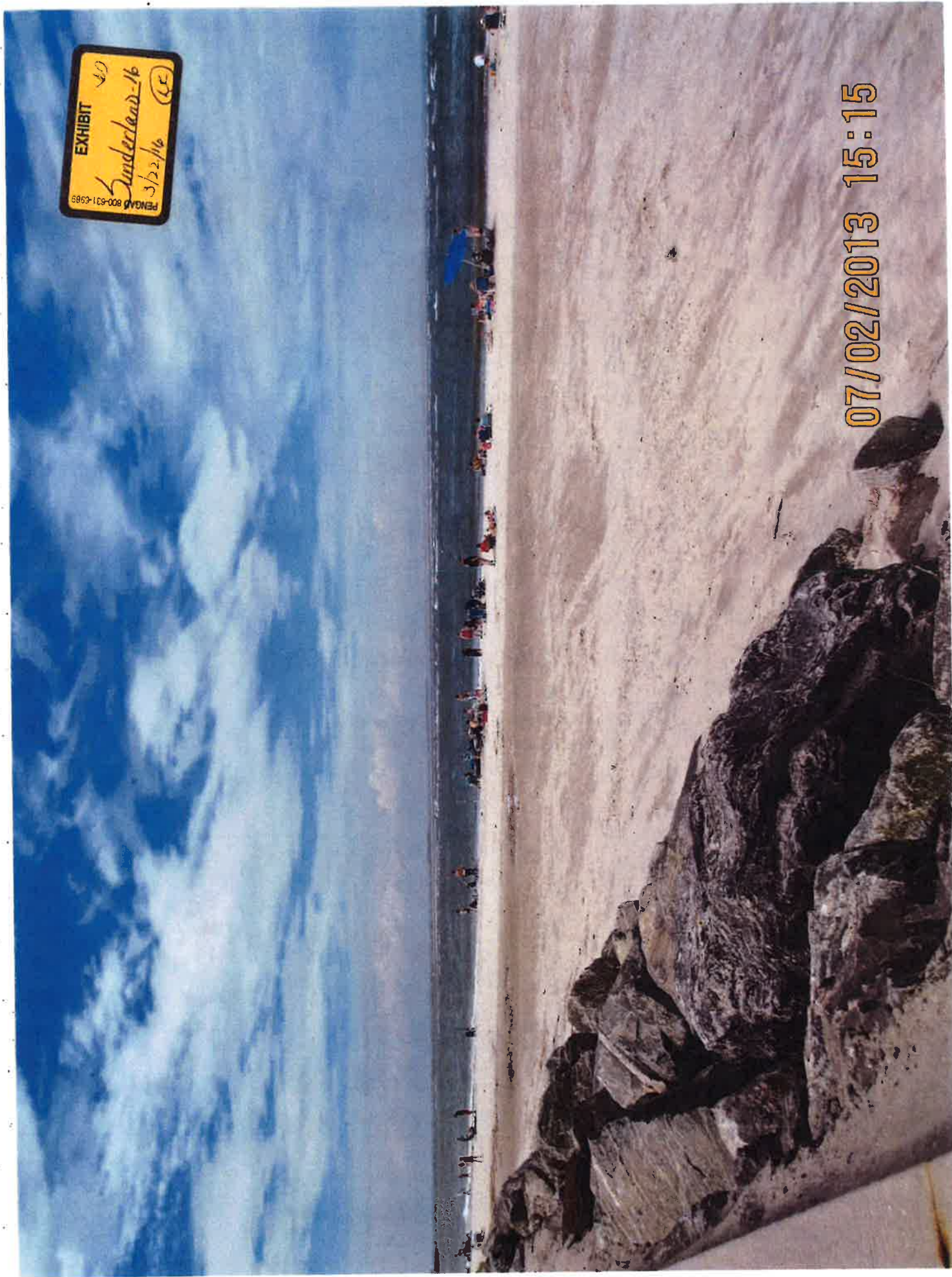


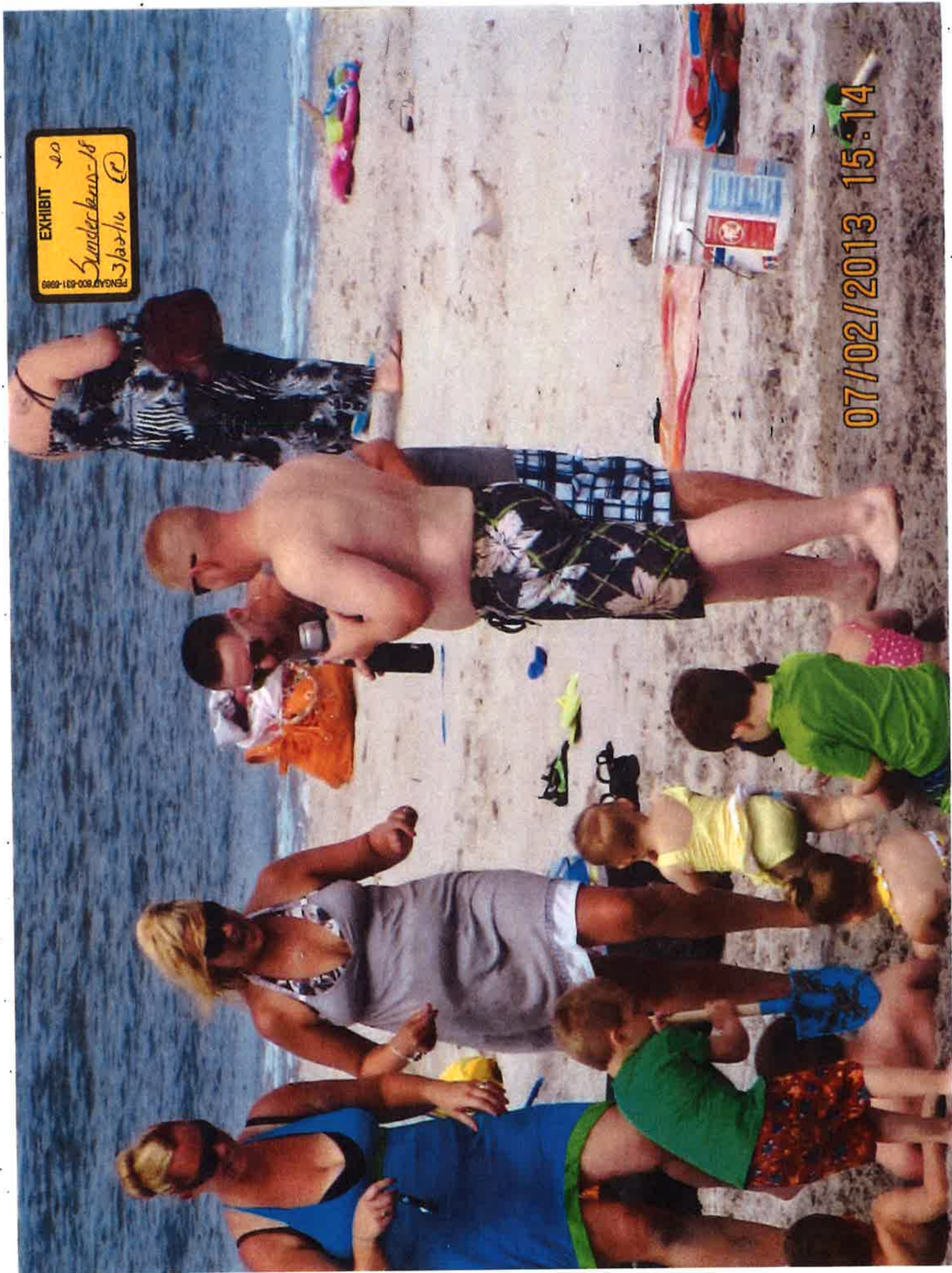
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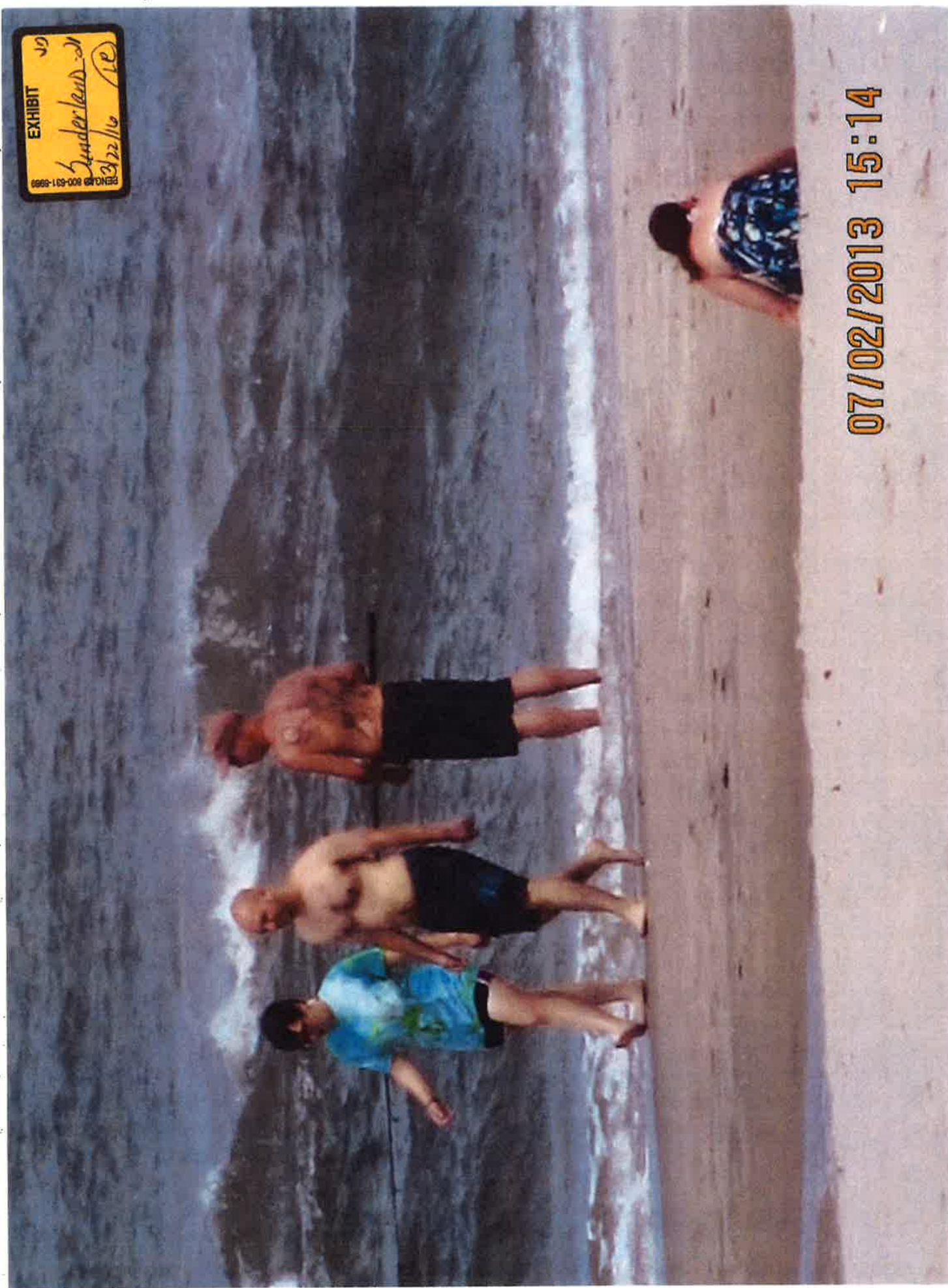
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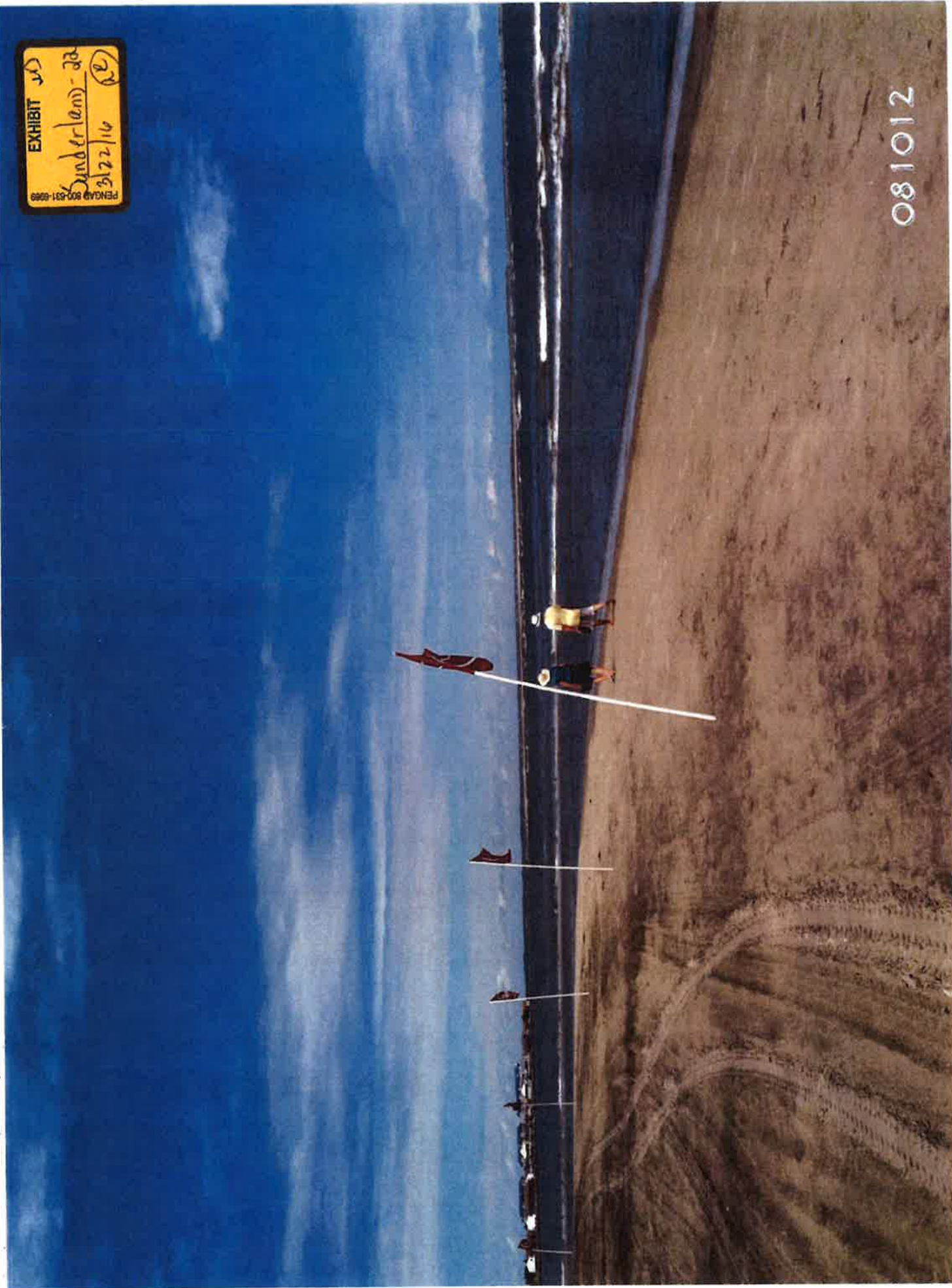
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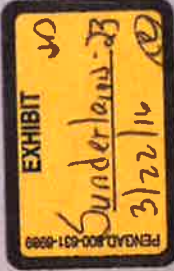


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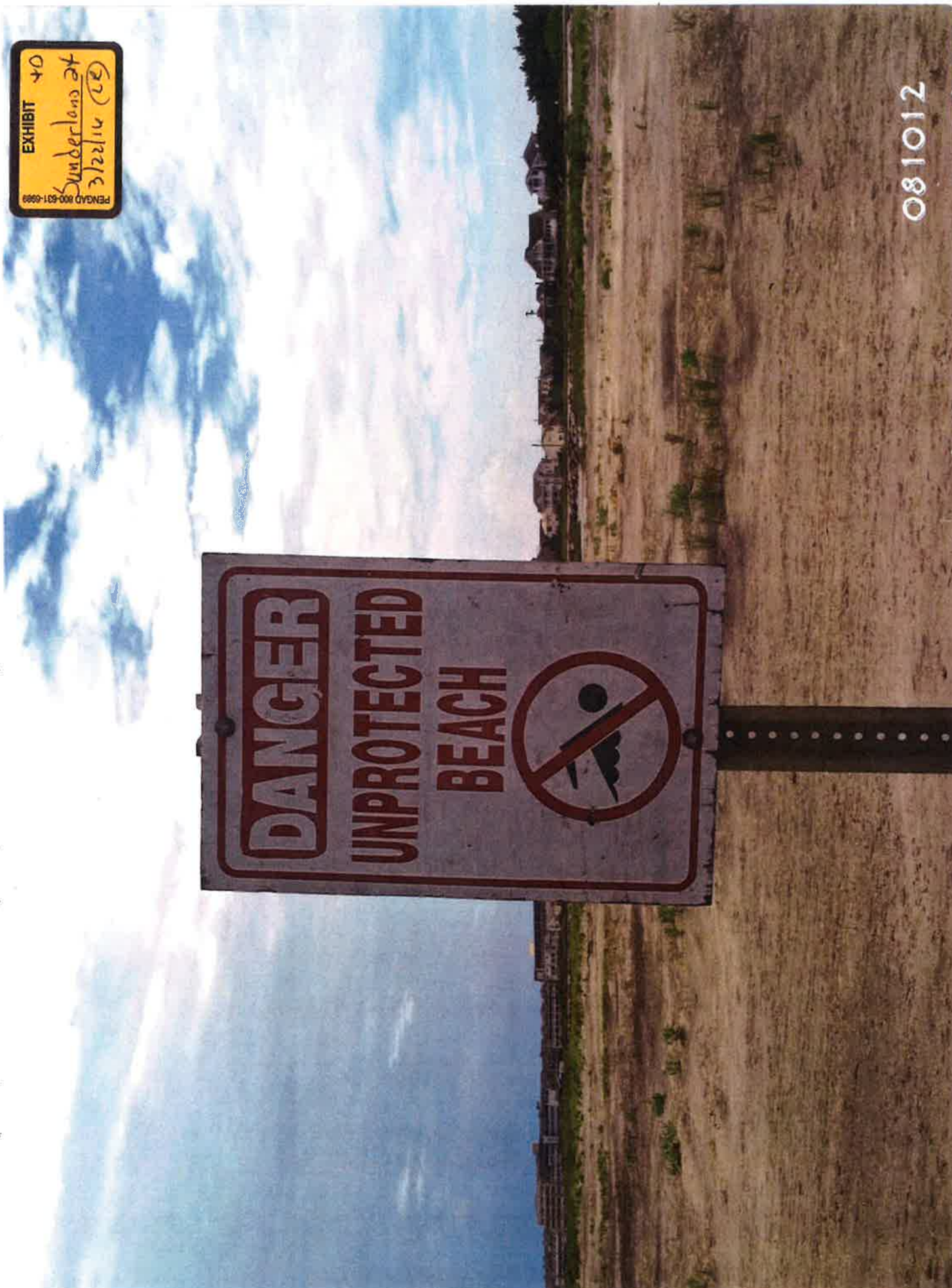
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EXHIBIT 40
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3/22/10 (C)



081012

1 SUPERIOR COURT OF NEW JERSEY
2 LAW DIVISION - CAPE MAY COUNTY
3 DOCKET NO. CPM-L-331-14
4 SANDY SMITH,
5 INDIVIDUALLY AND AS
6 EXECUTRIX OF THE ESTATE
7 OF HER LATE HUSBAND
8 GEORGE BRADLEY SMITH,
9
10 CIVIL ACTION
11 DEPOSITION
12 TESTIMONY OF:
13 BRANDY SMITH
14
15 Plaintiff,
16
17 vs.
18 CITY OF NORTH WILDWOOD,
19 STATE OF NEW JERSEY,
20 JOHN DOE, MARY DOE, ABC
21 PARTNERSHIPS and XYZ
22 CORPORATIONS,
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24 Defendants.
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1000

| INDEX | | PAGE |
|----------------------------|-------|------|
| WITNESS | | |
| BRANDY SMITH | | |
| Examination By Mr. Barker | 4, 31 | |
| Examination By Mr. D'Amato | 29 | |

| EXHIBITS | | |
|--------------------|-------------|-----|
| NUMBER | DESCRIPTION | ID. |
| Brandy-1 | Photograph | 13 |
| (Exhibit attached) | | |

APPEARANCES:

D'AMATO LAW FIRM
2900 Fire Road, Suite 200
Egg Harbor Township, New Jersey 08234
BY: PAUL R. D'AMATO, ESQUIRE
For the Plaintiffs

BARKER, GELFAND & JAMES
210 New Road
Linwood, New Jersey 08221
(609) 601-8677
BY: A. MICHAEL BARKER, ESQUIRE
For the Defendant, North Wildwood

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF LAW
R.J. Hughes Justice Complex
25 Market Street
Trenton, New Jersey 08625
(609) 777-4872
BY: BRIAN HUNKINS, DAG
For the State of New Jersey

Also present: Sandra Smith
Videographer: Tom Zanaras

VIDEOGRAPHER: Today is March the 1st, 2016. This is the videotaped deposition of Brandy Smith. We are going on the record, the time is 10:05 a.m. The appearance of counsel will be noted in the transcript.

Would the court reporter please swear in the witness.

BRANDY SMITH,
having been first duly sworn, testified as follows:

EXAMINATION BY MR. BARKER:

Q. Hi, Brandy. I'm Mike Barker. I'm going to be asking you some questions today. But before we get started, I'm going to give you some guidelines about how this proceeding will take place, this time with you here, and me asking you questions.

One of the first things we keep in mind is that when I ask you a question, and you're going to answer it, we need you to do that verbally. We need you, for instance, if it's a question that says, Is it daylight today? You would answer yes or no. You wouldn't just shake your head.

A. Okay.

Q. Understand?

A. Um-hum.

Q. The reason we do that is because this lady

1 sitting to your right is writing down everything
2 that's being said, and, of course, if we just nod our
3 head the way people do, that could be interpreted one
4 of two ways. So, we don't want that to happen. So,
5 we always ask for the answers to be verbal. That
6 means spoken. All right?

7 **A. Um-hum. Okay.**

8 **Q.** Good. You're catching on right away.

9 **A. Yeah.**

10 **Q.** Now, you were given what's called an oath
11 before we began today. That's where you raised your
12 hand. Do you remember that just a moment ago?

13 **A. Yes.**

14 **Q.** Okay. That's very important. That means
15 that everything you're going to say today must be the
16 truth. You understand that?

17 **A. Yes.**

18 **Q.** Okay. So, I know you wouldn't intentionally
19 tell me something that's not true. But here's the
20 thing: Sometimes people, when the questions are
21 being asked, they try to be helpful, and they search
22 their memory, and they say things that maybe would
23 just be a guess. Well, we can't do that. In this,
24 that we do today, it's all about what you know. And
25 when you don't know something, it's perfectly fine to

1 say, I don't know.

2 **A. Okay.**

3 **Q.** All right?

4 **A. Um-hum.**

5 **Q.** It's also perfectly fine to say, I don't
6 remember. Those are perfectly good answers. We
7 don't want you to guess, we don't want you to give us
8 something out of a dream. We only want to know what
9 you really know.

10 My objective here today is to get
11 whatever facts you have about this event that
12 occurred back in the year 2012.

13 Now, we're already up to 2016. So,
14 that means it happened four years ago. So, that's a
15 good long time ago. And you may not remember
16 everything, and that's very understandable. And I
17 may be asking some questions that call you on for
18 areas of information that you -- that is, call on you
19 to tell us about things that you never really even
20 saw, or never really even heard. Because I don't
21 know what you saw or what you heard, I'll be asking
22 the question. And it's up to you to tell me, You
23 know what, I don't know. I didn't see it, I don't
24 know. I didn't see hear it, I don't know. So,
25 that's okay. And then we just move on. Okay?

1 **A. Um-hum.**

2 **Q.** Now, Mr. D'Amato is here, and he represents
3 your mom, family, and sometimes he might have an
4 objection. If he does, or if any lawyer says the
5 word objection, you just stop talking for a minute,
6 and let the lawyers have a little discussion about
7 whether you should or shouldn't answer the question.
8 And then Mr. D'Amato will tell you, You can go ahead
9 and answer it, I just wanted to put an objection on,
10 or he may tell you, No, you can't answer it. All
11 right?

12 **A. Okay.**

13 **Q.** But he'll be the one that speaks about that,
14 if there's an objection, and you're looking to know,
15 Well, what do I do now, he objected? Oh, my God.
16 So, what do I do? Well, you wait. Just wait a
17 minute, and then it will get straight. Okay?

18 **A. Okay.**

19 **Q.** Now, we may be a little while. So, if at any
20 time you need to take a break for any reason,
21 whatsoever, just say, I need to take a break, and we
22 will. All right?

23 **A. Okay.**

24 **Q.** Okay. Now, since it happened four years ago,
25 it was in July of 2012, that's the month and year

1 that we're going to be talking about today. And the
2 day was July 27, 2012. That was the date on the
3 calendar.

4 Do you understand that?

5 **A. Um-hum.**

6 **Q.** All right. Good. Now, at that time, you
7 were how old?

8 **A. I -- wasn't I -- I think seven.**

9 **Q.** I think you were seven.

10 **A. Yeah.**

11 **Q.** Right? And what's your birthday, Brandy?

12 **A. September 20th, 2004.**

13 **Q.** And I'm going to ask you a question that
14 might be hard. Do you know how tall you were on July
15 27, 2012, four years ago?

16 **A. I'm not sure. I don't think I know.**

17 **Q.** Right. And do you know how much you might
18 have weighed when you were seven years old?

19 **A. No, I don't know.**

20 **Q.** No. Okay. Do you see a doctor called a
21 pediatrician, a doctor for children? Do you see that
22 kind of doctor?

23 THE WITNESS: Do I?

24 **A. Yes.**

25 **Q.** Yes. Do you know that doctor's name?

- 1 **A. I don't know.**
 2 **Q.** Do you know whether you go to that kind of
 3 doctor once a year, or more?
 4 **A. Yeah, I think so.**
 5 **Q.** All right. And where is the doctor located;
 6 do you know?
 7 **A. Uht-uh. No.**
 8 **Q.** You don't know. Okay.
 9 Now, I'm going to try to ask you some
 10 questions about that summer, first of all. I don't
 11 know, so you tell me. Were you staying at the shore
 12 that summer?
 13 **A. Yes.**
 14 **Q.** Okay. Had you done that in summers before
 15 that summer?
 16 **A. No.**
 17 **Q.** That was the first summer that you were
 18 spending the summer there?
 19 **A. Yes.**
 20 **Q.** Okay. And do you know where you stayed when
 21 you stayed there at the shore that summer?
 22 **A. Where I stayed?**
 23 **Q.** Yes.
 24 **A. Can --**
 25 **Q.** The house, the street.

- 1 **A. No, I don't remember that.**
 2 **Q.** Okay. And you came with your parents to the
 3 shore for the summer?
 4 **A. Yeah. And some other family friends.**
 5 **Q.** Okay. That -- that July of 2012, were you
 6 there for the whole month?
 7 **A. I don't think so. I think -- I think we were**
 8 **only there for a couple, like, days, or maybe a week.**
 9 **Q.** Before this happened?
 10 **A. Oh, before it happened? I think it was a**
 11 **couple days into it. But I'm not sure.**
 12 **Q.** Okay. Now, before this happened, on that
 13 day, about what time did you get to the beach?
 14 **A. I don't know.**
 15 **Q.** Were you there in the morning?
 16 **A. I -- I don't -- I don't really know what --**
 17 **like, if it was in the morning or the afternoon.**
 18 **Q.** Do you know if it was before lunch or after
 19 lunch that you first came to the beach that day?
 20 **A. I think after lunch. Maybe -- yeah, that's**
 21 **what I'm guessing. But I'm not sure either.**
 22 **Q.** Do you remember going down to the beach that
 23 day, when you first got there that day, going to the
 24 beach, do you remember who you went with?
 25 **A. No.**

- 1 **Q.** Well, would I be correct in saying that you
 2 went to the beach with your mom that day?
 3 **A. Well, yeah. I went with my -- I think I went**
 4 **with my mom and her friend. That's what I think.**
 5 **Because my friend was there, too. So, that's all**
 6 **that I remember much, like, who being there.**
 7 **Q.** All right. Who was your mom's friend?
 8 **A. Andrea Sunderland.**
 9 **Q.** She's a grownup?
 10 **A. Yes.**
 11 **Q.** And she had some children with her that day?
 12 **A. Yes.**
 13 **Q.** And her husband, too?
 14 **A. Um-hum. Yes.**
 15 **Q.** And you were with your mom?
 16 **A. Yes.**
 17 **Q.** And your dad?
 18 **A. Yes.**
 19 **Q.** And your brother?
 20 **A. Yes.**
 21 **Q.** And anybody else?
 22 **A. No.**
 23 **Q.** All right. Did you all go to the beach
 24 together when you first got to the beach on that day?
 25 Were you all arriving at the same time and place?

- 1 **A. Yes.**
 2 **Q.** Do you remember where you set up on the
 3 beach? That is, was there a place where you put down
 4 chairs and towels and that type of thing?
 5 **A. Yeah, there was -- it was close to, like,**
 6 **these little -- little, pool thing. Like, they were**
 7 **-- there was sand, and, like, there was little water**
 8 **in it. And then, like, not really big, but it was**
 9 **just little. It was near that.**
 10 **Q.** Well, I'm going to show you a picture. And
 11 you tell me if this picture helps you tell me where
 12 you and your family and friends went and set up on
 13 the beach.
 14 **A. Okay.**
 15 **Q.** Can you do that?
 16 **A. Yes.**
 17 **Q.** All right. I'm going to ask that the court
 18 reporter put a mark on this first. We're going to
 19 call it Brandy-1. All right? With today's date.
 20 **A. Okay.**
 21 SANDRA SMITH: I don't know if she
 22 understands what you're asking her, though. She's
 23 talking about where they went.
 24 MR. BARKER: Well, we'll find out.
 25 SANDRA SMITH: Okay.

1 MR. BARKER: Thank you.
 2 (Photograph, received and marked for
 3 identification as Exhibit Brandy-1.)
 4 Q. Now, Mr. D'Amato was good enough to give us
 5 this picture. It's got a date on it that says March
 6 14, 2012. And it's taken by a satellite, and it's
 7 looking down. And that's the date that the satellite
 8 took the picture. So, it doesn't begin to -- it
 9 doesn't pretend to say that this is what it looked
 10 like that day, when you went to the beach in the
 11 summer. All right? But it's just generally
 12 something that might help us get an idea as to where
 13 you were when you're telling me about things that
 14 happened.
 15 A. Okay.
 16 Q. Now, the first question I was asking you was
 17 where did you go and put your things with your family
 18 and friends. And if this helps you remember where
 19 everything was put down, that's towels, or a cooler,
 20 or a chair, whatever, then, you know, you can mark it
 21 on there. And we have different colors, and you can
 22 pick any color you want, put an X where it was. If
 23 it helps you. I'm not trying to say it will help
 24 you. I don't know. All right?
 25 A. Okay.

1 Q. And here's one more thing. Because your mom
 2 said something a minute ago that she didn't think you
 3 understood the question that I was asking. And I
 4 want to say to you, if you don't understand me, I --
 5 I will ask it a different way. It's -- lawyers ask
 6 questions sometimes, and they don't do a good job of
 7 asking the question. So, don't feel like you should
 8 be shy about telling me you don't understand the
 9 question. Okay?
 10 A. Okay.
 11 Q. Okay. Why don't you take a minute and look
 12 at this picture. And here's some colors, if we need
 13 them. And I'm going to cut this off.
 14 MR. D'AMATO: Did you ask her to mark
 15 something?
 16 MR. BARKER: Not yet.
 17 MR. D'AMATO: Yeah.
 18 Q. So, Brandy, that's okay. Do you think now
 19 that you've looked at that picture, you would be able
 20 to put a dot or a circle at the place where you and
 21 the family had set up when you first got to the beach
 22 that day?
 23 A. Yes.
 24 Q. Okay. Why don't you put a circle where that
 25 is, then.

1 A. (Witness complies.)
 2 Q. Okay. A little red circle. Right?
 3 A. (Witness nods.)
 4 Q. Okay. Now, we understand that, at some
 5 point, you went with your dad for a walk along the
 6 beach. Right?
 7 A. Yes.
 8 Q. Okay. Did that happen once, or more than
 9 once that day?
 10 A. Taking a walk?
 11 Q. Yes.
 12 A. No. Only once.
 13 Q. One time?
 14 A. (Witness nods.)
 15 Q. And this day that you went to the beach with
 16 your family and friends, had you ever been to that
 17 beach before?
 18 A. No.
 19 Q. So, on this particular trip to the beach,
 20 this summer, this was your first day at the beach?
 21 A. Yes.
 22 Q. And before this visit on this beach on the
 23 date -- are you okay?
 24 A. Yeah.
 25 Q. Yeah. Before your visit to this beach on

1 this particular day, had you ever been to this beach
 2 at any time before?
 3 A. I don't think so.
 4 Q. Okay. Now, before you went for your walk
 5 with your dad that day, and whoever else you might
 6 have been walking with, how long had you been at the
 7 beach?
 8 A. I don't remember.
 9 Q. Okay. Were you playing with your friends
 10 before?
 11 A. Yes.
 12 Q. What were you and your friends doing before?
 13 A. We were in the little kind of tinier area,
 14 with the, like, water in the sand, and we were in
 15 that. And we were boogie boarding.
 16 Q. Boogie boarding?
 17 A. Like, on your stomach, and on the --
 18 Q. Oh, we call that body surfing. Right?
 19 A. Yeah.
 20 Q. Okay. You were doing that. And you and your
 21 friends had been doing that for awhile before the
 22 time came to go for a walk?
 23 A. Yes.
 24 Q. Okay. And who were your friends?
 25 A. Well, yeah, my friend Ally Sunderland, and

1 **Aidan Sunderland.**

2 **Q.** Now, you had a brother or sister with you
3 that day. Who was that?

4 **A. Kole, Kole Smith, my brother.**

5 **Q.** He's your brother. Right?

6 **A. Yes.**

7 **Q.** Did he play in the water with you, Ally, and
8 Aidan?

9 **A. No. He was playing with their older brother,**

10 **Jett Sunderland.**

11 **Q.** Jeff?

12 **A. Jett Sunderland.**

13 **Q.** Jett. Okay.

14 So, Kole and Jett were playing
15 together?

16 **A. Yes.**

17 **Q.** And you, Ally, and Aidan were playing
18 together. Right?

19 **A. Yes.**

20 **Q.** Okay. And you had been at the beach for some
21 time, but you can't say how long?

22 **A. Yes.**

23 **Q.** And then who came up with the idea, let's
24 take a walk?

25 **A. My dad and Scott Sunderland.**

1 **Q.** Okay. And who was going to go on the walk?

2 **A. Aidan Sunderland, Ally Sunderland, and my**
3 **dad, Scott, and me.**

4 **Q.** Which way were you going to walk? Strike
5 that. That means wait a minute, I want to ask it
6 again.

7 Which way did you walk? Do you
8 remember which direction you were going? Let me tell
9 you, if you look at that picture, towards the top of
10 the picture, we call that going north. And to the
11 bottom of the picture, we call that going south.

12 **A. We were going north.**

13 **Q.** North. And did you walk to a place, and then
14 start to turn around and come back?

15 **A. No. We were just -- we were still walking.**

16 **Q.** North?

17 **A. Yes.**

18 **Q.** When this happened?

19 **A. Yeah.**

20 **Q.** Okay. How far had you gone before it
happened? And you might say that in terms of
21 distance, or time. You might say, for instance, oh,
22 a football field. Or you might say, five or ten
23 minutes. Whatever number. So, I don't know if you
24 can answer the question. But I was just asking.

1 **A. Maybe five or ten minutes.**

2 **Q.** Okay. Was there anything along the way that
3 you noticed as you walked north? Anything that you
4 remember, like a landmark?

5 **A. No, I don't remember anything.**

6 **Q.** Okay. As you and the others in this little
7 group were walking north, who was closest to the
8 shore, who was more -- if I say inland, do you know
9 what I mean?

10 **A. Like, closer to the sand, like, closer to the**
11 **beach, or closer to the ocean?**

12 **Q.** Right. One would be closer to, like, if
13 you're looking at the photograph, where the houses
14 are, and one would be closer to the ocean.

15 **A. Um-hum.**

16 **Q.** So, who was closer to the part where the
17 houses are?

18 **A. The kids. Like, me, Ally, and Aidan, were**
19 **closer to the houses, over on this side. And then**
20 **the -- my dad and Scott were closer to the water. We**
21 **were all, like, near the water, but closer -- we were**
22 **closer to the houses.**

23 **Q.** Um-hum.

24 **A. Well, not, like, close to the houses. Just,**
25 **like, right here. And then -- on -- like, right**

1 **here, and then right here, on those two.**

2 **Q.** You're pointing to, like, where the sand
3 meets the water?

4 **A. Yeah.**

5 **Q.** Okay. So, everybody's walking in an area
6 where the sand meets the water; is that it?

7 **A. Yes.**

8 **Q.** Okay. And the children were closer to the
9 part where the sand is, and the grown-ups were closer
10 to the part where the water is?

11 **A. Yes.**

12 **Q.** Okay. And were you with your dad, like,
13 right next to your dad, or --

14 **A. Yeah.**

15 **Q.** Or --

16 **A. Yes. I think I was -- yeah, I think I was**
17 **close to him. And then they were in front of us,**
18 **just a little bit, like, close to us, but just, like,**
19 **in front of us.**

20 **Q.** Who's "they"?

21 **A. Aidan, Ally, and Scott.**

22 **Q.** So, they were a little bit in front of you?

23 **A. (Witness nods.)**

24 **Q.** And you were next to your dad, and you were
25 on the side closest to the houses?

1 **A. Yes.**
 2 **Q.** And your dad was on the side closest to the
 3 ocean?
 4 **A. Yes.**
 5 **Q.** And were you and your dad at -- walking in
 6 the water?
 7 **A. Yes. Like, we -- it was only, like, to our**
 8 **ankles, at first, yeah. It was, like, we were still,**
 9 **like, right here, close to the sand, so you could --**
 10 **you had your feet on sand for while you were walking.**
 11 **Q.** Um-hum. And there came a time when you and
 12 your dad somehow went into the water. Right?
 13 **A. Yeah.**
 14 **Q.** How did that happen?
 15 **A. I can't remember much, but, like -- how it**
 16 **happened, I -- my eyes were closed, and I didn't know**
 17 **-- like, I couldn't see anything much. And -- and it**
 18 **just happened. And then we ended up somewhere in the**
 19 **ocean.**
 20 **Q.** Do you need to take a break? We're going to
 21 take a break. Okay?
 22 **A. Okay.**
 23 **MR. BARKER:** Why don't we go off the
 24 record and take a little break.
 25 **VIDEOGRAPHER:** Okay. Going off the

1 record. The time is 10:27.
 2 (There was a brief recess.)
 3 **VIDEOGRAPHER:** We're back on the
 4 record. The time is 10:33.
 5 **BY MR. BARKER:**
 6 **Q.** Before, when we were talking about how you
 7 fell into the water, you had told me that you were
 8 near your dad, and you were walking along the beach.
 9 Right?
 10 **A. Yes.**
 11 **Q.** I got all that right. Right?
 12 And you recall walking where the water
 13 was, like, around your ankles. Right?
 14 **A. Right.**
 15 **Q.** And the same for your dad. Right?
 16 **A. Right.**
 17 **Q.** But then when you fell into the water, you
 18 fell into water that was deeper than ankle depth.
 19 Right?
 20 **A. Yes.**
 21 **Q.** Okay. So, before you fell into the water,
 22 had you and your dad walked more towards the ocean
 23 side, like, where it got up to your knees, or --
 24 **A. No.**
 25 **Q.** -- higher than the ankles?

1 **A. No.**
 2 **Q.** It was always just at your ankles, that's all
 3 you remember?
 4 **A. Yeah.**
 5 **Q.** Did you, before you fell into the water, feel
 6 like you had stepped into a hole, or a what -- like,
 7 a dip, something lower? Did you ever feel that?
 8 **A. I don't remember.**
 9 **Q.** Okay. After you fell into the water, were
 10 you near your dad?
 11 **A. Yes.**
 12 **Q.** All right. So, you and your dad were in the
 13 water, and it was deep enough that you felt like you
 14 were, like, in a pool of water?
 15 **A. Yes.**
 16 **Q.** Okay. Could you feel the bottom?
 17 **A. No.**
 18 **Q.** All right. And were you close enough to hang
 19 on to your dad?
 20 **A. No.**
 21 **Q.** But then did there come a point in time when
 22 you and your dad got closer together?
 23 **A. Yes.**
 24 **Q.** Okay. Did you ever talk to anybody else,
 25 like Ally or Aidan, about whether they went into the

1 water, and what happened to them?
 2 **A. No. But I did talk to my mom before about**
 3 **it, and she said that Scott told her that he did fall**
 4 **into the water, but he grabbed onto the -- like, he**
 5 **held there, and Ally was on his back. Aidan got out.**
 6 **And then they got out. But we were -- but we were**
 7 **still in there.**
 8 **Q.** You and your dad?
 9 **A. Yes.**
 10 **Q.** Okay. Did you ever talk to anybody else
 11 about what happened?
 12 **A. No.**
 13 **Q.** Okay. Before coming here today and talking
 14 to me, and the other people that are here today about
 15 what happened, did you ever tell anybody else what
 16 happened?
 17 **A. Yes.**
 18 **Q.** Who was that?
 19 **A. Her name -- she -- like, her name was Dr.**
 20 **Debbie, I think.**
 21 **Q.** Dr. Debbie? Where is she from?
 22 **A. She's -- she -- I don't remember -- I don't**
 23 **know where she's from, but she's close to Horsham, in**
 24 **Pennsylvania where I live. I'm not sure where it**
 25 **was.**

1 Q. Do you remember what you told her?
 2 A. **I told her, like, how I felt, like, what**
 3 **happened, too. And what my dad was telling me when**
 4 **we were in there.**
 5 Q. What I was going to ask you, though, is did
 6 you tell her how it happened?
 7 A. **I don't remember how it happened, so I didn't**
 8 **tell her, because I don't remember.**
 9 Q. Okay. So, you're telling me now that you
 10 don't remember how it happened?
 11 A. **Yeah. It was all just a -- like, a blur when**
 12 **it happened. But then, like, out of nowhere, I just**
 13 **ended up in the ocean.**
 14 Q. Okay. I understand. Now, this Dr. Debbie,
 15 did you see her a long time ago, or just recently?
 16 A. **Last year. But now we stopped going to her.**
 17 Q. Okay. Do you go to anybody else like her?
 18 A. **No. Not anymore.**
 19 Q. Okay. Did you -- because you fell in the
 20 water, I know that you -- I know, because I saw it
 21 written down, that you swallowed some water. Right?
 22 A. **Yes.**
 23 Q. Yeah. Did that make you sick?
 24 A. **No, not right away. But then -- yeah, not**
 25 **right away.**

1 Q. Okay. Well, after you were in the water, do
 2 you remember how you got out of the water?
 3 A. **Yes. A Jet Ski guy, he came and he got me,**
 4 **And then they were looking for my dad.**
 5 Q. Two Jet Ski guys were looking?
 6 A. **Yes.**
 7 Q. Right. But one, in particular, got you out
 8 of the water. Right?
 9 A. **Yes.**
 10 Q. Okay. And did you get hurt when you fell in
 11 the water?
 12 A. **No.**
 13 Q. Okay. Other than the fact that you had
 14 gotten some water in your mouth, and maybe swallowed
 15 some water, did you have any other kind of injury
 16 that happened?
 17 A. **No, not that I remember.**
 18 Q. Not that you what, sorry?
 19 A. **Remember.**
 20 Q. Okay. Did you go to the hospital and get
 21 checked out?
 22 A. **Yes.**
 23 Q. And did you just get checked out, and you
 24 were okay, and then left?
 25 A. **Yes.**

1 Q. Okay. Did you ever see any kind of doctor
 2 after that, other than this Dr. Debbie?
 3 A. **No.**
 4 MR. BARKER: Okay. I'm going to take a
 5 break for a minute, please.
 6 VIDEOGRAPHER: Okay. Going off the
 7 record, 10:40.
 8 (There was a brief recess.)
 9 VIDEOGRAPHER: We're back on the
 10 record, 10:46.
 11 BY MR. BARKER:
 12 Q. So, as you were telling me about walking
 13 north on the beach, with this little group, and you
 14 were near your dad --
 15 A. **(Witness nods.)**
 16 Q. -- were you looking down at the ground at any
 17 time? I call it ground, but it's the sand.
 18 Did you look down at that at any point?
 19 A. **I don't think so.**
 20 Q. Okay. Now, just before you fell in the
 21 water, you said something to me along the line of, we
 22 were looking, and then I just -- we were in the
 23 water. Something like that.
 24 So, I wanted to ask you, when you
 25 started to tell me, we were looking, where were you

1 looking before -- just before this happened, that you
 2 fell in the water, where were you looking? What were
 3 you seeing?
 4 A. **I think we were -- we were mostly looking at**
 5 **each other, mostly, and then the ocean sometimes, and**
 6 **I think over near the houses.**
 7 Q. Um-hum. And just before you fell in the
 8 water, I'm going to test your memory on this one,
 9 just before you fell in the water, do you remember
 10 what you were looking at?
 11 A. **No. I -- it was just all, like, ocean, the**
 12 **whole time. Like, I think my -- my eyes were closed,**
 13 **and I couldn't see anything.**
 14 Q. When you were walking?
 15 A. **Oh, when we were walking, what were we**
 16 **looking at?**
 17 Q. Yes.
 18 A. **I don't remember.**
 19 Q. All right. You just generally remember that
 20 as you were walking, before this happened, you were
 21 looking at each other, looking at the houses, looking
 22 at the ocean?
 23 A. **Yes.**
 24 Q. Do I have it right?
 25 A. **Yes.**

1 Q. Okay. And just before you fell in the water,
2 was there any reason that you were looking down at
3 where you were going?

4 A. No. I don't think so.

5 Q. And just before you fell in the water, did
6 you hear anybody say anything?

7 A. No.

8 MR. BARKER: And that's all I have for
9 right now. Someone else might have some questions.

10 THE WITNESS: Okay.

11 MR. HUNKINS: No questions. Thanks.

12 MR. D'AMATO: Brandy, I have some
13 questions.

14 THE WITNESS: Okay.

15 EXAMINATION BY MR. D'AMATO:

16 Q. And I -- I spoke to mom, and she told me it
17 was okay to ask you these questions. Okay?

18 A. Okay.

19 Q. All right. After you fell into the water,
20 okay, do you remember seeing your dad at any time,
21 after you fell into the water?

22 A. Yes.

23 Q. And do you -- and where was he? How far was
24 he from you?

25 A. He was pretty close. Just, like, a little

1 bit far away from me, not that far.

2 Q. Okay. Was he saying anything to you?

3 A. Yes. He was saying my name a lot. And then
4 I don't remember much about -- all I remember was him
5 saying my name.

6 Q. Okay. And you remember the fellow on the Jet
7 Ski picking you up?

8 A. Yes.

9 Q. All right. When the fellow on the Jet Ski
10 picked you up, where was your daddy at that point in
11 time?

12 A. I didn't see him anymore. I don't know -- I
13 didn't know where he was.

14 Q. All right. When you last saw daddy, what was
15 he doing?

16 A. Laying on his back.

17 Q. Okay. Do you see how long this conference
18 room is here?

19 A. Yes.

20 Q. Was he as far away from you as the length of
this room, or more, or closer?

21 A. Closer.

22 Q. Okay. And what's the very last words you
23 remember hearing daddy say?

24 A. Brandy.

1 Q. Okay.

2 MR. D'AMATO: I have nothing else.

3 MR. BARKER: Can I talk to you for a
4 minute before we --

5 MR. D'AMATO: Yeah.

6 VIDEOGRAPHER: Going off the record,
7 10:51.

8 (There was a brief recess.)

9 VIDEOGRAPHER: We're back on the
10 record. The time is 11:03.

11 EXAMINATION BY MR. BARKER:

12 Q. Brandy, during the break, Mr. D'Amato gave me
13 a paper that was written by Dr. Debbie. And I'm
14 going to ask you some questions to just make sure
15 that I have it right about some things that happened,
16 and when they happened.

17 Remember we said that the date of this
18 event was July 27, 2012. Remember that?

19 A. Yes.

20 Q. Okay. And Dr. Debbie says that the first
21 time she saw you was two years after that,
22 approximately. Does that sound right to you?

23 A. Yes.

24 Q. And Dr. Debbie says that from the time of the
25 accident up and time -- up until the time that you

1 first saw her, you had not spoken to anyone about
2 what you saw and experienced on the date that you and
3 your dad fell in the water. Is that true?

4 A. Yes.

5 Q. So, the first person you spoke to about your
6 memories of this was when you spoke to Dr. Debbie
7 about it two years after it happened. Is that true?

8 A. Yes.

9 Q. And after you had this experience on the date
10 of July 27, 2012, which was in the summer, did you go
11 back to school that year?

12 A. Yes.

13 Q. Okay. So, you would have been still seven,
14 but almost eight when you went back to school.
15 Right?

16 A. Yes.

17 Q. And what grade did you go into?

18 A. I think second. I think -- I was going in --
19 I was either in third grade, and then I was turning
20 eight -- oh, wait, no. I think I was in second.
21 Yeah.

22 Q. But when you went to school after this event
23 at the beach, what grade did you go to?

24 A. Second.

25 Q. Second grade. Okay. And when you went to

- 1 second grade, did you finish second grade okay?
 2 **A. Yes.**
 3 **Q.** Did you do okay with the school courses?
 4 **A. Yes.**
 5 **Q.** Did you play at recess?
 6 **A. Yes.**
 7 **Q.** Did you do the things that the other children
 8 do in second grade?
 9 **A. Yes.**
 10 **Q.** Okay. And in third grade, did you do okay in
 11 school in third grade?
 12 **A. Yes.**
 13 **Q.** Okay. And did you do the things that the
 14 other children do in school?
 15 **A. Yes.**
 16 **Q.** And did you play at recess?
 17 **A. Yes.**
 18 **Q.** Okay. What grade are you in now?
 19 **A. Fifth.**
 20 **Q.** Okay. So, in fourth grade, did you go to
 21 fourth grade without any problems, moved up okay?
 22 **A. Yes.**
 23 **Q.** And when you went into fourth grade, did you
 24 do okay with your school subjects?
 25 **A. Yes.**

- 1 **Q.** And did you do okay with your friends?
 2 **A. Yes.**
 3 **Q.** And did you play at recess?
 4 **A. Yes.**
 5 **Q.** And you did all the things that the other
 6 children do?
 7 **A. Yes.**
 8 **Q.** Okay. That was fourth grade.
 9 Now, you're in fifth grade?
 10 **A. Yes.**
 11 **Q.** How are you doing in school?
 12 **A. Good.**
 13 **Q.** Okay. You have friends?
 14 **A. Yes.**
 15 **Q.** Okay. Do you do well in your school courses?
 16 **A. Yes.**
 17 **Q.** Okay. And did you do well in your school
 18 courses in those other years, like, second, third,
 19 and fourth grade?
 20 **A. Yes.**
 21 **Q.** So, are you a pretty good student?
 22 **A. Yes.**
 23 **Q.** Oh, that's nice. That's good.
 24 Do you play any sports?
 25 **A. Yes. Gymnastics, basketball, and dance.**

- 1 **Q.** That's a lot.
 2 **A. Yeah.**
 3 **Q.** Have you done that every year?
 4 **A. Yes.**
 5 **Q.** So, you did it in the second grade?
 6 **A. Not gymnastics. But dance, and I think**
 7 **basketball, too.**
 8 **Q.** Um-hum. What about in third grade, what did
 9 you do?
 10 **A. I did dance and basketball.**
 11 **Q.** And what did you do in the fourth grade?
 12 **A. Dance and basketball.**
 13 **Q.** And now, you're doing three things?
 14 **A. Yes.**
 15 **Q.** Dance, basketball, and what was --
 16 **A. Gymnastics.**
 17 **Q.** Gymnastics. That's kind of hard; isn't it?
 18 **A. It's pretty easy now.**
 19 **Q.** Is it?
 20 **A. Yeah.**
 21 **Q.** Is it scary?
 22 **A. Sometimes.**
 23 **Q.** I would think it's scary. Okay. How long
 24 have you done that?
 25 **A. I just started gymnastics in the beginning of**

- 1 -- well, yeah, the beginning of 2016, and, like, near
 2 the end of 2015. And dance, I've been doing, like,
 3 for a lot of years. And basketball, I've -- I did
 4 that for, like, three years.
 5 **Q.** I -- I don't know, but it seems to me you
 6 might be on the tall side.
 7 **A. Yes, I am.**
 8 **Q.** Is that true?
 9 **A. Yes.**
 10 **Q.** Oh, that's an advantage.
 11 What about this: Before this fall,
 12 before this accident happened in July of 2012, you
 13 would have been in the first grade. Right?
 14 **A. Yes.**
 15 **Q.** What did you do in the first grade?
 16 **A. I don't think I did much activities at**
 17 **school. But, like, at school, I did regular stuff.**
 18 **But I don't think I did after school activities much.**
 19 **I think I might have been doing dance at the**
 20 **Y.M.C.A., and, like, going to there, and doing camps,**
 21 **and just doing dance there.**
 22 **Q.** How did you do in school in the first grade?
 23 **A. I did good.**
 24 **Q.** You did good?
 25 **A. Yeah.**

- 1 Q. You've always done good in school?
- 2 A. Yes.
- 3 Q. And you still are doing good?
- 4 A. Yes.
- 5 Q. Very nice. Do you remember when you spoke to
- 6 Dr. Debbie, if she would write things down when you
- 7 spoke to her?
- 8 A. Yes. She did write things down.
- 9 Q. Did Dr. Debbie do anything for you, other
- 10 than talk to you, and listen to you?
- 11 A. No.
- 12 Q. Did Dr. Debbie help you in any way? Did she
- 13 do anything that helped you?
- 14 A. Yes. She helped me get over, like, worrying,
- 15 like, of everything, and feel better about myself.
- 16 Q. And is that why you stopped going to see her,
- 17 because she had made you feel better?
- 18 A. Yeah.
- 19 Q. All right. How far did you have to go to see
- 20 Dr. Debbie at --
- 21 A. She's pretty -- she was pretty close to us.
- 22 We just had -- it was only, like, five minutes to get
- 23 there after school.
- 24 Q. Okay. So, now that you don't see Dr. Debbie,
- 25 you have more time for your after school activities?

- 1 A. Yes.
- 2 Q. Okay. Do you think now that you have any
- 3 reason to go back and see Dr. Debbie again?
- 4 A. No, not really. Because I'm -- I don't worry
- 5 anymore, and I'm way better than I was before.
- 6 MR. BARKER: Thank you.
- 7 MR. D'AMATO: I have no follow-up
- 8 questions.
- 9 MR. HUNKINS: I have no questions.
- 10 Thanks.
- 11 MR. BARKER: That's all for today.
- 12 VIDEOGRAPHER: This concludes the
- 13 videotaped deposition. Off the record. The time is
- 14 11:12.
- 15 (Deposition concludes at 11:12 a.m.)
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2 CERTIFICATE

3

4 I, LYNN SMITH, a Certified Court Reporter of the

5 State of New Jersey, do hereby certify that prior to

6 the commencement of the examination, BRANDY SMITH was

7 duly sworn by me to testify the truth, the whole

8 truth and nothing but the truth.

9

10 I DO FURTHER CERTIFY that I am neither a relative nor

11 employee nor attorney nor counsel of any of the

12 parties to this action, and that I am neither a

13 relative nor employee of such attorney or counsel,

14 and that I am not financially interested in the

15 action.

16

17

18

19 *Lynn Smith, CCR*

20 Certified Court Reporter

21 License No. XIO1520

22

23

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|---|---|---|--|---|
| <p>0</p> <p>08096 [1] - 1:24 08221 [1] - 2:7 08234 [2] - 1:18, 2:3 08625 [1] - 2:13</p> | <p>7</p> <p>777-4872 [1] - 2:14</p> <p>8</p> <p>856 [2] - 1:25</p> | <p>38:6, 38:11 Barker [2] - 3:4, 4:11 basketball [6] - 34:25, 35:7, 35:10, 35:12, 35:15, 36:3 beach [25] - 10:13, 10:19, 10:22, 10:24, 11:2, 11:23, 11:24, 12:3, 12:13, 13:10, 14:21, 15:6, 15:15, 15:17, 15:19, 15:20, 15:22, 15:25, 16:1, 16:7, 17:20, 19:11, 22:8, 27:13, 32:23 BEFORE [1] - 1:15 began [1] - 5:11 begin [1] - 13:8 beginning [2] - 35:25, 36:1 better [3] - 37:15, 37:17, 38:5 big [1] - 12:8 birthday [1] - 8:11 bit [3] - 20:18, 20:22, 30:1 blur [1] - 25:11 boarding [2] - 16:15, 16:16 body [1] - 16:18 boogie [2] - 16:15, 16:16 bottom [2] - 18:11, 23:16 BRADLEY [1] - 1:5 Brandy [7] - 4:2, 4:11, 8:11, 14:18, 29:12, 30:25, 31:12 BRANDY [3] - 1:6, 3:3, 39:6 Brandy-1 [3] - 3:11, 12:19, 13:3 break [7] - 7:20, 7:21, 21:20, 21:21, 21:24, 27:5, 31:12 BRIAN [1] - 2:14 brief [3] - 22:2, 27:8, 31:8 BROAD [1] - 1:24 brother [5] - 11:19, 17:2, 17:4, 17:5, 17:9 BY [8] - 2:4, 2:8, 2:14, 4:10, 22:5, 27:11, 29:15, 31:11</p> | <p>catching [1] - 5:8 certified [1] - 39:20 Certified [2] - 1:15, 39:4 CERTIFIED [1] - 1:23 certify [1] - 39:5 CERTIFY [1] - 39:10 chair [1] - 13:20 chairs [1] - 12:4 checked [2] - 26:21, 26:23 children [6] - 8:21, 11:11, 20:8, 33:7, 33:14, 34:6 circle [3] - 14:20, 14:24, 15:2 CITY [1] - 1:8 CIVIL [1] - 1:4 close [9] - 12:5, 19:24, 20:17, 20:18, 21:9, 23:18, 24:23, 29:25, 37:21 closed [2] - 21:16, 28:12 closer [15] - 19:10, 19:11, 19:12, 19:14, 19:16, 19:19, 19:20, 19:21, 19:22, 20:8, 20:9, 23:22, 30:21, 30:22 closest [3] - 19:7, 20:25, 21:2 color [1] - 13:22 colors [2] - 13:21, 14:12 coming [1] - 24:13 commencement [1] - 39:6 commencing [1] - 1:19 Complex [1] - 2:12 complies [1] - 15:1 concludes [2] - 38:12, 38:15 conference [1] - 30:17 cooler [1] - 13:19 CORPORATIONS [1] - 1:10 correct [1] - 11:1 counsel [3] - 4:4, 39:11, 39:13 COUNTY [1] - 1:1 couple [2] - 10:8, 10:11 course [1] - 5:2 courses [3] - 33:3, 34:15, 34:18 COURT [2] - 1:1, 1:23 court [2] - 4:6, 12:17 Court [3] - 1:15, 39:4,</p> | <p>39:20 CPM-L-331-14 [1] - 1:2 cut [1] - 14:13</p> |
| <p>1</p> <p>1 [1] - 1:19 10:05 [2] - 1:19, 4:3 10:27 [1] - 22:1 10:33 [1] - 22:4 10:40 [1] - 27:7 10:46 [1] - 27:10 10:51 [1] - 31:7 11:03 [1] - 31:10 11:12 [2] - 38:14, 38:15 13 [1] - 3:11 14 [1] - 13:6 1st [1] - 4:1</p> | <p>A</p> <p>a.m [3] - 1:19, 4:4, 38:15 ABC [1] - 1:9 able [1] - 14:19 accident [2] - 31:25, 36:12 ACTION [1] - 1:4 action [2] - 39:12, 39:15 activities [3] - 36:16, 36:18, 37:25 advantage [1] - 36:10 afternoon [1] - 10:17 ago [7] - 5:12, 6:14, 6:15, 7:24, 8:15, 14:2, 25:15 ahead [1] - 7:8 Aidan [8] - 17:1, 17:8, 17:17, 18:2, 19:18, 20:21, 23:25, 24:5 Ally [8] - 16:25, 17:7, 17:17, 18:2, 19:18, 20:21, 23:25, 24:5 almost [1] - 32:14 AND [2] - 1:4, 2:11 Andrea [1] - 11:8 ankle [1] - 22:18 ankles [4] - 21:8, 22:13, 22:25, 23:2 answer [6] - 4:18, 4:20, 7:7, 7:9, 7:10, 18:25 answers [2] - 5:5, 6:6 appearance [1] - 4:4 area [2] - 16:13, 20:5 areas [1] - 6:18 arriving [1] - 11:25 AS [1] - 1:4 attached [1] - 3:16 attorney [2] - 39:11, 39:13 awhile [1] - 16:21</p> | <p>B</p> <p>BARKER [15] - 2:6, 2:8, 4:10, 12:24, 13:1, 14:16, 21:23, 22:5, 27:4, 27:11, 29:8, 31:3, 31:11,</p> | <p>C</p> <p>calendar [1] - 8:3 camps [1] - 36:20 CAPE [1] - 1:1</p> | <p>D</p> <p>D'AMATO [9] - 2:2, 2:4, 14:14, 14:17, 29:12, 29:15, 31:2, 31:5, 38:7 D'Amato [8] - 1:17, 3:5, 7:2, 7:8, 13:4, 31:12 dad [25] - 11:17, 15:5, 16:5, 17:25, 18:3, 19:20, 20:12, 20:13, 20:24, 21:2, 21:5, 21:12, 22:8, 22:15, 22:22, 23:10, 23:12, 23:19, 23:22, 24:8, 25:3, 26:4, 27:14, 29:20, 32:3 daddy [3] - 30:10, 30:14, 30:24 DAG [1] - 2:14 dance [8] - 34:25, 35:6, 35:10, 35:12, 35:15, 36:2, 36:19, 36:21 date [8] - 8:2, 12:19, 13:5, 13:7, 15:23, 31:17, 32:2, 32:9 daylight [1] - 4:20 days [2] - 10:8, 10:11 Debbie [14] - 24:20, 24:21, 25:14, 27:2, 31:13, 31:20, 31:24, 32:6, 37:6, 37:9, 37:12, 37:20, 37:24, 38:3 deep [1] - 23:13 deeper [1] - 22:18 Defendant [1] - 2:9 Defendants [1] - 1:11 DEPARTMENT [1] - 2:11 Deposition [1] - 38:15 DEPOSITION [1] - 1:5 deposition [2] - 4:2, 38:13 depth [1] - 22:18 DESCRIPTION [1] - 3:10 different [2] - 13:21, 14:5 dip [1] - 23:7 direction [1] - 18:8 discussion [1] - 7:6 distance [1] - 18:22</p> |
| <p>2</p> <p>200 [2] - 1:18, 2:3 2004 [1] - 8:12 2012 [9] - 6:12, 7:25, 8:2, 8:15, 10:5, 13:6, 31:18, 32:10, 36:12 2015 [1] - 36:2 2016 [4] - 1:19, 4:2, 6:13, 36:1 202 [1] - 1:24 20th [1] - 8:12 210 [1] - 2:7 25 [1] - 2:13 27 [4] - 8:2, 8:15, 31:18, 32:10 29 [1] - 3:5 2900 [2] - 1:17, 2:3</p> | <p>3</p> <p>31 [1] - 3:4 384-2770 [1] - 1:25 384-2779 [1] - 1:25</p> | <p>4</p> <p>4 [1] - 3:4</p> | <p>6</p> <p>6 [1] - 1:24 601-8677 [1] - 2:8 609 [2] - 2:8, 2:14</p> | <p>5</p> |

| | | | | | | | | | | | | |
|---|--|---|--|--|--------------|--|--------------|---|--------------|---|--------------|---|
| <div>DIVISION [2] - 1:1, 2:12</div> <div>DO [1] - 39:10</div> <div>DOCKET [1] - 1:2</div> <div>doctor [6] - 8:20, 8:21, 8:22, 9:3, 9:5, 27:1</div> <div>doctor's [1] - 8:25</div> <div>DOE [2] - 1:9</div> <div>done [4] - 9:14, 35:3, 35:24, 37:1</div> <div>dot [1] - 14:20</div> <div>down [11] - 5:1, 10:22, 12:3, 13:7, 13:19, 25:21, 27:16, 27:18, 29:2, 37:6, 37:8</div> <div>Dr [14] - 24:19, 24:21, 25:14, 27:2, 31:13, 31:20, 31:24, 32:6, 37:6, 37:9, 37:12, 37:20, 37:24, 38:3</div> <div>dream [1] - 6:8</div> <div>duly [2] - 4:9, 39:7</div> <div>during [1] - 31:12</div> | <div>far [6] - 18:20, 29:23, 30:1, 30:20, 37:19</div> <div>Fax [1] - 1:25</div> <div>feet [1] - 21:10</div> <div>fell [17] - 22:7, 22:17, 22:18, 22:21, 23:5, 23:9, 25:19, 26:10, 27:20, 28:2, 28:7, 28:9, 29:1, 29:5, 29:19, 29:21, 32:3</div> <div>fellow [2] - 30:6, 30:9</div> <div>felt [2] - 23:13, 25:2</div> <div>field [1] - 18:23</div> <div>fifth [2] - 33:19, 34:9</div> <div>financially [1] - 39:14</div> <div>fine [2] - 5:25, 6:5</div> <div>finish [1] - 33:1</div> <div>Fire [2] - 1:17, 2:3</div> <div>FIRM [1] - 2:2</div> <div>Firm [1] - 1:17</div> <div>first [18] - 4:9, 4:16, 9:10, 9:17, 10:19, 10:23, 11:24, 12:18, 13:16, 14:21, 15:20, 21:8, 31:20, 32:1, 32:5, 36:13, 36:15, 36:22</div> <div>five [3] - 18:23, 19:1, 37:22</div> <div>follow [1] - 38:7</div> <div>follow-up [1] - 38:7</div> <div>follows [1] - 4:9</div> <div>football [1] - 18:23</div> <div>FOR [1] - 1:23</div> <div>four [3] - 6:14, 7:24, 8:15</div> <div>fourth [6] - 33:20, 33:21, 33:23, 34:8, 34:19, 35:11</div> <div>friend [4] - 11:4, 11:5, 11:7, 16:25</div> <div>friends [10] - 10:4, 12:12, 13:18, 15:16, 16:9, 16:12, 16:21, 16:24, 34:1, 34:13</div> <div>front [3] - 20:17, 20:19, 20:22</div> <div>FURTHER [1] - 39:10</div> | <div>33:1, 33:8, 33:10, 33:11, 33:18, 33:20, 33:21, 33:23, 34:8, 34:9, 34:19, 35:5, 35:8, 35:11, 36:13, 36:15, 36:22</div> <div>ground [2] - 27:16, 27:17</div> <div>group [2] - 19:7, 27:13</div> <div>grown [1] - 20:9</div> <div>grown-ups [1] - 20:9</div> <div>growseup [1] - 11:9</div> <div>guess [2] - 5:23, 6:7</div> <div>guessing [1] - 10:21</div> <div>guidelines [1] - 4:13</div> <div>guy [1] - 26:3</div> <div>guys [1] - 26:5</div> <div>gymnastics [5] - 34:25, 35:6, 35:16, 35:17, 35:25</div> | <div>husband [1] - 11:13</div> | <div>lawyer [1] - 7:4</div> <div>lawyers [2] - 7:6, 14:5</div> <div>laying [1] - 30:16</div> <div>left [1] - 26:24</div> <div>length [1] - 30:20</div> <div>License [2] - 1:16, 39:21</div> <div>line [1] - 27:21</div> <div>Linwood [1] - 2:7</div> <div>listen [1] - 37:10</div> <div>live [1] - 24:24</div> <div>LLC [1] - 1:23</div> <div>located [1] - 9:5</div> <div>look [3] - 14:11, 18:9, 27:18</div> <div>looked [2] - 13:9, 14:19</div> <div>looking [17] - 7:14, 13:7, 19:13, 26:4, 26:5, 27:16, 27:22, 27:25, 28:1, 28:2, 28:4, 28:10, 28:16, 28:21, 29:2</div> <div>lower [1] - 23:7</div> <div>lunch [3] - 10:18, 10:19, 10:20</div> <div>LYNN [2] - 1:15, 39:4</div> | | | | | | | | |
| <div>E</div> | <div>easy [1] - 35:18</div> <div>Egg [2] - 1:18, 2:3</div> <div>eight [2] - 32:14, 32:20</div> <div>either [2] - 10:21, 32:19</div> <div>employee [2] - 39:11, 39:13</div> <div>end [1] - 36:2</div> <div>ended [2] - 21:18, 25:13</div> <div>ESQUIRE [2] - 2:4, 2:8</div> <div>ESTATE [1] - 1:4</div> <div>event [3] - 6:11, 31:18, 32:22</div> <div>Examination [2] - 3:4, 3:5</div> <div>examination [1] - 39:6</div> <div>EXAMINATION [3] - 4:10, 29:15, 31:11</div> <div>EXECUTRIX [1] - 1:4</div> <div>Exhibit [2] - 3:16, 13:3</div> <div>experience [1] - 32:9</div> <div>experienced [1] - 32:2</div> <div>eyes [2] - 21:16, 28:12</div> | <div>G</div> | <div>hand [1] - 5:12</div> <div>hang [1] - 23:18</div> <div>Harbor [2] - 1:18, 2:3</div> <div>hard [2] - 8:14, 35:17</div> <div>head [2] - 4:21, 5:3</div> <div>hear [2] - 6:24, 29:6</div> <div>heard [2] - 6:20, 6:21</div> <div>hearing [1] - 30:24</div> <div>held [1] - 24:5</div> <div>help [3] - 13:12, 13:23, 37:12</div> <div>helped [2] - 37:13, 37:14</div> <div>helpful [1] - 5:21</div> <div>helps [3] - 12:11, 13:18, 13:23</div> <div>HER [1] - 1:5</div> <div>hereby [1] - 39:5</div> <div>hi [1] - 4:11</div> <div>higher [1] - 22:25</div> <div>hole [1] - 23:6</div> <div>Horsham [1] - 24:23</div> <div>hospital [1] - 26:20</div> <div>house [1] - 9:25</div> <div>houses [8] - 19:13, 19:17, 19:19, 19:22, 19:24, 20:25, 28:6, 28:21</div> <div>Hughes [1] - 2:12</div> <div>hum [11] - 4:24, 5:7, 6:4, 7:1, 8:5, 11:14, 19:15, 19:23, 21:11, 28:7, 35:8</div> <div>HUNKINS [3] - 2:14, 29:11, 38:9</div> <div>hurt [1] - 26:10</div> <div>HUSBAND [1] - 1:5</div> | <div>JAMES [1] - 2:6</div> <div>Jeff [1] - 17:11</div> <div>JERSEY [4] - 1:1, 1:9, 1:24, 2:11</div> <div>Jersey [7] - 1:16, 1:18, 2:3, 2:7, 2:13, 2:15, 39:5</div> <div>Jet [4] - 26:3, 26:5, 30:6, 30:9</div> <div>Jett [2] - 17:10, 17:14</div> <div>jett [2] - 17:12, 17:13</div> <div>job [1] - 14:6</div> <div>JOHN [1] - 1:9</div> <div>July [7] - 7:25, 8:2, 8:14, 10:5, 31:18, 32:10, 36:12</div> <div>Justice [1] - 2:12</div> | <div>J</div> | <div>keep [1] - 4:16</div> <div>kids [1] - 19:18</div> <div>kind [6] - 8:22, 9:2, 16:13, 26:15, 27:1, 35:17</div> <div>knees [1] - 22:23</div> <div>Kole [3] - 17:4, 17:14</div> | <div>K</div> | <div>lady [1] - 4:25</div> <div>landmark [1] - 19:4</div> <div>last [3] - 25:16, 30:14, 30:23</div> <div>LATE [1] - 1:5</div> <div>LAW [4] - 1:1, 2:2, 2:11, 2:12</div> <div>Law [1] - 1:17</div> | <div>L</div> | <div>March [3] - 1:19, 4:1, 13:5</div> <div>mark [3] - 12:18, 13:20, 14:14</div> <div>marked [1] - 13:2</div> <div>Market [1] - 2:13</div> <div>MARY [1] - 1:9</div> <div>MAY [1] - 1:1</div> <div>mean [1] - 19:9</div> <div>means [4] - 5:6, 5:14, 6:14, 18:5</div> <div>meets [2] - 20:3, 20:6</div> <div>memories [1] - 32:6</div> <div>memory [2] - 5:22, 28:8</div> <div>MICHAEL [1] - 2:8</div> <div>might [11] - 7:3, 8:14, 8:17, 13:12, 16:5, 18:21, 18:22, 18:23, 29:9, 36:6, 36:19</div> <div>Mike [1] - 4:11</div> <div>mind [1] - 4:16</div> <div>minute [7] - 7:5, 7:17, 14:2, 14:11, 18:5, 27:5, 31:4</div> <div>minutes [3] - 18:24, 19:1, 37:22</div> <div>mom [7] - 7:3, 11:2, 11:4, 11:15, 14:1, 24:2, 29:16</div> | | |
| <div>F</div> | <div>GELFAND [1] - 2:6</div> <div>generally [2] - 13:11, 28:19</div> <div>GEORGE [1] - 1:5</div> <div>given [1] - 5:10</div> <div>God [1] - 7:15</div> <div>grabbed [1] - 24:4</div> <div>grade [22] - 32:17, 32:19, 32:23, 32:25,</div> | <div>G</div> | <div>H</div> | <div>husband [1] - 11:13</div> | <div>I</div> | <div>ID [1] - 3:10</div> <div>idea [2] - 13:12, 17:23</div> <div>identification [1] - 13:3</div> <div>important [1] - 5:14</div> <div>INDIVIDUALLY [1] - 1:4</div> <div>information [1] - 6:18</div> <div>injury [1] - 26:15</div> <div>inland [1] - 19:8</div> <div>instance [2] - 4:19, 18:22</div> <div>intentionally [1] - 5:18</div> <div>interested [1] - 39:14</div> <div>interpreted [1] - 5:3</div> | <div>I</div> | <div>keep [1] - 4:16</div> <div>kids [1] - 19:18</div> <div>kind [6] - 8:22, 9:2, 16:13, 26:15, 27:1, 35:17</div> <div>knees [1] - 22:23</div> <div>Kole [3] - 17:4, 17:14</div> | <div>K</div> | <div>lady [1] - 4:25</div> <div>landmark [1] - 19:4</div> <div>last [3] - 25:16, 30:14, 30:23</div> <div>LATE [1] - 1:5</div> <div>LAW [4] - 1:1, 2:2, 2:11, 2:12</div> <div>Law [1] - 1:17</div> | <div>L</div> | <div>March [3] - 1:19, 4:1, 13:5</div> <div>mark [3] - 12:18, 13:20, 14:14</div> <div>marked [1] - 13:2</div> <div>Market [1] - 2:13</div> <div>MARY [1] - 1:9</div> <div>MAY [1] - 1:1</div> <div>mean [1] - 19:9</div> <div>means [4] - 5:6, 5:14, 6:14, 18:5</div> <div>meets [2] - 20:3, 20:6</div> <div>memories [1] - 32:6</div> <div>memory [2] - 5:22, 28:8</div> <div>MICHAEL [1] - 2:8</div> <div>might [11] - 7:3, 8:14, 8:17, 13:12, 16:5, 18:21, 18:22, 18:23, 29:9, 36:6, 36:19</div> <div>Mike [1] - 4:11</div> <div>mind [1] - 4:16</div> <div>minute [7] - 7:5, 7:17, 14:2, 14:11, 18:5, 27:5, 31:4</div> <div>minutes [3] - 18:24, 19:1, 37:22</div> <div>mom [7] - 7:3, 11:2, 11:4, 11:15, 14:1, 24:2, 29:16</div> |

| | | | | |
|---|--|--|---|--|
| mom's [1] - 11:7 moment [1] - 5:12 month [2] - 7:25, 10:6 morning [2] - 10:15, 10:17 mostly [2] - 28:4, 28:5 mouth [1] - 26:14 move [1] - 6:25 moved [1] - 33:21 MR [22] - 4:10, 12:24, 13:1, 14:14, 14:16, 14:17, 21:23, 22:5, 27:4, 27:11, 29:8, 29:11, 29:12, 29:15, 31:2, 31:3, 31:5, 31:11, 38:6, 38:7, 38:9, 38:11 must [1] - 5:15 | 19:14, 21:3, 21:19, 22:22, 25:13, 28:5, 28:11, 28:22 OF [9] - 1:1, 1:4, 1:5, 1:8, 1:9, 1:6, 2:11, 2:11, 2:12 old [2] - 8:7, 8:18 older [1] - 17:9 once [4] - 9:3, 15:8, 15:9, 15:12 one [9] - 4:16, 5:3, 7:13, 14:1, 15:13, 19:12, 19:14, 26:7, 28:8 | present [1] - 2:17 pretend [1] - 13:9 pretty [5] - 29:25, 34:21, 35:18, 37:21 problems [1] - 33:21 proceeding [1] - 4:14 PUBLIC [1] - 2:11 put [8] - 7:9, 12:3, 12:18, 13:17, 13:19, 13:22, 14:20, 14:24 | represents [1] - 7:2 Road [3] - 1:17, 2:3, 2:7 room [2] - 30:18, 30:21 | 30:7, 30:9 Smith [3] - 2:17, 4:3, 17:4 SMITH [9] - 1:3, 1:5, 1:6, 1:15, 3:3, 12:21, 12:25, 39:4, 39:6 someone [1] - 29:9 sometimes [5] - 5:20, 7:3, 14:6, 28:5, 35:22 somewhere [1] - 21:18 sorry [1] - 26:18 sound [1] - 31:22 south [1] - 18:11 speaks [1] - 7:13 spending [1] - 9:18 spoken [2] - 5:6, 32:1 sports [1] - 34:24 start [1] - 18:14 started [3] - 4:13, 27:25, 35:25 STATE [2] - 1:9, 2:11 State [3] - 1:16, 2:15, 39:5 stayed [3] - 9:20, 9:21, 9:22 staying [1] - 9:11 stepped [1] - 23:6 still [5] - 18:15, 21:8, 24:7, 32:13, 37:3 stomach [1] - 16:17 stop [1] - 7:5 stopped [2] - 25:16, 37:16 straight [1] - 7:17 STREET [1] - 1:24 street [1] - 9:25 Street [1] - 2:13 strike [1] - 18:4 student [1] - 34:21 stuff [1] - 36:17 subjects [1] - 33:24 Suite [2] - 1:18, 2:3 SUITE [1] - 1:24 summer [10] - 9:10, 9:12, 9:15, 9:17, 9:18, 9:21, 10:3, 13:11, 15:20, 32:10 summers [1] - 9:14 Sunderland [8] - 11:8, 16:25, 17:1, 17:10, 17:12, 17:25, 18:2 SUPERIOR [1] - 1:1 surfing [1] - 16:18 swallowed [2] - 25:21, 26:14 swear [1] - 4:6 sworn [2] - 4:9, 39:7 |
| N | P | Q | S | |
| name [5] - 8:25, 24:19, 30:3, 30:5 near [7] - 12:9, 19:21, 22:8, 23:10, 27:14, 28:6, 36:1 need [6] - 4:18, 4:19, 7:20, 7:21, 14:12, 21:20 never [2] - 6:19, 6:20 NEW [4] - 1:1, 1:9, 1:24, 2:11 New [8] - 1:16, 1:18, 2:3, 2:7, 2:7, 2:13, 2:15, 39:5 next [2] - 20:13, 20:24 nice [2] - 34:23, 37:5 NO [1] - 1:2 North [1] - 2:9 NORTH [2] - 1:8, 1:24 north [7] - 18:10, 18:12, 18:13, 18:16, 19:3, 19:7, 27:13 noted [1] - 4:4 nothing [2] - 31:2, 39:8 noticed [1] - 19:3 nowhere [1] - 25:12 number [1] - 18:24 NUMBER [1] - 3:10 | PAGE [1] - 3:2 paper [1] - 31:13 parents [1] - 10:2 part [3] - 19:16, 20:9, 20:10 particular [3] - 15:19, 16:1, 26:7 parties [1] - 39:12 PARTNERSHIPS [1] - 1:10 PAUL [1] - 2:4 pediatrician [1] - 8:21 Pennsylvania [1] - 24:24 people [3] - 5:3, 5:20, 24:14 perfectly [3] - 5:25, 6:5, 6:6 person [1] - 32:5 Ph [1] - 1:25 Photograph [2] - 3:11, 13:2 photograph [1] - 19:13 pick [1] - 13:22 picked [1] - 30:10 picking [1] - 30:7 picture [9] - 12:10, 12:11, 13:5, 13:8, 14:12, 14:19, 18:9, 18:10, 18:11 place [5] - 4:14, 11:25, 12:3, 14:20, 18:13 Plaintiff [1] - 1:6 Plaintiffs [1] - 2:4 play [5] - 17:7, 33:5, 33:16, 34:3, 34:24 playing [4] - 16:9, 17:9, 17:14, 17:17 point [4] - 15:5, 23:21, 27:18, 30:10 pointing [1] - 20:2 pool [2] - 12:6, 23:14 | questions [13] - 4:12, 4:15, 5:20, 6:17, 9:10, 14:6, 29:9, 29:11, 29:13, 29:17, 31:14, 38:8, 38:9 | Sandra [1] - 2:17 SANDRA [2] - 12:21, 12:25 SANDY [1] - 1:3 satellite [2] - 13:6, 13:7 saw [7] - 6:20, 6:21, 25:20, 30:14, 31:21, 32:1, 32:2 scary [2] - 35:21, 35:23 school [17] - 32:11, 32:14, 32:22, 33:3, 33:11, 33:14, 33:24, 34:11, 34:15, 34:17, 36:17, 36:18, 36:22, 37:1, 37:23, 37:25 Scott [5] - 17:25, 18:3, 19:20, 20:21, 24:3 search [1] - 5:21 second [9] - 32:18, 32:20, 32:24, 32:25, 33:1, 33:8, 34:18, 35:5 see [14] - 6:23, 6:24, 8:20, 8:21, 21:17, 25:15, 27:1, 28:13, 30:12, 30:17, 37:16, 37:19, 37:24, 38:3 seeing [2] - 28:3, 29:20 September [1] - 8:12 set [3] - 12:2, 12:12, 14:21 seven [4] - 8:8, 8:9, 8:18, 32:13 shake [1] - 4:21 shore [4] - 9:11, 9:21, 10:3, 19:8 show [1] - 12:10 shy [1] - 14:8 sick [1] - 25:23 side [5] - 19:19, 20:25, 21:2, 22:23, 36:6 sister [1] - 17:2 sitting [1] - 5:1 Ski [4] - 26:3, 26:5, | |
| O | | R | | |
| oath [1] - 5:10 objected [1] - 7:15 objection [4] - 7:4, 7:5, 7:9, 7:14 objective [1] - 6:10 occurred [1] - 6:12 ocean [9] - 19:11, | | R.J [1] - 2:12 raised [1] - 5:11 really [6] - 6:9, 6:19, 6:20, 10:16, 12:8, 38:4 reason [4] - 4:25, 7:20, 29:2, 38:3 received [1] - 13:2 recently [1] - 25:15 recess [6] - 22:2, 27:8, 31:8, 33:5, 33:16, 34:3 record [9] - 4:3, 21:24, 22:1, 22:4, 27:7, 27:10, 31:6, 31:10, 38:13 red [1] - 15:2 regular [1] - 36:17 relative [2] - 39:10, 39:13 remember [35] - 5:12, 6:6, 6:15, 10:1, 10:22, 10:24, 11:6, 12:2, 13:18, 16:8, 18:8, 19:4, 19:5, 21:15, 23:3, 23:8, 24:22, 25:1, 25:7, 25:8, 25:10, 26:2, 26:17, 26:19, 28:9, 28:18, 28:19, 29:20, 30:4, 30:6, 30:24, 31:17, 31:18, 37:5 Reporter [3] - 1:16, 39:4, 39:20 reporter [2] - 4:6, 12:18 REPORTERS [1] - 1:23 REPORTING [1] - 1:23 | | |

| | | |
|--|---|---|
| <p>T</p> <p>TAKEN [1] - 1:15 tall [2] - 8:14, 36:6 ten [2] - 18:23, 19:1 terms [1] - 18:21 test [1] - 28:8 testified [1] - 4:9 testify [1] - 39:7 TESTIMONY [1] - 1:6 THE [4] - 1:4, 8:23, 29:10, 29:14 third [5] - 32:19, 33:10, 33:11, 34:18, 35:8 three [2] - 35:13, 36:4 tinier [1] - 16:13 today [11] - 4:1, 4:12, 4:20, 5:11, 5:15, 5:24, 6:10, 8:1, 24:13, 24:14, 38:11 today's [1] - 12:19 together [4] - 11:24, 17:15, 17:18, 23:22 Tom [1] - 2:18 took [1] - 13:8 top [1] - 18:9 towards [2] - 18:9, 22:22 towels [2] - 12:4, 13:19 Township [2] - 1:18, 2:3 transcript [1] - 4:5 Trenton [1] - 2:13 trip [1] - 15:19 true [4] - 5:19, 32:3, 32:7, 36:8 truth [4] - 5:16, 39:7, 39:8 try [2] - 5:21, 9:9 trying [1] - 13:23 Tuesday [1] - 1:19 turn [1] - 18:14 turning [1] - 32:19 two [5] - 5:4, 20:1, 26:5, 31:21, 32:7 type [1] - 12:4</p> | <p>up [15] - 6:13, 6:22, 12:2, 12:12, 14:21, 17:23, 21:18, 22:23, 25:13, 30:7, 30:10, 31:25, 33:21, 38:7 ups [1] - 20:9</p> <p>V</p> <p>verbal [1] - 5:5 verbally [1] - 4:18 Videographer [1] - 2:18 VIDEOGRAPHER [8] - 4:1, 21:25, 22:3, 27:6, 27:9, 31:6, 31:9, 38:12 VIDEOGRAPHERS [1] - 1:23 videotaped [2] - 4:2, 38:13 visit [2] - 15:22, 15:25 vs [1] - 1:7</p> | <p>Wildwood [1] - 2:9 Witness [5] - 15:1, 15:3, 15:14, 20:23, 27:15 WITNESS [4] - 3:2, 8:23, 29:10, 29:14 witness [1] - 4:7 WOODBURY [1] - 1:24 word [1] - 7:5 WORD [2] - 1:23 words [1] - 30:23 worry [1] - 38:4 worrying [1] - 37:14 write [2] - 37:6, 37:8 writing [1] - 5:1 written [2] - 25:21, 31:13</p> |
| <p>U</p> <p>uht [2] - 9:7 uht-uht [1] - 9:7 um-hum [11] - 4:24, 5:7, 6:4, 7:1, 8:5, 11:14, 19:15, 19:23, 21:11, 28:7, 35:8 understandable [1] - 6:16 understood [1] - 14:3</p> | <p>W</p> <p>wait [4] - 7:16, 18:5, 32:20 walk [9] - 15:5, 15:10, 16:4, 16:22, 17:24, 18:1, 18:4, 18:7, 18:13 walked [2] - 19:3, 22:22 walking [12] - 16:6, 18:15, 19:7, 20:5, 21:5, 21:10, 22:8, 22:12, 27:12, 28:14, 28:15, 28:20 water [39] - 12:7, 16:14, 17:7, 19:20, 19:21, 20:3, 20:6, 20:10, 21:6, 21:12, 22:7, 22:12, 22:17, 22:18, 22:21, 23:5, 23:9, 23:13, 23:14, 24:1, 24:4, 25:20, 25:21, 26:1, 26:2, 26:8, 26:11, 26:14, 26:15, 27:21, 27:23, 28:2, 28:8, 28:9, 29:1, 29:5, 29:19, 29:21, 32:3 ways [1] - 5:4 week [1] - 10:8 weighed [1] - 8:18 whatsoever [1] - 7:21 whole [3] - 10:6, 28:12, 39:7 WILDWOOD [1] - 1:8</p> | <p>X</p> <p>XIO1520 [2] - 1:17, 39:21 XYZ [1] - 1:10</p> <p>Y</p> <p>Y.M.C.A [1] - 36:20 year [6] - 6:12, 7:25, 9:3, 25:16, 32:11, 35:3 years [9] - 6:14, 7:24, 8:15, 8:18, 31:21, 32:7, 34:18, 36:3, 36:4</p> <p>Z</p> <p>Zanaras [1] - 2:18</p> |

Dispatcher Comments

N. Wildwood/000839



North Wildwood Police Department
901 Atlantic Avenue, North Wildwood, NJ 08260
Phone: 609-522-2411 Fax: 609-522-0412 Mun. Code: 0507
Dispatcher Comments



Dispatcher Comments:

OV Call:

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NJSP MARINE DIVISION AND COAST GUARD NOTIFIED NOTIFIED OF RECOVERY

PROS OFFICE ON SCENE. PRONOUNCEMENT 0225 HOURS

ME IS ON SCENE

CANCELLED NCIC & UPDATED TRAK

213 WILL HAVE THE OR. ALL CLEAR FROM LOCATION



North Wildwood Police Department
901 Atlantic Avenue, North Wildwood, NJ 08260
Phone: 609-522-2411 Fax: 609-522-0412 Mun. Code: 0507
Incident Report

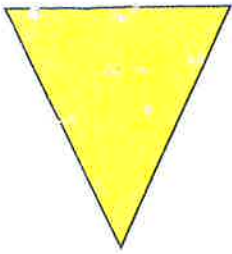


Narrative: Officer: Lobue, Joseph

****Operations Report****

On July 30, 2012 Ofc. Kramer and I were assigned to night beach patrol in marked patrol unit 213. During our patrol in the area of 21st and the beach, while traveling along the waters edge we observed a body floating in the water he was approximately eight feet out. At that point I contacted Sgt. Carannante who advised me to pull the body out of the shallow water, in an effort to keep him from floating back out. Both Ofc. Kramer and I each pulled the body out by grabbing both ankles.

Shortly thereafter Lt. Tolan and Sgt. McGraw arrived on scene and stood by with the body while Ofc. Kramer and I resumed our normal patrol of the beach. We were later called back to the scene to transport the body from the beach to the street side. At this time the body was turned over to the Cape May County Medical Examiner.



A & K Investigations of New Jersey

Charles Atkinson
609-636-0213

NJ State Private Investigators
License 8890

Robert Kirvay
609-412-6190

| | | |
|----------------|----------|--|
| To | : | Paul D'Amato, Esq. |
| | | D'Amato Law Firm, Egg Harbor Twp., NJ |
| Subject | : | Smith v. North Wildwood File #3100 |
| Re | : | Interview- Daniel O'Connell |
| Date | : | January 8, 2015 |

On January 8, 2015, Investigator DiJoseph interviewed the following subject in reference to the above listed investigation:

Daniel O'Connell
50 Country Squire Lane
Marlton NJ
856-462-4268-cell
01/15/1991

Daniel O'Connell was identified along with Kevin O'Connell and Thomas Meenan as witnesses in the City of North Wildwood Police Department Smith drowning investigation report. Dan O'Connell owns a jet ski and has skied the Hereford Inlet in North Wildwood NJ for the past five summers. O'Connell was operating his jet ski on July 27, 2012 in the area of the Hereford Inlet. O'Connell's cousin Kevin O'Connell was also operating a jet ski on that date. Daniel O'Connell was carrying a passenger named Thomas Meenan with him, while Kevin was carrying a passenger named John O'Connell. The four men were riding the skis near the breakers on a sand bar referred to by North Wildwood locals as "Champagne Island". Champagne Island is a large sandbar that appears in the center of Hereford Inlet at low tide and remains visible until mid high tide. It has been a popular destination for boaters to pull up on and congregate.

While riding his ski, Daniel noticed two other jet skis in the Ocean east of Champagne Island. Daniel observed two unidentified individuals on the skis waving to O'Connell frantically indicating they were in distress. Daniel and Kevin O'Connell navigated to and arrived at the two jet skier's location and noticed that one skier had flipped his jet ski over and could not get

back on his ski. Daniel does not know the two skiers names but believed they were both from Philadelphia Pa. Daniel and Kevin left the two skiers after they were both safe and told them they were going to get help. Daniel believed the two jet ski's were broken down.

Daniel O'Connell and Kevin O'Connell returned inland and dropped off their passengers to a nearby pontoon boat. The unidentified individuals on the pontoon boat called the New Jersey State Police for assistance related to the two distressed jet skiers.

Daniel and Kevin began to navigate back out to the two distressed jet skiers, when they heard screaming and yelling coming from Hereford Beach. Daniel described this location as where the Hereford Inlet beach comes out to a point south of the rock wall. Daniel began operating his ski in the direction of a white male he observed on the beach pointing and yelling at O'Connell. O'Connell first thought the male, later identified as Scott Sunderland, was yelling at him for operating his ski too close to the beach, but then realized Sunderland was pointing to something in the water.

Daniel and Kevin went to the area where Sunderland was pointing to and observed red hair in the water. As Daniel got closer, he observed a young female in the water. Daniel pulled his ski up to the girl, took off his life vest, tossed it to her, and pulled her to safety on his ski. The young girl told O'Connell that her dad was with her. Both O'Connell's drove around in a wide circular motion looking for the young girl's father but did not observe anyone. O'Connell then took the young girl to Sunderland on the beach and observed Emergency Medical Services personnel on the beach.

Sunderland told O'Connell that the girl's father, Brad Smith, was still in the water and was missing. O'Connell went back out to the area where he found the young girl and could not locate anyone else in the water. Daniel and Kevin briefly returned to the beach where EMS personnel were staged. Daniel and Kevin left the beach after a few minutes and went back to the pontoon boat to pick up Meenan and John O'Connell. While on the beach with Sunderland, O'Connell gave a brief verbal statement to an unknown Police Officer.

Meenan and John O'Connell were too far away to observe any of the rescue efforts. Daniel knows from frequenting North Wildwood and being

on the Inlet Beach in the summer that the area of the beach where Smith drowned was dangerous. Daniel said the Ocean and the inlet were very rough the day Smith drowned. Daniel believes the area of Inlet beach where Smith drowned very is dangerous.

Charles Atkinson

Lou DiJoseph

Robert Kirvay

A & K Investigations of New Jersey

1 SUPERIOR COURT OF NEW JERSEY
2 LAW DIVISION - CAPE MAY COUNTY
3 DOCKET NO. CPM-L-331-14

4 SANDY SMITH,
5 INDIVIDUALLY AND AS
6 EXECUTRIX OF THE ESTATE
7 OF HER LATE HUSBAND
8 GEORGE BRADLEY SMITH,

9 Plaintiff,

10 vs.

11 CITY OF NORTH WILDWOOD,
12 STATE OF NEW JERSEY,
13 JOHN DOE, MARY DOE, ABC
14 PARTNERSHIPS and XYZ
15 CORPORATIONS,

16 Defendants.

17 TAKEN BEFORE: LYNN SMITH, a Certified Court
18 Reporter of the State of New Jersey, License No.
19 X101520, at the North Wildwood Community Center, 900
20 Central Avenue, North Wildwood, New Jersey 08260, on
21 Tuesday, February 9, 2016, commencing at 1:10 p.m.

22 WORD FOR WORD REPORTING, LLC
23 CERTIFIED COURT REPORTERS & VIDEOGRAPHERS
24 6 NORTH BROAD STREET, SUITE 202
25 WOODBURY, NEW JERSEY 08096
Ph. (856) 384-2770 Fax. (856) 384-2779

WORD FOR WORD REPORTING, LLC

CIVIL ACTION
DEPOSITION
TESTIMONY OF:
JOSEPH ANTHONY
CAVALIER

I N D E X

W I T N E S S

P A G E

JOSEPH ANTHONY CAVALIER

Examination By Mr. D'Amato 6, 139
Examination By Mr. Grassi 108
Examination By Mr. Hunkins 132

E X H I B I T S

| <u>N U M B E R</u> | <u>D E S C R I P T I O N</u> | <u>I D .</u> |
|--------------------|------------------------------|--------------|
| 1 | Report | 10 |
| 2 | Report | 10 |
| 3 | Photograph | 10 |
| 4 | Aerial Photographs | 17 |
| 5 | BassBarn Website Printout | 48 |
| 6 | Photograph | 49 |
| 7 | Aerial Photograph | 50 |
| 8 | Photograph | 51 |
| 9 | Photograph | 58 |
| 10 | Photograph | 61 |
| 11 | Photograph | 62 |
| 12 | Photograph | 64 |
| 13 | Photographs | 64 |
| 14 - 17 | Photographs | 66 |

WORD FOR WORD REPORTING, LLC

A P P E A R A N C E S

D'AMATO LAW FIRM
2900 Fire Road, Suite 200
Egg Harbor Township, New Jersey 08234
BY: PAUL R. D'AMATO, ESQUIRE
-and-
DOMINIC A. SPEZIALI, ESQUIRE
For the Plaintiffs

BARRY, CORRADO & GRASSI, P.C.
2700 Pacific Avenue
Wildwood, New Jersey 08260
609-729-1333
BY: JOSEPH C. GRASSI, ESQUIRE
For the Plaintiffs

BARKER, GELFAND & JAMES
210 New Road
Linwood, New Jersey 08221
(609) 601-8677
BY: A. MICHAEL BARKER, ESQUIRE
-and-
WILL ROZELL, ESQUIRE
For the Defendant, North Wildwood

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF LAW
R.J. Hughes Justice Complex
25 Market Street
Trenton, New Jersey 08625
(609) 777-4872
BY: BRIAN HUNKINS, DAG
For the State of New Jersey
(Via telephone)

Also present: Lou DiJoseph
Patrick Rosenello

Videographer: Robert Wynn

WORD FOR WORD REPORTING, LLC

E X H I B I T S

| <u>N U M B E R</u> | <u>D E S C R I P T I O N</u> | <u>I D .</u> |
|--------------------|--|--------------|
| 18 | Photograph | 67 |
| 19 | Photograph | 69 |
| 20 | Photograph | 71 |
| 21 | Photograph | 73 |
| 22 | Photograph | 74 |
| 23 | Photograph | 76 |
| 24 | Photograph | 76 |
| 25 | Photograph | 77 |
| 26 | Photograph | 77 |
| 27 | Photograph | 78 |
| 28 | (Not used) | |
| 29 | Photograph | 82 |
| 30 | Photograph | 84 |
| 31 | Photograph | 85 |
| 32 | North Wildwood Beach Patrol 93 Daily Report | |
| 33 | NWBP Daily Report | 94 |
| 34 | NWBP Daily Report | 94 |
| 35 | NWBP Daily Report | 95 |
| 36 | NWBP Daily Report | 95 |
| 37 | NWBP Daily Report | 96 |
| 38 | NWBP Daily Report | 97 |
| 39 | NWBP Daily Report | 98 |
| 40 | NWBP Daily Report | 99 |

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EXHIBITS

| <u>NUMBER</u> | <u>DESCRIPTION</u> | <u>ID.</u> |
|---------------|--------------------|------------|
| 41 | NWBP Daily Report | 100 |
| 42 | NWBP Daily Report | 101 |
| 43 | NWBP Daily Report | 102 |
| 44 | NWBP Daily Report | 103 |
| 45 | NWBP Daily Report | 103 |
| 46 | Newspaper Article | 107 |

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6

VIDEOGRAPHER: Today is February 9th, 2016. This is the video deposition of Joseph Anthony Cavalier. We are going on the record at 1:10 p.m. Will counsel now please state their appearance for the record.

MR. D'AMATO: Paul D'Amato and Dominic Speziali for the plaintiffs.

MR. BARKER: Michael Barker for North Wildwood, defendants.

MR. ROZELL: William Rozell for North Wildwood, defendants.

MR. HUNKINS: Brian Hunkins representing State of New Jersey.

MR. GRASSI: Joseph Grassi for co-plaintiff.

VIDEOGRAPHER: Will the court reporter please swear in the witness.

JOSEPH A. CAVALIER, having been first duly sworn, testified as follows:

EXAMINATION

BY MR. D'AMATO:

Q. Sir, you are presently employed by the City of North Wildwood in what capacity?

A. Chief of the North Wildwood Beach Patrol.

Q. Okay. How long have you held that position?

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A. Thirty years.

Q. Okay. And before you became the chief of the North Wildwood Beach Patrol, did you hold any other rank within the beach patrol?

A. Yes.

Q. And what were those rank -- what was the rank or ranks?

A. Lieutenant, and then captain, and then chief.

Q. Okay. When did you start working for the North Wildwood Beach Patrol?

A. 1966.

Q. Okay. As I understand from Mr. Barker, this is the first time that you've ever had your deposition taken?

A. Yes.

Q. All right. I want to go over some basic recommendations, if you will, or rules, and I'm sure Mr. Barker has covered some or most of them with you.

The first thing is, if I ask a question which is unclear, and there's a good chance that I may ask a question that's unclear to you, just say to me, I can't answer the question, and with Mr. Barker's permission, I'll ask you why not, and you'll tell me, and then I'll rephrase the question with the hope that you can then answer it.

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8

All of your responses must be verbal or oral. Gestures of the hand and nods of the head cannot be taken down by the young lady to my left. She is preparing what we call a transcript. It's a booklet. It's going to have everything I say, everything you say, and everything all the other lawyers say in response to the questions that are going to be asked of you today.

If you don't know the answer to a question, I'm sure Mr. Barker would agree with me, simply say you don't know. It doesn't help any of the lawyers here, as we are trying to proceed through this litigation, for you to guess the answer to a particular question.

Frequently, in order to move this deposition along, you might say to the lawyer, including me, Paul, is this what you're asking me? And I'll probably say yes. But that's with Mr. Barker's permission that you can ask me the question. Because technically, I'm not here to answer any questions. But that's not practical.

So, with that in mind, do you need any time to speak to Mr. Barker before I begin my examination under oath of you?

A. Yes.

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1 Q. You need more time?

2 MR. BARKER: He's asking you do you
3 want to speak to me now?

4 A. Oh, I'm sorry. I thought you said did I
5 speak to him.

6 Q. Okay.

7 A. No, I don't need any more time.

8 Q. Okay. All right.

9 Also, given the fact this is your first
10 deposition, and naturally, I appreciate the fact that
11 it's not the most pleasant experience, if you need to
12 take a break, just tell us. You can take a break.
13 I really have prepared for your
14 deposition, so I hope I can move through the subject
15 matter quickly.

16 If you do want to take a break, if you
17 want to go outside, get some fresh air, and Mr.
18 Barker can go with you, but the two of you, as Mr.
19 Barker well knows, cannot talk about the subject
20 matter of the deposition. You can talk about
21 anything else, but not the subject matter. But he
22 knows that, and he'll tell you that.

23 So, let's get started.

24 In preparing for this deposition, I
25 have come across the following phrases, if you will.

WORD FOR WORD REPORTING, LLC

1 Inlet Beach, The Inlet, Moore's Beach, Moore's Inlet
2 Beach, The Point, and The Spit. So, I want to get an
3 understanding here today of what those words mean to
4 you, if anything. All right?

5 (Report is received and marked for
6 identification as Exhibit 1.)

7 (Report is received and marked for
8 identification as Exhibit 2.)

9 (Photograph is received and marked for
10 identification as Exhibit 3.)

11 Q. Now, I have had marked for identification, as
12 I said, I'm going to hand Mr. Barker every exhibit,
13 most of all the exhibits, and you. This is -- we
14 simply numbered them 1, 2, 3 with today's date.

15 (Report received and marked for
16 identification as Exhibit 1.)

17 Now, let me hand you Exhibit 1.

18 And for the benefit of my colleagues,
19 this is the front page of a report that was prepared
20 for the City of North Wildwood by the Stockton
21 University Coastal Research Center. And I would like
22 you to look at that particular photograph. And when
23 you look at that photograph, do you see what you call
24 The Inlet Beach?

25 A. Yes.

WORD FOR WORD REPORTING, LLC

1 Q. All right. Could you take this orange pen
2 and circle, as tightly as you can, what you call The
3 Inlet Beach.

4 A. (Witness complies.)

5 Q. Okay. May I see that?

6 Okay. Got it.

7 MR. D'AMATO: Mike, did you see that?

8 MR. BARKER: No.

9 MR. D'AMATO: Okay. Here.

10 Q. All right. Now, on that same piece of paper,
11 which is Exhibit 1, with this green pen, could you
12 circle or give us some indication of what The Inlet
13 means to you, when -- the phrase "The Inlet"?

14 A. The same thing.

15 Q. Okay. Just for my education, would The Inlet
16 refer to the body of water that moves from the bay to
17 the ocean, and vice-versa?

18 A. Yes.

19 Q. Okay. So, with that in mind -- well, no.
20 So, I think I understand what you're saying. You're
21 saying to me that, in using your words, you would
22 refer to the area that you marked in orange also as
23 The Inlet?

24 A. I guess you would refer to that as The Inlet.

25 Q. Okay. Let me see what you marked there.

WORD FOR WORD REPORTING, LLC

1 Let's see.

2 Okay. Here. All right.

3 So, okay, the green mark is The Inlet,
4 and thus it's a body of water?

5 A. Yes.

6 Q. Okay, fine. Now, if I said -- maybe -- okay.
7 I'm going to hand to you as Exhibit 2 another -- here
8 we go.

9 MR. BARKER: Thank you.

10 MR. D'AMATO: All right.

11 Q. Another report that was prepared for the city
12 of North Wildwood by the Richard Stockton Coastal
13 Research Center, and you'll see it's the 2012 annual
14 report. Let me hand that to you.

15 And could you mark on that particular
16 exhibit with this blue marker where Moore's Beach is.

17 A. (Witness complies.)

18 Q. May I see it?

19 MR. D'AMATO: Here, Mike. Okay? Will?
20 Okay.

21 Q. All right. Is Moore's Beach, in your mind,
22 the same as Moore's Inlet Beach?

23 A. Yes.

24 Q. Okay. Now, with the two exhibits that you
25 have in front of you, and don't mark it just yet, if

WORD FOR WORD REPORTING, LLC

1 I said to you could you mark on either of them, or
2 both, what is known as The Point, could you do that?

3 **A. Not on this.**

4 **Q.** Okay. This is what exhibit in the right
lower-hand corner?

6 MR. D'AMATO: If you looked right in
7 the lower right-hand corner on the one exhibit, Mike,
8 what is it?

9 MR. BARKER: I don't know what he was
10 referring to. But I just want to point out to the
11 witness, you see these labels here?

12 THE WITNESS: Um-hum.

13 MR. BARKER: This is saying Exhibit 1.
14 And this is saying Exhibit 2. So, when Mr. D'Amato
15 asks you about something, if you're referring to a
16 particular exhibit, let him know which numbered
17 exhibit it is that you're going to look at.

18 THE WITNESS: Okay.

19 MR. BARKER: And discuss with him.
20 Okay, sir? Thank you.

21 **Q.** Chief, I saw you point to Exhibit 2, and said
22 you could not, on that photograph, indicate what The
23 Point is. Correct?

24 **A. Yes.**

25 **Q.** Okay. Can you do it on Exhibit 1?

WORD FOR WORD REPORTING, LLC

1 **A. Yes.**

2 **Q.** All right. Can I just see that for a second?
3 Exhibit 1? Thank you.

4 Okay. What we're going to do, then --
5 let's see. We're going to use blue. Okay.

6 If you could circle or just note,
7 whatever way is best for you, with that blue marker
8 what The Point is.

9 **A. (Witness complies.)**

10 MR. D'AMATO: Here. Just put this
11 stuff over there.

12 **Q.** Could I see it?

13 Okay. You have circled on this Exhibit
14 1 in blue what represents to you to be The Point.
15 Correct?

16 **A. I don't call it The Point.**

17 **Q.** Okay. Who calls it The Point? Have you ever
18 heard that expression before; The Point?

19 **A. One of the lieutenants that worked on the**
20 **beach patrol called it The Point.**

21 **Q.** Who is that; Lindsay?

A. Lindsay.

23 **Q.** Okay. All right. Okay. Could I have those
24 back. Just bear with me.

25 Lieutenant Lindsay is no longer

WORD FOR WORD REPORTING, LLC

1 employed by the North Wildwood Beach Patrol.

2 Correct?

3 **A. Yes.**

4 **Q.** When did he stop working for North Wildwood?

5 **A. October of 2014.**

6 **Q.** Was he fired?

7 **A. He retired. We have a pension plan.**

8 **Q.** Okay. I have a photograph that I'm going to
9 mark for identification as Exhibit 3. And I'm going
10 to show it to Mr. Barker, and Will, and I'm going to
11 hand it to you.

12 On that particular photograph, do you
13 see Moore's Beach, also known as Moore's Inlet Beach?

14 **A. Yes.**

15 **Q.** All right. Could you circle the area that
16 you call Moore's Beach or Moore's Inlet Beach.

17 **A. (Witness complies.)**

18 **Q.** Okay. Here.

19 MR. D'AMATO: Here. You see?

20 MR. DIJOSEPH: Brian?

21 MR. HUNKINS: Okay, thanks.

22 BY MR. D'AMATO:

23 **Q.** The condominiums that you see in this Exhibit
24 3, is that the location where Moore's Bar and
25 Restaurant used to be?

WORD FOR WORD REPORTING, LLC

1 **A. Yes.**

2 **Q.** All right. And the parking lot that we see
3 adjacent to the condominiums in Exhibit 3, who owns
4 that parking lot?

5 **A. City of North Wildwood.**

6 **Q.** Okay. When was that parking lot built,
7 approximately? And that's something I should have
8 told you. You can always estimate, if you wish, you
9 know.

10 **A. You mean blacktopped?**

11 **Q.** Yes.

12 **A. Over 20 years ago.**

13 **Q.** Okay. And when were those condominiums built
14 that we see in Exhibit 3?

15 **A. How long ago?**

16 **Q.** Yeah.

17 **A. Seven, eight, nine years ago.**

18 **Q.** Okay. And before the parking lot was
19 blacktopped, was there a parking lot there?

20 **A. Yes. It was gravel.**

21 **Q.** Okay. And how long had that gravel parking
22 lot been there, given the number of years that you've
23 been working for North Wildwood?

24 **A. As long as I can remember.**

25 **Q.** Okay, fine. Okay.

WORD FOR WORD REPORTING, LLC

1 MR. D'AMATO: Where are the exhibits
2 that have been marked?
3 MR. DiJOSEPH: Right here.
4 MR. D'AMATO: Okay. All right. Just
5 hold on. Okay.
6 Q. Now, given the number of years that you have
7 been working for the beach patrol, I want to go over
8 some aerial photographs that we obtained from the
9 county, and they were actually exhibits at the
10 deposition of the county engineer. And I'm going to
11 mark them collectively as Exhibit 4, because at the
12 top of each photograph is a date.
13 (Photographs are received and marked
14 for identification as Exhibit 4.)
15 Q. Now, The Inlet area that we had previously
16 referred to, that inlet represents how the water from
17 the back bay comes out to the ocean and vice-versa.
18 Correct?
19 A. Yes.
20 Q. All right. Would you agree, in the number of
21 years that you've been working for North Wildwood,
22 that the configuration of The Inlet, as relative to
23 its location, has moved?
24 A. Yes.
25 Q. All right. With that in mind, let's look at
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1 Exhibit 4. All right. Now, you and I are old, but
2 we weren't around in 1920. Right? Okay? So, if you
3 don't mind, when were you born; what year?
4 A. '46.
5 Q. Okay. Well, Mr. Barker was, like, 1930. I'm
6 1947.
7 So, take a look at 1956. All right?
8 Now, what we've done here is, as best as we lawyers
9 could, we tried to show where the -- got that, in
10 1956? Yeah.
11 A. Yeah.
12 Q. We tried to show where this event with Mr.
13 Smith occurred. And as you look at this aerial
14 photograph for the year 1956, would you agree, at
15 that point in time, we don't see the condominiums
16 that we referenced in the prior photograph. Correct?
17 A. Yes.
18 Q. All right. Now, do you see Moore's Bar in
19 that aerial photograph?
20 A. No.
21 Q. Okay. Do you have any idea when Moore's Bar
22 was built?
23 A. I believe in the '40s.
24 Q. Okay. Let's go to the next page, which is an
25 aerial photograph for 1963. In this photograph, do
WORD FOR WORD REPORTING, LLC

1 we see Moore's Beach?
2 A. Yes.
3 Q. Okay. Could you circle it with the red
4 marker, please.
5 A. (Witness complies.)
6 Q. Okay. All right. Could you go to the next
7 exhibit, which is -- excuse me, it's not an exhibit.
8 It's the next aerial photograph. It's 1970. Do you
9 see Moore's Beach in that aerial photograph?
10 A. No.
11 Q. Okay. Do you see water where Moore's Beach
12 was shown in the 1963 photograph?
13 A. Yes.
14 Q. Okay. Can you circle the area where Moore's
15 Beach is, acknowledging that water is covering it.
16 A. (Witness complies.)
17 Q. Okay.
18 Mr. D'AMATO: Is that large enough?
19 Could we see that, Mike?
20 MR. BARKER: I can't see. What did you
21 do?
22 A. (Witness complies.)
23 Q. Okay. Right there. Okay. We can see it
24 now.
25 All right. Now, if you could look to
WORD FOR WORD REPORTING, LLC

1 the next page, which is 1995. Could you circle the
2 area where Moore's Beach was noted in the prior
3 aerial photo?
4 A. (Witness complies.)
5 Q. Okay. And could you go to the next aerial
6 photograph, which is the year 2000. And could you
7 again circle Moore's Beach.
8 A. (Witness complies.)
9 Q. Okay. Now, I just want to just stop for a
10 second here, and I want to digress a little bit, but
11 I'll go back to these aerials, photographs in a
12 moment.
13 In all the years that you've been
14 working for the North Wildwood Beach Patrol, was
15 there ever a lifeguard stand or a lifeguard in
16 attendance on Moore's Beach?
17 A. Yes.
18 Q. What period of time?
19 A. In the '70s.
20 Q. For approximately how many years?
21 A. Four or five.
22 Q. Okay. Was it a lifeguard stand, or just a
23 lifeguard?
24 A. I can't remember.
25 Q. Okay. Why was the posting of a lifeguard
WORD FOR WORD REPORTING, LLC

1 stand or a lifeguard at Moore's Beach discontinued?
 2 **A. Because we couldn't -- the beach had eroded,**
 3 **and we couldn't get to it.**

4 **Q.** Okay. Would you agree that since the early
 5 1970s, that there have been summers where there's
 6 been a beach where people sit on the beach and
 7 sunbathe?

8 **A. At Moore's?**

9 **Q.** Yes, yeah.

10 **A. Yes.**

11 **Q.** Okay. Was there ever consideration by you to
 12 re-establish having a lifeguard or a lifeguard stand
 13 with a lifeguard at Moore's Beach?

14 **A. No.**

15 **Q.** Why not?

16 **A. It was too inaccessible to get to, if there**
 17 **was a problem. We couldn't drive to it. We can**
 18 **drive to our -- our chairs, and we couldn't get to**
 19 **that.**

20 **Q.** Okay. On the day of Mr. Smith's initial
 21 disappearance, which was July 27, 2012, could
 22 vehicles drive from the protected beaches to where
 23 the sand had collapsed when he and Mr. Sunderland and
 24 their children were walking?

25 MR. BARKER: Objection.

WORD FOR WORD REPORTING, LLC

1 VIDEOGRAPHER: Off the record at 1:33.
 2 MR. D'AMATO: Go ahead.
 3 MR. BARKER: I'm objecting to the form
 4 of the question. And if you want me to be more
 5 specific, I could.

6 MR. D'AMATO: No, that's okay.

7 MR. BARKER: So --

8 MR. D'AMATO: That's good. I
 9 appreciate the way you just did that. You don't have
 10 to be more specific. I'm with you. Okay? Okay.

11 VIDEOGRAPHER: Please stand by.

12 Back on the record at 1:33.

13 BY MR. D'AMATO:

14 **Q.** Would you like the question read back, that I
 15 just asked?

16 **A. Yes.**

17 (Record read.)

18 **A. Yes.**

19 **Q.** Okay. All right. Now, if we could go to the
 20 aerial photograph for 2002. Would you agree that we
 21 see the parking lot that we've been referring to
 22 before?

23 **A. Yes.**

24 **Q.** Okay. Do you -- just put a little X over the
 25 parking lot.

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1 **A. (Witness complies.)**

2 **Q.** All right. And as I look at the parking lot
 3 in this aerial photograph from 2002, I don't see the
 4 condominiums adjacent to the parking lot; do you?

5 **A. No.**

6 **Q.** Okay. Now, if we could go to the aerial
 7 photograph for April 1, 2003. In looking at this
 8 aerial photograph, is the Moore's Beach shown here?

9 **A. No.**

10 **Q.** Is it covered with water?

11 **A. Well --**

12 **Q.** Or does it --

13 **A. It's cut off.**

14 **Q.** Yeah, thanks. All right. All right.

15 Now, could you go to the aerial
 16 photograph of April 6, 2005. Would you agree that we
 17 do see Moore's Beach?

18 **A. Yes.**

19 **Q.** All right. Could you just circle it?
 20 Because some day, some people are going to be looking
 21 at this.

22 Can I see what you did, please.

23 Okay. Fine. Now, let's stay with that
 24 aerial photograph.

25 You have on several of these aerial
 WORD FOR WORD REPORTING, LLC

1 photographs indicated where you believe Moore's Beach
 2 is. Could you, on this aerial photograph, dated
 3 April 6, 2005, tell me where Moore's Beach ends?

4 **A. I don't understand the question.**

5 **Q.** Okay. If you and I are standing on the sand
 6 back on April 6, 2005, and we begin to walk south --

7 **A. Okay.**

8 **Q.** -- and I on -- when would you say to me,
 9 Paul, we're no longer at Moore's Beach?

10 **A. You want me to circle it?**

11 **Q.** No. You know what I want you to do, I'd
 12 rather you draw a line with this blue marker, if you
 13 don't mind, sir.

14 There you go.

15 **A. (Witness complies.)**

16 **Q.** Okay. Now, on that photograph, which is
 17 dated April 6, 2005, below the blue line, do we see
 18 any portion of a protected beach?

19 **A. Yes.**

20 **Q.** Okay. The first protected beach that's shown
 21 on that photograph, dated April 6, 2005, would be
 22 located next to what street, if we could use a street
 23 reference?

24 **A. Surf Avenue.**

25 **Q.** Okay. All right. Take the green marker, if
 WORD FOR WORD REPORTING, LLC

1 you will, and just draw a line where the protected
2 beach at Surf Avenue begins.
3 **A. (Witness complies.)**
4 **Q.** Okay. Now, you have drawn a line where
5 Moore's Beach ended, and you have drawn a line where
6 the Surf Avenue Beach starts, which was a protected
7 beach. Correct?

8 **A. Yes.**

9 **Q.** What do you call the area between those two
10 lines, that beach area? What do you call it?

11 **A. Inlet Beach.**

12 **Q.** Okay. While we're there talking about The
13 Inlet Beach on this photograph of April 6, 2005.
14 Before July 27, 2012, did you personally ever
15 observe, during the summertime, especially, people
16 sitting on the beach area, what you call The Inlet
17 Beach?

18 **A. (Indicating.)**

19 **Q.** That's right, yeah. Between where Moore's
20 Beach ends and where Surf Beach begins.

21 **A. Yes.**

22 **Q.** All right. And were those individuals in
23 violation of any North Wildwood ordinance by sitting
24 on the beach between those lines that we're going to
25 call The Inlet Beach?

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1 **A. No.**

2 **Q.** Okay. If any of those individuals before
3 July 27, 2012 were walking in ankle deep water, on
4 what we're calling The Inlet Beach, between where
5 Moore's Beach ends and where Surf Beach begins, would
6 they be in violation of any ordinance of the City of
7 North Wildwood?

8 **A. No.**

9 **Q.** All right. If they were walking in the water
10 between this area that we're talking about, and the
11 water came up to their mid calf, would they be in
12 violation of any ordinance of the City of North
13 Wildwood?

14 **A. Can you repeat that again?**

15 **Q.** Yeah.

16 **A. I want to make sure --**

17 **Q.** Sure. If a person in the summertime, before
18 July 27, 2012, was walking in the ocean or the water
19 there and the water was up to their mid calf, and
20 they were in this area, what we're calling The Inlet
21 Beach, which starts at the end of Moore's Beach and
22 ends at the beginning of the Surf Avenue Beach, would
23 they be in violation of any ordinance?

24 **A. No.**

25 **Q.** All right. Following this along, if a person

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1 was out 20 feet swimming in that area that we've been
2 referring to, would they be in violation of any North
3 Wildwood ordinance?

4 **A. Yes.**

5 **Q.** Okay. Do you know why swimming in the ocean
6 off of The Inlet Beach, and I'm not going to repeat,
7 you know, the beginning and the end of it, I think we
8 know what we're talking about, do you know why
9 swimming 20 feet from The Inlet Beach was prohibited?

10 **A. Because it's unprotected.**

11 **Q.** Okay. And why was it unprotected for --
12 well, strike that.

13 Was there ever a lifeguard stand or a
14 lifeguard posted in what we're calling The Inlet
15 Beach before July 27, 2012?

16 **A. No.**

17 **Q.** Okay. Why not?

18 **A. I can't answer that.**

19 **Q.** Okay. All right. The Inlet Beach that we
20 have been referring to over and over again, did it
21 ever completely disappear, so that it wasn't
22 available for the summer season for people to sit on
23 and sunbathe?

24 **A. No.**

25 **Q.** Okay. I have read a series of resolutions

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1 that were passed by the City of North Wildwood
2 relative to what beaches would be protected for an
3 upcoming summer season. And you're probably familiar
4 with those resolutions; aren't you?

5 **A. Yes.**

6 **Q.** Right. And in all the resolutions, there's a
7 reference to the council and the mayor having
8 considered the recommendations of the North Wildwood
9 Beach Patrol?

10 **A. Yes.**

11 **Q.** All right. Were those recommendations given
12 to the mayor and the council of North Wildwood on an
13 annual basis, like every year?

14 **A. Yes.**

15 **Q.** And were they typically given a couple months
16 before the beginning of the summer season?

17 **A. A month.**

18 **Q.** Okay. And were your recommendations that are
19 referenced in the resolutions in writing from you to
20 the mayor and council?

21 **A. Yes.**

22 **Q.** All right. And where are those written
23 recommendations?

24 **A. I don't know how to answer that question.**

25 **Q.** I'm sorry. What?

WORD FOR WORD REPORTING, LLC

1 **A. I can't answer that question. Could you ask**
2 **it again?**

3 **Q.** Yeah. The written recommendations that you
4 give to the -- gave to the mayor and the council of
5 North Wildwood for the years before July 27, 2012,
6 you told me they were in writing?

7 **MR. BARKER:** Objection. Let me -- I
8 have an objection to your question.

9 **VIDEOGRAPHER:** Off the record at 1:43.

10 **MR. D'AMATO:** Just -- say it. It's
11 okay. Don't worry.

12 **MR. BARKER:** Okay.

13 **MR. D'AMATO:** What I mean, don't worry.

14 You don't have to -- I don't care if you say it in
15 front of him. That's the point I'm trying to say.

16 **MR. BARKER:** My objection is that you
17 asked the question assuming that he gave written
18 recommendations to the mayor and the council. He
19 hasn't testified to that.

20 **MR. D'AMATO:** Okay.

21 **MR. BARKER:** I think you stepped ahead
22 of yourself a little.

23 **MR. D'AMATO:** I have -- okay. Back on
24 the video record. You're right.

25 **VIDEOGRAPHER:** Back on the record,
WORD FOR WORD REPORTING, LLC

1 1:44.

2 **BY MR. D'AMATO:**

3 **Q.** All right. The written recommendations that
4 we have been referring to, were they given just to
5 the council, or was it the council and the mayor that
6 received them?

7 **A. I gave it to the city clerk.**

8 **Q.** Okay.

9 **A. The city clerk gives it to the mayor and**
10 **council.**

11 **Q.** Okay. All right. With respect to those
12 recommendations, you told me that they were always in
13 writing?

14 **A. No.**

15 **Q.** Okay. How frequently would be -- would they
16 be in writing, as opposed to something verbal?

17 **A. It was a city resolution. I would take last**
18 **year's resolution into the city clerk, and we would**
19 **just -- I would review the chairs, the locations, and**
20 **the dates would be changed.**

21 **Q.** Okay.

22 **A. So, I miss --**

23 **Q.** No. I follow you. Because I read all these
24 resolutions that we have.

25 **A. Okay.**

WORD FOR WORD REPORTING, LLC

1 **Q.** And it looks like they're the same. Correct?

2 **A. Yeah, right.**

3 **Q.** All right. So, I do understand your
4 testimony.

5 Was there any discussion while you were
6 the chief of the beach patrol of North Wildwood,
7 before July 27, 2012, at a mayor and council meeting
8 of the City of North Wildwood, about having a
9 lifeguard or lifeguards with lifeguard stands in what
10 we've been calling The Inlet Beach area?

11 **A. No.**

12 **Q.** Okay. Same question for Moore's Beach.
13 Should I ask it -- yeah, let me ask it completely.

14 Before July 27, 2012, did you ever
15 attend a meeting of the mayor and council where there
16 was a discussion about having a lifeguard and a
17 lifeguard, perhaps with a stand, at what we've been
18 calling Moore's Beach?

19 **A. Yes.**

20 **Q.** Okay. Given the number of years you've been
21 the chief of the beach patrol, can you give me your
22 best estimate as to how many times you spoke to the
23 mayor and council at one of their meetings?

24 **A. About Moore's Beach?**

25 **Q.** Yeah.

WORD FOR WORD REPORTING, LLC

1 **A. Once.**

2 **Q.** Okay. And when was that?

3 **A. Twelve years ago.**

4 **Q.** Okay. And can you tell me what you said?

5 **A. We had Mayor Palumbo, who was the mayor, a**
6 **discussion was brought up about should we guard**
7 **Moore's Beach again. And the mayor and I went to the**
8 **beach, and he actually went around asking people how**
9 **they felt about a lifeguard being put back there.**
10 **And 90 percent of the people didn't want a lifeguard**
11 **there.**

12 **Q.** Did they tell you why they didn't want a
13 lifeguard there?

14 **A. They want to be able to do what they want to**
15 **do.**

16 **Q.** And was one of the things they wanted to do
17 was to drink alcoholic beverages?

18 **A. Yes.**

19 **Q.** All right. What else besides drinking
20 alcoholic beverages did they want to do?

21 **A. Dogs, Jet Skis.**

22 **Q.** Okay. And since that time, have you, as the
23 chief of the beach patrol, let the people do what
24 they wanted to do when you were there with the then
25 mayor?

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1 **A. If we got complaints from the public, the**
2 **police department would respond, if people were out**
3 **of control with the -- the alcohol, or the dogs.**

4 **Q. Okay.**

5 **A. And we finally got it under control.**

6 **Q. Okay. When did you finally get it under**
7 **control?**

8 **A. Well, with the dogs, we eliminated that. But**
9 **the alcohol, you never eliminate.**

10 **Q. Okay.**

11 **A. It's --**

12 **Q. Since July 27, 2012, I have been to Moore's**
13 **Beach and the area that you call The Inlet Beach**
14 **several times, and I have witnessed police officers**
15 **of the City of North Wildwood walking on the beach.**

16 **Have you made that same observation?**

17 **A. Yes.**

18 **Q. All right. Did you ever talk to the chief of**
19 **the North Wildwood Police Department about having**
20 **North Wildwood police officers patrol Moore's Beach**
21 **and The Inlet Beach?**

22 **A. Yes.**

23 **Q. All right. And going back as many years as**
24 **you feel comfortable telling me, how long have you**
25 **been having discussions with the chief of police of**

WORD FOR WORD REPORTING, LLC

1 the City of North Wildwood about patrolling Moore's
2 Beach and The Inlet Beach?

3 **A. The last 10 years.**

4 **Q. Okay. And is there a set pattern as to when**
5 **the police officers patrol that beach? That is, the**
6 **Moore's Beach and The Inlet Beach?**

7 **A. I can't answer that question.**

8 **Q. Okay. All right. Is part of your duties and**
9 **responsibilities to ensure that the protected beaches**
10 **of North Wildwood are clean?**

11 **A. My --**

12 **Q. Yeah. Is that one of your jobs?**

13 **A. No.**

14 **Q. To make sure the beach is clean.**

15 **Okay. Whose job is it?**

16 **A. Public Works.**

17 **Q. All right. And who's the present head of the**
18 **Public Works Department of North Wildwood?**

19 **A. Gary Sloan.**

20 **Q. Okay. And how long has Gary been the head of**
21 **the Public Works Department?**

22 **A. One year.**

23 **Q. And who was the head of the Public Works**
24 **Department before Gary Sloan?**

25 **A. Harry Wozunk.**

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1 **Q. Is he still with us, the gentleman?**

2 **A. No. He re -- he left.**

3 **Q. Oh, he left the employment? Is he still**
4 **alive?**

5 **A. Yes.**

6 **Q. Okay. Where does he live?**

7 **A. Cape May Court House, I believe.**

8 **Q. Okay. And how do you spell his last name?**

9 **A. W-O-Z-U-N-K.**

10 **Q. And --**

11 **A. Wozunk.**

12 **Q. And how long -- I'm sorry. I cut you off.**

13 **So far, I don't think I've cut you off.**

14 **A. No.**

15 **Q. But if I do, Mike will tell me, or you'll**
16 **tell me. Right?**

17 **A. Okay.**

18 **Q. How long was he the head of the Public Works**
19 **Department?**

20 **A. Eight years.**

21 **Q. All right. Before July 27, 2012, did**
22 **employees of the Public Works Department clean**
23 **Moore's Beach and The Inlet Beach?**

24 **A. Just where the lifeguard protection was.**

25 **Q. Okay. Well, now, remember -- I have been**
WORD FOR WORD REPORTING, LLC

1 using the phrase Inlet Beach.

2 **A. No.**

3 **Q. Okay. They never closed it -- they never**
4 **cleaned it?**

5 **A. No.**

6 **Q. All right. Now, did -- okay. Let me**
7 **rephrase that.**

8 **The -- I've read all of these daily**
9 **logs from the North Wildwood Beach Patrol. And I see**
10 **references to First and Surf. All right?**

11 **Is First and Surf a protected beach?**

12 **A. Yes.**

13 **Q. Okay. Is that the first protected beach?**

14 **A. That's the last.**

15 **Q. Oh, you go the opposite way?**

16 **A. Yes.**

17 **Q. Okay. So, First and Surf would be the last**
18 **protected beach?**

19 **A. Yes.**

20 **Q. And has that been the case for 10 years**
21 **before July 27, 2012?**

22 **A. Yes.**

23 **Q. All right. Before July 27, 2012, what**
24 **services did the North Wildwood Fire Department offer**
25 **to the members of the North Wildwood Beach Patrol**

WORD FOR WORD REPORTING, LLC

1 relative to any situations occurring in the -- on the
2 North Wildwood protected beaches and the water
3 connected or adjacent to it? The fire department.

4 **A. Well, if we called for their services, they
would respond.**

5 **Q.** Okay. Just give me an example, considering
6 you've been the chief for so many years, of the type
7 of services that you have observed them provide.

8 **A. A neck injury, spinal injury.**

9 **Q.** Right. So, the EMTs or the paramedics would
10 come?

11 **A. Yes.**

12 **Q.** All right. Any other services?

13 **A. That's mostly medical.**

14 **Q.** Okay. Relative to the protected beaches of
15 North Wildwood, before July 27, 2012, what services
16 would the North Wildwood Police Department provide to
17 the employees of the North Wildwood Beach Patrol?

18 **A. If we had problems with anybody on the beach,
we would call the police.**

19 **Q.** All right. You're aware that there's a
20 station located not too far from here, where the New
21 Jersey Marine Police are located. Correct?

22 **A. Yes.**

23 **Q.** All right. For how many years before July

WORD FOR WORD REPORTING, LLC

1 27, 2012 did the New Jersey Marine Police provide any
2 services to the members of the North Wildwood Beach
3 Patrol?

4 **A. How often?**

5 **Q.** How often, and what type of services?

6 **A. If we had problems in The Inlet waterway, we
7 would call the marine police to respond to a boat
8 that broke down, or a Jet Ski that broke down.**

9 **Q.** If -- if it was alleged that someone had
10 drowned --

11 **A. Yes.**

12 **Q.** -- would the marine police be called?

13 **A. Yes.**

14 **Q.** All right. Before July 27, 2012, did the
15 marine -- the New Jersey Marine Police have a set
16 schedule when they would patrol the actual inlet, the
17 body of water?

18 **A. No.**

19 **Q.** Okay. Here's the most important question,
20 and I'm joking with you:

21 How do you pronounce this? Is it
22 Hereford Inlet, or Hereford Inlet? I've heard both
23 people say both things.

24 What do you call it?

25 **A. Hereford.**

WORD FOR WORD REPORTING, LLC

1 **Q.** Hereford. Okay.

2 Do you know why it's called that?

3 **A. No.**

4 **Q.** And if I was to take you to one of those
5 aerial maps and said what is the Hereford -- Hereford
6 Inlet, would that be the body of water that is
7 adjacent to the Moore's Beach?

8 **A. Yes.**

9 **Q.** Okay.

10 All right. Let me put these away.

11 These are just extras. Okay.

12 MR. BARKER: Off the record a minute.

13 VIDEOGRAPHER: Off the record, 1:56.

14 MR. BARKER: For clarity of the record,
15 you indicated that Exhibit -- I thought you marked
16 this as Exhibit 4, this compendium.

17 MR. ROZELL: That's what I thought,
18 too.

19 MR. D'AMATO: The one that was actually
20 marked -- no, no, we marked it --

21 MR. BARKER: The compendium.

22 MR. DIJOSEPH: He has the stuff.

23 MR. BARKER: Oh, okay. So, this is

24 Exhibit 4. It had previously been marked County

25 Designee-5.

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1 MR. DIJOSEPH: Yeah, that should be 4,
2 previously marked 5 from the County.

3 MR. D'AMATO: Right.

4 MR. DIJOSEPH: They all should be the
5 same.

6 MR. BARKER: Okay. Here's my point.

7 MR. D'AMATO: Yeah.

8 MR. BARKER: I think Mr. D'Amato
9 thought that the compendium, Exhibit 4, would be a
10 series of photographs with dates on the top, like the
11 first one, 1920. But I just wanted to point out that
12 in the copy that I got, and maybe in the witness'
13 copy, I haven't looked, actually, it's composed of
14 more than just that.

15 MR. D'AMATO: It is.

16 MR. BARKER: Okay.

17 MR. D'AMATO: And you --

18 MR. BARKER: So, I didn't know if you
19 wanted to take the other things off or not.

20 MR. D'AMATO: No, I don't. I want to
21 leave it just --

22 MR. BARKER: Well, see?

23 MR. D'AMATO: Hold on. Can I have that
24 back?

25 MR. BARKER: Yeah, there's a couple

WORD FOR WORD REPORTING, LLC

1 there.

2 MR. D'AMATO: Yeah. All right. One
3 second.

BY MR. D'AMATO:

Q. Did you have an opportunity to read the
6 reports that were generated by the North Wildwood
7 Beach Patrol relative to the --

8 VIDEOGRAPHER: We're not back on the
9 video yet. Are we ready?

10 MR. D'AMATO: Let's go back on the
11 video.

12 VIDEOGRAPHER: Back on the record at
13 1:58.

14 BY MR. D'AMATO:

15 Q. Did you have the opportunity, in order to
16 prepare for this deposition, to read the reports that
17 were prepared by the North Wildwood Beach Patrol
18 relative to the drowning of Mr. Smith?

19 A. No.

20 Q. Okay. If I said to you, what is your
21 understanding of what happened to Mr. Smith, do you
22 have one?

23 A. **How I think it happened?**

24 Q. Yes.

25 A. Yes.

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1 Q. Okay. And before you tell me how you think
2 it happened, can you tell me the following: You
3 didn't see it happen; did you?

4 A. No.

5 Q. All right. So, you're basing your
6 forthcoming answer as to how it happened based on
7 what?

8 A. **Being down there all the time.**

9 Q. Okay. So, why don't you tell me how you
10 think it happened.

11 A. **At certain times of the day, when the tide is**
12 **in or out, there's a drop off along that section of**
13 **beach.**

14 Q. Okay. What do you mean by a drop off?

15 A. **It literally drops off.**

16 Q. Okay. And how long has that particular
17 condition existed, as far as you know?

18 A. **The inlet's changing all the time. Every**
19 **year, it changes.**

20 Q. Okay. For the summer season of 2012, did
21 this drop off exist before July 27, 2012?

A. **I don't know.**

23 Q. Okay. All right. Do you know a Dr. Stewart
24 Farrell of the resource -- the resource center that
25 does the research and prepares a lot of these papers?

WORD FOR WORD REPORTING, LLC

1 A. Yes.

2 Q. All right. In some of the reports that he's
3 written, and I have them here, and if I have to get
4 them, I'll get them for you, he talks about what is
5 happening in The Inlet when the back bays are going
6 out to the ocean, and vice-versa. Okay?

7 And he talks about the currents, and he
8 talks about that there are vertical and longitudinal
9 currents that are existing in that inlet.

10 Have you ever -- first, have you ever
11 heard him mention that, or did you ever --

12 A. No.

13 Q. -- read anything?

14 A. No.

15 Q. Okay. He also says that when the back bay is
16 going into the ocean, that there is a vortex or
17 whirlpool in that body of water called The Inlet?

18 A. Yes.

19 Q. Are you aware of that?

20 A. Yes.

21 Q. All right. Given the number of years that
22 you have been on the beach patrol, is that vortex or
23 whirlpool created every time the back bay moves out
24 to the ocean?

25 A. Yes.

WORD FOR WORD REPORTING, LLC

1 Q. All right. And I know you're not a research
2 scientist, but what is your understanding of what
3 causes that whirlpool or vortex?

4 A. **I believe it's the bay hitting the ocean at**
5 **that point.**

6 Q. Okay. If we were to go out on a boat this
7 coming summer with Mr. Barker, and everybody here,
8 would we, with your assistance, be able to see this
9 whirlpool, or vortex?

10 A. **Like I said, every year, it changes. The**
11 **beach is bigger, it's smaller.**

12 Q. Right.

13 A. **It's a lot smaller now than what it was.**

14 Q. The beach, or the whirlpool, or the vortex?

15 A. **The beach.**

16 Q. The beach. Okay.

17 But here's my question: You -- I
18 thought you said to us that that vortex or whirlpool,
19 he uses both of those words, Dr. Farrell, is there
20 every time the back bay is going to the ocean.
21 Correct?

22 A. Correct.

23 Q. All right. If we were to go out this summer
24 on a boat, would you be able to say to us, at the
25 appropriate time and the appropriate place, there's

WORD FOR WORD REPORTING, LLC

1 that whirlpool or vortex I was talking about in my
2 deposition?

3 **A. Yes.**

4 **Q.** All right. How large is this whirlpool or
vortex that you have seen in the past in The Inlet?

6 **A. Twenty-five yards.**

7 **Q.** Okay. And does it appear to be circular?

8 **A. Yes.**

9 **Q.** Okay. So, the diameter across would be about
10 25 yards?

11 **A. (Witness nods.)**

12 **Q.** All right. Now --

13 **MR. BARKER:** You have to answer
14 verbally, sir. When you answer a question, your
15 answer has to be verbal. I think you were shaking
16 your head.

17 **Q.** You meant yes. I know.

18 **A. Yes. I'm sorry.**

19 **Q.** That's okay.

20 **Q.** Okay. I am what I call an ocean
21 swimmer. I'm not a pool swimmer. I was raised in
22 Atlantic City and Margate. I -- you know, I think I
23 know the ocean.

24 **Q.** Could an average swimmer swim through
25 the vortex?

WORD FOR WORD REPORTING, LLC

1 **MR. BARKER:** Objection.

2 **VIDEOGRAPHER:** Off the record at 2:03.

3 **MR. D'AMATO:** I don't need to know the
4 basis of it. So, can we go back on the record.

5 **VIDEOGRAPHER:** Back on the record at
6 2:04.

7 **BY MR. D'AMATO:**

8 **Q.** Okay. You want her to read the question
9 back?

10 **A. I thought he objected to it.**

11 **Q.** No, but -- go ahead. You want to explain to
12 him?

13 **MR. BARKER:** I did object. And I
14 cannot direct you not to answer the question.

15 **THE WITNESS:** Okay.

16 **MR. BARKER:** And so, at this point, Mr.
17 D'Amato's going to tell you whether he's asking you
18 the same question, or he's asking you a different
19 question.

20 **MR. D'AMATO:** No, I'm asking the same
21 question.

A. Ask me again.

23 **Q.** Yes. She's going to ask you.

24 (Record read.)

25 **A. No.**

WORD FOR WORD REPORTING, LLC

1 **Q.** Okay. Do you have any knowledge as to
2 whether Mr. Smith was caught in that vortex?

3 **A. No.**

4 **Q.** Okay. Other than Mr. Smith, do you know of
5 any other drownings where people left Moore's Beach
6 or that Inlet Beach we've been talking about, which
7 was between Moore's Beach and Surf Avenue? Do you
8 know of any other drownings?

9 **A. No.**

10 **Q.** Okay. Now, what I want to do at this point
11 is go through certain photographs.

12 **Q.** Okay. Did -- before I go to the
13 photographs, did you ever read any statement by the
14 gentleman that was with Mr. Smith as to what
15 happened?

16 **A. No.**

17 **Q.** Okay. Did you ever read the reports that
18 were generated by the North Wildwood Beach Patrol
19 relative to Mr. Smith?

20 **A. Yes.**

21 **Q.** Okay. Did you have to approve them before
22 they were issued?

23 **A. Yes.**

24 **Q.** All right. And you approved them?

25 **A. Yes.**

WORD FOR WORD REPORTING, LLC

1 **Q.** Okay. We have a statement here from the
2 gentleman that was with Mr. Smith. And I want to --
3 I'm going to hand this to you, but -- and I'm going
4 to mark it for identification as --

5 **MR. D'AMATO:** Hold on. Did you see
6 them?

7 **MR. DiJOSEPH:** Yes.

8 **MR. D'AMATO:** Where are they?

9 (Discussion off the record.)

10 (BassBarn Website Printout is received
11 and marked for identification as Exhibit 5.)

12 **MR. D'AMATO:** We found it.

13 **Q.** And I just, I want to read this for the
14 benefit of my colleagues here.

15 He says, "My best friend and I were
16 walking along Moore's Beach on The Inlet side, where
17 it meets the ocean, with our seven-year-old daughters
18 and my nine-year-old son. As we were coming up to
19 the ocean side, in less than knee deep water, my
20 friend, myself, and both our daughters fell in off a
21 ledge in the sand."

22 That's what he says, in part, here.

23 The words that I just read to you,
24 which are on this exhibit, and this was posted on
25 some website called BassBarn, as Exhibit -- and I

WORD FOR WORD REPORTING, LLC

1 marked it as Exhibit 5, did you ever hear that
2 description by the gentleman that was with Mr. Smith?

3 **A. No.**

4 **Q.** Okay.

MR. DiJOSEPH: This is an exhibit --

6 MR. D'AMATO: Yeah, it's already been
7 marked. All right.

8 (Photograph received and marked for
9 identification as Exhibit 6.)

10 **Q.** Now, there is a website that you can go on
11 for Moore's Beach. And here is a young lady, and Mr.
12 DiJoseph, who's retired from the Intelligence Bureau
13 of the New Jersey State Police, and he's now a
14 licensed private investigator, he provided this for
15 me. You're going to see a woman with a child in her
16 hands standing in ankle deep water. And this water
17 is located right off of Moore's Beach, I could make
18 that representation to you.

19 If you saw her standing there, would
20 you tell her that it's dangerous for her to stand
21 there?

22 **A. No.**

23 **Q.** Okay. All right.

24 MR. BARKER: What was that number; 5?

25 MR. D'AMATO: 5. You want to give that
WORD FOR WORD REPORTING, LLC

1 to him?

2 MR. HUNKINS: Exhibit 5?

3 MR. DiJOSEPH: No, I'm sorry. That's
4 marked 6.

5 MR. BARKER: 6? Oh, that's right.

6 MR. DiJOSEPH: 5 is BassBarn.

7 BY MR. D'AMATO:

8 **Q.** Okay. Here we're going to have marked for
9 identification as Exhibit 7 another photograph that
10 was on this Moore's Beach website that shows that
11 people are arranging for a wedding.

12 Did you ever see anybody getting
13 married on Moore's Beach?

14 **A. No.**

15 **Q.** Okay.

16 (Photograph is received and marked for
17 identification as Exhibit 7.)

18 MR. D'AMATO: Here's an extra one for
19 him.

20 MR. BARKER: Do you have a copy of 5
21 for us?

MR. D'AMATO: I'll get it for you in a
23 second. Okay? Before we leave today. Here. Take
24 this.

25 **Q.** I'm going to mark for identification an
WORD FOR WORD REPORTING, LLC

1 aerial photograph showing the condominiums. Okay?

2 All right. And the parking lot that we have
3 previously referenced.

4 And I'm going to show my colleagues
5 what I'm referring to right here. Okay?

6 MR. HUNKINS: Thank you, Paul.

7 MR. D'AMATO: All right.

8 MR. BARKER: 8?

9 MR. D'AMATO: Okay. This is Exhibit 8.

10 MR. BARKER: This side?

11 MR. D'AMATO: They're both the same.

12 (Photograph is received and marked for
13 identification as Exhibit 8.)

14 BY MR. D'AMATO:

15 **Q.** Okay. Now, just get your orientation. You
16 would agree that we're looking at a part of Moore's
17 Beach?

18 **A. Yes.**

19 **Q.** Okay. The individuals that own the
20 condominiums, the actual condominium units, I meant
21 to say, in that condominium building, is there any
22 prohibition from those individuals sunbathing at
23 Moore's Beach?

24 **A. No.**

25 **Q.** Okay. In fact, there is -- there are stairs
WORD FOR WORD REPORTING, LLC

1 that people can access from the parking lot to get to
2 Moore's Beach. Correct?

3 **A. Yes.**

4 **Q.** All right. And the only stairs that -- no,
5 let me rephrase that.

6 The closest stairs that exist in order
7 for someone to get to Moore's Beach would be the
8 stairs that are located from the parking lot that we
9 see in this particular exhibit. Correct?

10 **A. No.**

11 **Q.** Where else?

12 **A. Down by the corner at Moore's Beach.**

13 **Q.** Let me see.

14 **A. All the way down. There's a set of steps
15 that goes right onto the beach.**

16 **Q.** Oh, yeah. Okay. Got it. Thank you.

17 So, there are two sets of stairs there?

18 **A. Two sets.**

19 **Q.** All right. Now, in looking at Exhibit 8,
20 you'll -- you'll see, and I'm going to hand this to
21 you in a moment, that you see an area that looks
22 light green, and then you see an area that is dark
23 green. Okay?

24 **A. Yes.**

25 **Q.** Now, in reading about this inlet from the
WORD FOR WORD REPORTING, LLC

1 time that the Iroquois Indians were having some
2 difficulties with it, the actual depth of The Inlet
3 at different points in time, for every season, can be
4 as deep as 50, 60 feet. Correct?

MR. HUNKINS: Object to the form.

MR. BARKER: Join. You can answer.

7 **A. No.**

8 **Q.** Okay. How deep?

9 **A. The 50 or 60 foot is by Moore's Beach.**

10 **That's where it's deep. This -- this is six, ten,**
11 **along the beach.**

12 **Q.** Okay. So, at Moore's Beach, before July 27,
13 2012, was that area consistently 50, 60 feet deep?

14 **A. Yes.**

15 **Q.** All right. For what length?

16 **A. Twenty yards, twenty-five yards.**

17 **Q.** Okay. Did you go to the location where Mr.
18 Smith fell into the ocean, on the day it happened?

19 **A. Yes.**

20 **Q.** Okay. That particular area, where it
21 happened, and --

MR. DIJOSEPH: Which one do you want?

23 Do you want 4?

MR. D'AMATO: Yes, 4.

25 **Q.** Where that event took place, that you saw,
WORD FOR WORD REPORTING, LLC

1 could you put an -- tell me if on the aerial
2 photograph of April 6, 2005, as part of the
3 compendium of aerial photographs marked as Exhibit 4,
4 does this show where that event took place?

5 **A. Yes.**

6 **Q.** Okay. Could you make a half an inch X where
7 it took place.

8 **A. (Witness complies.)**

9 **Q.** Okay.

10 MR. D'AMATO: Mike, could I see that
11 for a second. Okay.

(Discussion off the record.)

13 MR. HUNKINS: Would it be okay for the
14 record if we indicate for the record --

MR. D'AMATO: I'm sorry. What?

16 MR. HUNKINS: Would it be okay to
17 indicate for the record that he put the X somewhere
18 on Inlet Beach? Would that help? I mean, it would
19 help me reading the transcript.

MR. D'AMATO: Yes.

MR. HUNKINS: Okay, thanks.

MR. D'AMATO: Yup. That's what he did.

MR. DIJOSEPH: That one.

MR. D'AMATO: Okay.

BY MR. D'AMATO:

WORD FOR WORD REPORTING, LLC

1 **Q.** And could you do the same thing on the aerial
2 photograph dated March 14, 2012. And make it about a
3 half an inch, so we see it -- be able to see it with
4 our old eyes.

5 **A. Um-hum.**

MR. BARKER: March?

7 **A. (Witness complies.)**

8 **Q.** Okay. Okay. You've made two X's on these
9 aerial photographs.

10 Give us your best estimate as to how
11 far these X's on these two photographs would be from
12 the parking lot that we've been referencing.

13 **A. Hundred yards.**

14 **Q.** Yeah. Okay. Here. Okay. Is there a phrase
15 or a word that North Wildwood lifeguards use to
16 describe, what did you call it, the cliff, was it?
17 Where you say it drops off? What was the word that
18 you used?

19 Mike, could you help me? Remember, you
20 were talking about --

21 **A. Yes.**

22 **Q.** Yeah. Does anybody remember the word he
23 used?

MR. GRASSI: It was drop off.

25 **A. Drop off.**

WORD FOR WORD REPORTING, LLC

1 **Q.** Drop off. Okay.

2 Is there any other word that lifeguards
3 typically refer or use relative to that drop off?

4 **A. Not to my knowledge.**

5 **Q.** Okay. And again, that drop off runs how --
6 how far, or how long is it?

7 **A. Twenty yards.**

8 **Q.** Okay. And is that drop off, and I know you
9 said this, but I'm kind of having difficulty
10 understanding it. Is every season that drop off
11 someplace along that Inlet Beach?

12 **A. Yes.**

13 **Q.** Okay. Does the drop off, season to season,
14 move?

15 **A. Yes.**

16 **Q.** Okay. And all the years that you've been
17 part of the North Wildwood Beach Patrol, is this drop
18 off, does it, like, move from, let's say, Point A,
19 and then the next year, it's like a mile away, or is
20 there a certain limitation that it stays within?

21 **A. Limitation.**

22 **Q.** And what would you say that is?

23 Like, is it, like, a quarter of a mile,
24 a tenth of a mile that it moves?

25 **A. Tenth of a mile.**

WORD FOR WORD REPORTING, LLC

1 **Q.** Okay. Is the beach area where you put the X
 2 on the aerial photographs, where the event with Mr.
 3 Smith took place, is that considered a stable beach?
 MR. BARKER: Objection.
 VIDEOGRAPHER: Off the record at 2:18.
 6 MR. D'AMATO: You know what, from now
 7 on, if you just could say to me, do we have to go off
 8 the record.
 9 VIDEOGRAPHER: Okay.
 10 MR. D'AMATO: It will save us some
 11 time. And it's not your fault.
 12 VIDEOGRAPHER: Okay.
 13 MR. D'AMATO: I just want to finish
 14 with the witness.
 15 VIDEOGRAPHER: Okay. Ready to go back
 16 on?
 17 MR. D'AMATO: Yeah, just one second. I
 18 appreciate your objection, but I don't need to know
 19 the basis of it.
 20 Sometimes we just don't need to know
 21 the basis of it. Okay? That's what I just said.
 22 Okay. So, we go back on the video
 23 record.
 24 THE VIDEOGRAPHER: Back on the record,
 25 2:19.

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1 BY MR. D'AMATO:
 2 **Q.** Okay. You want the last question read back?
 3 **A. Yes.**
 4 (Record read.)
 5 **A. I don't know.**
 6 **Q.** Okay. Why don't you know?
 7 **A. I just don't know.**
 8 **Q.** Okay. Were there any warning signs on July
 9 27, 2012 that would have alerted Brad Smith as to
 10 this drop off?
 11 **A. No.**
 12 **Q.** Why not?
 13 **A. It's -- I can't answer that.**
 14 **Q.** Is there somebody within the government of
 15 North Wildwood that you think could answer it?
 16 **A. I don't know.**
 17 **Q.** Okay.
 18 MR. DIJOSEPH: Let me take that.
 19 **Q.** Okay.
 20 MR. D'AMATO: I did it again.
 21 Oh, here we go, thanks.
 (Photograph is received and marked for
 23 identification as Exhibit 9.)
 24 **Q.** All right. Let me show you what's been
 25 marked for identification as Exhibit 9. This is

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1 another photograph that Investigator DiJoseph pulled
 2 off the Moore's website for the Moore's Beach. And;
 3 let me hand it to you --
 4 MR. DIJOSEPH: Paul, that is a public
 5 --
 6 MR. D'AMATO: It's a what?
 7 MR. DIJOSEPH: It's a public Facebook
 8 page for the beach.
 9 MR. D'AMATO: Oh, okay. All right.
 10 MR. DIJOSEPH: It's a public open group
 11 on Facebook called Moore's Inlet Beach.
 12 MR. D'AMATO: Got it. Thank you.
 13 BY MR. D'AMATO:
 14 **Q.** Okay. Looking at that photograph, you'll see
 15 people bathing, okay, and you can assume our
 16 representation that that is showing you Moore's
 17 Beach.
 18 Did the lifeguards of the North
 19 Wildwood Beach Patrol, before July 27, 2012, go to
 20 Moore's Beach and tell any bathers, like the ones you
 21 see in that photograph, to get out of that water, and
 22 not swim there?
 23 **A. No.**
 24 **Q.** Before July 27, 2012, if you saw those
 25 bathers right off of Moore's Beach, that is shown in

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1 that particular exhibit, would you think that it was
 2 dangerous for them to be swimming, or just standing
 3 in that area?
 4 MR. BARKER: Objection.
 5 VIDEOGRAPHER: Do we need to go off?
 6 MR. D'AMATO: No.
 7 **Q.** Yeah.
 8 **A. Any unprotected beach is dangerous, as far as**
 9 **I'm concerned.**
 10 **Q.** Okay. All right. Where you see those
 11 bathers, can you tell us, and again you can estimate,
 12 if the bay was going out to the ocean, and the vortex
 13 or whirlpool was created, how far are they from that
 14 vortex or whirlpool?
 15 **A. 300 yards.**
 16 **Q.** Okay. And Dr. Farrell, in one of his
 17 statements, and hopefully we can get to it today, he
 18 says that sometimes when the back bay is going to the
 19 ocean, that that water is moving at five miles per
 20 hour, the water that's going out to the ocean.
 21 **A. Um-hum.**
 22 **Q.** Would you agree with him?
 23 **A. Yes.**
 24 **Q.** Would you agree that it could be more than
 25 five miles per hour?

WORD FOR WORD REPORTING, LLC

- 1 **A. Yes.**
 2 **Q.** Ten miles per hour?
 3 **A. No, not -- not that --**
Q. Somewhere between five and ten miles per
 hour?
 6 **A. Yeah.**
 7 **Q.** Or nine miles per hour?
 8 **A. Yes.**
 9 **Q.** Okay. So, we'll say somewhere between five
 10 to nine miles per hour?
 11 **A. (Witness nods.)**
 12 **Q.** Okay. Could I have that back?
 13 (Photograph is received and marked for
 14 identification as Exhibit 10.)
 15 **Q.** Let me show you what's been marked for
 16 identification as Exhibit 10. Now, you could see in
 17 the lower right-hand corner, this photograph was
 18 taken by Mr. DiJoseph on August 10, 2012.
 19 I just want to show Mr. Barker and
 20 Will. Okay?
 21 All right. You see that sign that's
 22 there?
 23 **A. (Witness nods.)**
 24 **Q.** Yeah. That sign is warning people of what?
 25 **A. No swimming.**

WORD FOR WORD REPORTING, LLC

- 1 **Q.** Okay. Would you agree that on July 27, 2012,
 2 there were no signs saying no walking in ankle deep
 3 water? Would you agree?
 4 **A. Yes.**
 5 **Q.** Would you agree that on July 27, 2012, there
 6 were no signs saying do not walk in water that goes
 7 to your mid calf?
 8 **A. Yes.**
 9 **Q.** Okay. Now, I'll take it back.
 10 (Photograph is received and marked for
 11 identification as Exhibit 11.)
 12 **Q.** Now, I'm going to show you what's been marked
 13 for identification as Exhibit 11. Again, this
 14 photograph was taken on August 10, 2012. All right?
 15 You'll see a series of flags, red flags. All right?
 16 Were those red flags posted there after July 27,
 17 2012?
 18 **A. Yes.**
 19 **Q.** And was this a result of -- as a result of
 20 Mr. Smith drowning?
 21 **A. Yes.**
Q. All right. Whose idea was it to put those
 23 flags there?
 24 **A. The city administrator.**
 25 **Q.** And that was?

WORD FOR WORD REPORTING, LLC

- 1 **A. Lou Belasco.**
 2 **Q.** Okay. All right. What do those red flags
 3 signify? What are they warning about?
 4 **A. It's -- that's the same signal -- it's an**
 5 **international signal, no swimming.**
 6 **Q.** Okay. How long were those red flags up for
 7 the summer season of 2012?
 8 **A. How long were they up?**
 9 **Q.** Labor Day?
 10 **A. Yes.**
 11 **Q.** Okay. Were these flags that we're looking at
 12 in that photograph, were they posted in that
 13 location, or approximately next to those locations,
 14 for the summer of 2013?
 15 **A. I believe so.**
 16 **Q.** How about the summer of 2014?
 17 **A. No.**
 18 **Q.** Why not?
 19 **A. We just stopped putting them out.**
 20 **Q.** Was there any discussion with the mayor and
 21 council about not putting them out anymore?
 22 **A. No.**
 23 **Q.** You made that decision yourself?
 24 **A. Yes.**
 25 **Q.** Did you have a basis for that decision?

WORD FOR WORD REPORTING, LLC

- 1 **A. No.**
 2 **Q.** Okay. I'll take that back.
 3 (Photograph is received and marked for
 4 identification as Exhibit 12.)
 5 **Q.** I've had marked for identification as Exhibit
 6 12 another photograph taken by this investigator on
 7 August 10, 2012. And you'll see those flags again.
 8 Here's my question: Does this area
 9 show where the event took place involving Mr. Smith?
 10 And if it does, could you just put like a circle the
 11 size of a quarter.
 12 **A. I'm not sure from this angle.**
 13 **Q.** Okay. That -- let me show you what's going
 14 to be marked for identification as Exhibit 13.
 15 (Photograph is received and marked for
 16 identification as Exhibit 13.)
 17 **Q.** The gentleman that you see in that photograph
 18 is Mr. Sunderland, who was with Brad Smith at the
 19 time of the event.
 20 The fellow that you see on the Jet Ski
 21 there, standing next to the Jet Ski, is the young man
 22 who's referenced in the reports that were written by
 23 the North Wildwood Beach Patrol, and who was able to
 24 assist in bringing Mr. Smith's daughter to shore.
 25 And this photograph was, in fact, taken by Mr.

WORD FOR WORD REPORTING, LLC

1 DiJoseph.

2 The significance of this, and Mr.

3 DiJoseph some day will testify to this, is that Mr.

4 Sunderland is standing where he says the event took
place. And in one of Mr. DiJoseph's reports, he's
6 written that the gentleman that's next to the Jet Ski
7 said this is where the event took place.

8 Now, are you able to -- considering all
9 the years you've been on the beach patrol, do you
10 have a sense that where this location is
11 approximately a hundred yards from, I think, the
12 parking lot? Can you tell?

13 **A. Yes.**

14 **Q.** And would you agree it is?

15 **A. Yes.**

16 **Q.** Okay.

17 **MR. D'AMATO:** You want to take that?
18 The ones I'm not using, just put in a separate pile.
19 Okay.

20 **Q.** Okay. Now, I'm going to have, to save some
21 time, as one collective exhibit, four photographs
22 that were taken by Mr. DiJoseph on August 16, 2013.
23 I'm just -- and I'm going to clip them. And you're
24 going to see, there's a con -- piece of concrete, and
25 an orange ball that says no swimming. And --

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1 **MR. D'AMATO:** Is it okay with you that
2 I just have these as one collective exhibit, or would
3 you prefer that I mark them individually?

4 **MR. BARKER:** I prefer you mark them
5 individually.

6 **MR. D'AMATO:** Okay.

7 (Photographs are received and marked
8 for identification as Exhibits 14 through 17.)

9 **Q.** So, what I'm going to do is, I'm going to
10 hand you Exhibit 14. And then I'll hand you -- hand
11 to you another exhibit as 15. You'll see an orange
12 ball. And I will hand to you Exhibit 16. And you'll
13 see another orange ball. And finally, as Exhibit 17,
14 another photograph that shows a piece of concrete and
15 an orange ball.

16 Were -- how many of these orange balls
17 connected to concrete were posted on the beach in
18 North Wildwood after Brad Smith's drowning?

19 **A. Four or five.**

20 **Q.** Okay. Were they posted in areas similar to
21 where the flags were, we saw in the other
photographs?

23 **A. Yes.**

24 **Q.** Okay. Whose idea was it to come up with that
25 configuration of a -- I'm going to call it like a

WORD FOR WORD REPORTING, LLC

1 balloon connected to a piece of concrete?

2 **A. The mayor, former mayor of North Wildwood.**

3 **Q.** Okay. Were those pieces of concrete, to
4 which was affixed a balloon, there for the entire
5 summer season of 2012?

6 **A. Yes.**

7 **Q.** Okay. Were they put back for the summer
8 season of 2013?

9 **A. They were never taken out.**

10 **Q.** Okay. Did they disappear in the ocean?

11 **A. Yes. Yes.**

12 **Q.** Okay. When did they disappear?

13 **A. I can't remember if they made it to 2013.**

14 **Q.** Okay. We have to take a break, because we
15 need a new tape. So, we'll go off the video record.

16 **VIDEOGRAPHER:** This ends videotape 1.

17 The time's 2:32. We're off the record.

18 (Recess.)

19 **VIDEOGRAPHER:** This marks the beginning
20 of videotape 2. The time is 2:41. We're back on the
21 record.

22 (Photograph is received and marked for
23 identification as Exhibit 18.)

24 **BY MR. D'AMATO:**

25 **Q.** All right. I've had marked for

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1 identification as Exhibit 18 a photograph that was
2 taken by Investigator DiJoseph on January 28, 2013.
3 Let me hand it to you.

4 **MR. BARKER:** Before we go on into that
5 one, I think you misspoke when you referred to
6 Exhibit 14 through -- when you first spoke about it,
7 you referred to the date as August 16, 2013. And
8 they are all marked as August 16, 2012.

9 **MR. D'AMATO:** Thank you.

10 **MR. BARKER:** So, the record should
11 stand corrected. Right?

12 **MR. D'AMATO:** Thank you.

13 **MR. BARKER:** Okay. Now, we're onto
14 another exhibit, No. 18.

15 **BY MR. D'AMATO:**

16 **Q.** Okay. Do you have your orientation? Do you
17 know what this photograph is showing?

18 **A. Yes.**

19 **Q.** Okay. Do you see the wooden steps that are
20 located in the photograph?

21 **A. Yes.**

22 **Q.** All right. Does the Public Works Department
23 of the City of North Wildwood maintain those steps,
24 if they need repair?

25 **A. Yes.**

WORD FOR WORD REPORTING, LLC

1 Q. Okay.

2 MR. BARKER: Do you want back your
3 Exhibits 14 through --

4 MR. D'AMATO: Yes. I'll provide you
with color copies of everything.

6 (Photograph is received and marked for
7 identification as Exhibit 19.)

8 BY MR. D'AMATO:

9 Q. I'm now going to show you what's been marked
10 for identification as exhibit 19. For the benefit of
11 my colleagues, all right, this photograph was taken
12 July 31, 2014. Let me hand it to you. And just get
13 your orientation as to what part of the beach that
14 that is showing. Okay?

15 Do you know what part of the beach it's
16 showing there?

17 A. I believe it's from Surf Avenue looking west.

18 Q. You're correct. All right. Can I have that
19 back just for one second here.

20 This particular -- is our audio okay?

21 VIDEOGRAPHER: Off the record at 2:43.

22 Let me see if I can quiet them down a
23 little bit in a nice way.

24 (Discussion off the record.)

25 VIDEOGRAPHER: Back on the record at
WORD FOR WORD REPORTING, LLC

1 2:44.

2 BY MR. D'AMATO:

3 Q. All right. I had handed to you Exhibit 19,
4 and then I took it back. And you identified the area
5 where this, what is shown in this particular
6 photograph, and you would agree that the sign on the
7 top means no swimming?

8 A. Yes.

9 Q. All right. And is it fair to say that when
10 you see that sign, it also means it's not a protected
11 beach?

12 A. Yes.

13 Q. Okay. And below, there's another sign that
14 says, "No dogs, cats, or any other domestic animals
15 on beach May 1 to October 1," and it references
16 Ordinance No. 1416.

17 Was it the responsibility, before Mr.
18 Smith's drowning, of the North Wildwood Beach Patrol
19 to enforce the no swimming sign and the no animal
20 sign?

21 MR. BARKER: Objection. You may answer
the question.

23 A. Can you repeat that again?

24 MR. D'AMATO: Please read it back for
25 the chief.

WORD FOR WORD REPORTING, LLC

1 (Record read.)

2 MR. BARKER: Objection.

3 A. I don't know how to answer that question.

4 Q. Well --

5 A. Not -- the second part. You mean, if people
6 are in the water, did we enforce that sign?

7 Q. Yes.

8 A. No.

9 Q. Why not?

10 A. It's too big an area to cover.

11 Q. Okay. How about the sign below, no dogs,
12 cats, or other domestic animals?

13 A. If we got a phone call complaint, we would
14 get the dogs off the beach.

15 Q. And "we" is the beach patrol?

16 A. Or the police.

17 Q. Okay. Both of you, the beach patrol --

18 A. Yes.

19 Q. -- and the police? All right.

20 (Photograph is received and marked for
21 identification as Exhibit 20.)

22 Now, let me show you another
23 photograph that's marked for identification as July
24 31, 2014, it was taken, it's Exhibit 20. And it
25 says, "Area closed, endangered birds nesting."

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1 I've learned about the endangered
2 birds.

3 Every summer, an area is cordoned off
4 where the birds are nesting?

5 A. Yes.

6 Q. All right. Who enforces that particular
7 sign, as to what it's saying? Is that the
8 responsibility of the beach patrol?

9 A. No. Wildlife.

10 Q. Okay.

11 MR. D'AMATO: You want to take these
12 back?

13 Q. Now, do you have an understanding that Mr.
14 Smith and his family and the Sunderland family had
15 been sitting on a protected beach on July 27, 2012,
16 and had -- and that Mr. Sunderland with his son, and
17 Mr. Smith and his daughter decided to take a walk on
18 the beach? Are you aware of that?

19 A. No.

20 Q. Okay. As they are walking from the protected
21 beach, you would call it the last one, First and
22 Surf. Right?

23 A. Yes.

24 Q. As they're walking, and they're going towards
25 Moore's Beach, would there be any sign warning them

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1 of any hazardous condition located near the water's
2 edge, as they're walking?

3 **A. No.**

4 MR. D'AMATO: We're going to save a lot
of time here. Okay. Hold on.

6 (Photograph is received and marked for
7 identification as Exhibit 21.)

8 **Q.** I'm going to show you what's been marked for
9 identification as Exhibit 21. This was a photograph
10 that was taken June 20, 2014, almost two years after
11 the Smith incident.

12 Would you agree that these signs did
13 not exist at that location or on the North Wildwood
14 beach on July 27, 2012?

15 MR. BARKER: Objection.

16 **A. This did exist.**

17 **Q.** It did exist?

18 **A. Yes.**

19 **Q.** Okay. Let me see it for a second.

20 **A. The top -- the top part. Not the bottom.**

21 **Q.** Okay. The top part, would be the -- it looks
22 like a beach ball?

23 **A. And the blue.**

24 **Q.** The blue existed?

25 **A. Yes.**

WORD FOR WORD REPORTING, LLC

1 **Q.** Okay. Okay. The sign at the bottom that
2 says "high risk rip current area," that was posted on
3 -- at this location after the Smith incident?

4 **A. Yes.**

5 **Q.** At whose suggestion or recommendation?

6 **A. Public Works. Mr. Wozunk.**

7 **Q.** Okay. The high risk rip current area that
8 this sign refers to, is that the area located off of
9 The Inlet Beach that we were talking about earlier in
10 your deposition?

11 **A. Yes.**

12 **Q.** Okay. Did anyone have to get your approval
13 in order to post this sign that says high risk rip
14 current area?

15 **A. No.**

16 **Q.** All right. Were you even asked if --

17 **A. No.**

18 **Q.** You weren't even asked. Okay.

19 (Photograph is received and marked for
20 identification as Exhibit 22.)

21 **Q.** Let me show you a photograph that's been
marked for identification as Exhibit 22. The good
23 looking gentleman there is a colleague of Mr.
24 DiJoseph. He's also a licensed private investigator,
25 Charles Atkinson. And you'll see two officers that

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1 are walking on the beach. And I could tell you, I
2 was there when that photograph was taken. We were
3 right on the beach off that what you call The Inlet
4 Beach.

5 Would you agree that that shows that
6 area?

7 **A. Yes.**

8 **Q.** All right. So, you, before July 27, 2012,
9 personally observed police officers walking on the
10 beach as we see in that particular photograph?

11 **A. No.**

12 **Q.** Why not?

13 **A. This was instituted by our present mayor, the
14 walking patrols.**

15 **Q.** Okay. And when was that instituted?

16 **A. '14.**

17 **Q.** Okay. Did police officers ever patrol the
18 beach before July 27, 2012?

19 **A. They occasionally would ride down in a
20 vehicle.**

21 **Q.** Okay. All right. Could I have that?

22 MR. D'AMATO: Can you make a note to
23 see if there was a resolution or an ordinance that
24 regards that? Okay.

25 Here. You can take that.

WORD FOR WORD REPORTING, LLC

1 (Photograph is received and marked for
2 identification as Exhibit 23.)

3 **Q.** Okay. I'm going to now show you what's been
4 marked for identification as Exhibit 23. And there's
5 a follow-up photograph. And again, I was there when
6 this photograph was taken. Take that. And I'm going
7 to mark for identification as Exhibit 24.

8 (Photograph is received and marked for
9 identification as Exhibit 24.)

10 **Q.** Would you agree that the persons that we're
11 looking at on that vehicle are Public Works employees
12 of the City of North Wildwood?

13 **A. Yes.**

14 **Q.** Okay. Do you know who that individual is?
15 And let me hand to you 24.

16 (Discussion off the record.)

17 **A. I have no idea.**

18 **Q.** Okay. How do you know that it's a Public
19 Works vehicle?

20 **A. Because that's the type of vehicle they use.**

21 **Q.** Okay.

22 **A. The little cart on the back.**

23 **Q.** Would you agree that they're on what you and
24 I have been calling The Inlet Beach?

25 **A. Yes.**

WORD FOR WORD REPORTING, LLC

1 Q. Okay. In the parking lot located near the
2 condominiums, there was or -- there was, when I was
3 there during the summertime, a porta potty. A blue
4 porta potty.

Did you ever see it?

6 A. **On the beach, or on the parking lot?**

7 Q. In the parking lot.

8 A. **Yes.**

9 Q. Who puts that there?

10 A. **Public Works.**

11 Q. Okay. And there's also a small little house.
12 Is that where people can bathe in there?

13 A. **No. That's the restrooms.**

14 Q. Okay. And who maintains those?

15 A. **Public Works.**

16 Q. Okay. All right.

17 (Photograph is received and marked for
18 identification as Exhibit 25.)

19 Q. Let me show you a photograph marked for
20 identification as Exhibit 25. This was taken by Mr.
21 DiJoseph on May 21, 2014. And I'm going to mark
22 another photograph that shows you a close-up as
23 Exhibit 26.

24 (Photograph is received and marked for
25 identification as Exhibit 26.)

WORD FOR WORD REPORTING, LLC

1 Q. Mr. DiJoseph, he wrote a report that
2 indicates that this was a Public Works tractor.

3 A. **Yes.**

4 Q. Front end loader.

5 Was that front end loader taking sand
6 from the Moore's Beach area and putting it on a
7 protected beach?

8 MR. BARKER: Objection.

9 A. **No.**

10 Q. No? Do you know what it was doing?

11 A. **There's an out fall pipe there, that they
12 have to dig out to clear the -- so the water can
13 flow.**

14 Q. Got it. And Public Works take care of that.
15 Correct?

16 A. **Yes.**

17 Q. Yeah?

18 A. **Yes.**

19 (Photograph is received and marked for
20 identification as Exhibit 27.)

21 Q. Okay. Let me show you what's been marked for
22 identification as Exhibit 27. This photograph was
23 taken by a Mrs. Patricia Possey, P-O-S-S-E-Y. These
24 photographs have been supplied to counsel. And this
25 was after the Brad Smith incident.

WORD FOR WORD REPORTING, LLC

1 Did you become aware of the beach in
2 The Inlet Beach area collapsing as shown in this
3 particular photograph?

4 MR. BARKER: Objection.

5 MR. HUNKINS: Can I -- sorry. Are you
6 objecting?

7 MR. BARKER: I'm objecting.

8 MR. HUNKINS: I was wondering if you
9 could represent the date the photo was taken.

10 MR. D'AMATO: It's in the interview
11 here. Go ahead.

12 (Discussion off the record.)

13 MR. D'AMATO: My recollection is when
14 we -- when Mr. DiJoseph interviewed her, it was --
15 this event took place the summer of 2013. 2013.

16 MR. DIJOSEPH: August 3rd, 2014.

17 MR. D'AMATO: 2014. Okay. I was
18 wrong. Okay, here.

19 MR. DIJOSEPH: Oh, no. See, provided
20 to NBC 10 News in September 2012. And we interviewed
21 her August 3rd, 2014.

22 MR. D'AMATO: Okay. Let me just put
23 this on this record.

24 Q. And I've given this statement to your
25 attorneys. But I'll just mark it as part of the

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1 record.

2 This is an interview of Patricia
3 Possey, this report is dated August 4, 2014. And she
4 said that she provided this video to NBC 10 News in
5 September of 2012. Okay? So, here. I'm going to
6 hand that to Mr. Barker. You really don't have to
7 read that, because I want to ask you about this
8 photograph. Where is it?

9 Can I have that, please?

10 MR. BARKER: Certainly.

11 MR. D'AMATO: Yeah. All right. All
12 right.

13 MR. HUNKINS: And I hate to interrupt,
14 but just for the follow-up, we know she gave it to
15 them in September of 2012. Do we know the date she
16 took it?

17 MR. DIJOSEPH: It's in the report.

18 MR. HUNKINS: Oh, it's in the report?

19 MR. D'AMATO: You have this report.
20 I'd just like to move on. Okay?

21 MR. HUNKINS: Yeah.

22 Q. I believe it was taken in September 2012.
23 All right.

24 Here's my question: First, do you
25 recall seeing the beach in this condition back in

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1 September 2012?

2 **A. No.**

3 MR. BARKER: Objection. But you can
4 answer.

5 **Q.** Okay. Have you ever seen conditions like
6 what is shown in Exhibit 27 along the North Wildwood
7 beaches, protected or unprotected, before September
8 27, 2012?

9 **A. Yes.**

10 **Q.** Okay. What locations, if you will, in the
11 City of North Wildwood?

12 **A. Moore's Beach.**

13 **Q.** Okay. Given the number of years that you
14 have been a member of the North Wildwood Beach
15 Patrol, can you explain why a condition like this
16 occurs?

17 **A. No.**

18 **Q.** Okay.

19 MR. D'AMATO: That's unused. This is
20 used.

21 MR. DiJOSEPH: I need the report.

22 MR. D'AMATO: That's all right.

23 (Discussion off the record.)

24 **Q.** Okay. Here. These are unused. Okay?
25 All right. Don't need those. Here.

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1 Take this. What am I up to now; 23?

2 MR. DiJOSEPH: 29.

3 (Photograph is received and marked for
4 identification as Exhibit 29.)

5 **Q.** Okay. Let me show you a photograph that's
6 been marked for identification as Exhibit 29.

7 MR. DiJOSEPH: It's from the public
8 Facebook profile.

9 MR. D'AMATO: Okay. Mr. DiJoseph
10 advises me that that is from the -- what?

11 MR. DiJOSEPH: Moore's Inlet Beach
12 public Facebook group.

13 **Q.** Okay.

14 MR. BARKER: Date?

15 MR. DiJOSEPH: I believe it's like
16 August 2015, it says. Somewhere in that area.

17 MR. HUNKINS: Meaning, that's the date
18 it was taken?

19 MR. DiJOSEPH: That's the date it was
20 posted on the Facebook page. I don't know when it
21 was taken.

BY MR. D'AMATO:

22 **Q.** Okay. When you referred to the drop off
23 earlier in your testimony, does this photograph show
24 what you call a drop off?
25

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1 **A. No.**

2 **Q.** Okay. How is a drop off different than the
3 photograph that you have in your hand?

4 **A. It's along the water's edge. It's in the
5 water.**

6 MR. HUNKINS: Meaning?

7 **Q.** So, that -- wait. Okay.

8 When you say it's in the water, so that
9 if I'm standing on land, I can't see the drop off.

10 Correct?

11 **A. Yes.**

12 **Q.** Okay. The area that's shown in that
13 photograph, is that Moore's Beach?

14 **A. No.**

15 **Q.** Is that Inlet Beach?

16 **A. Yes.**

17 **Q.** Okay.

18 MR. D'AMATO: For the record, he was
19 referring to Exhibit 29.

20 Here we go. Hold on. Okay. You can
21 take that. You can take that. Put that away. Thank
22 you. Here.

23 (Discussion off the record.)

24 MR. D'AMATO: Is that mine, Mike, or is
25 that yours?

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1 MR. BARKER: That's what you gave me.

2 MR. D'AMATO: Okay.

3 (Discussion off the record.)

4 MR. D'AMATO: All right.

5 What exhibit number are we up to now?

6 MR. BARKER: 30.

7 (Discussion off the record.)

8 (Photograph is received and marked for
9 identification as Exhibit 30.)

10 BY MR. D'AMATO:

11 **Q.** Okay. Let me show you what's been marked for
12 identification as Exhibit 30. This was sent to me by
13 Mr. Barker. And I'll hand it to you. It is a memo
14 to Attorney William Kaufman, who I believe is your
15 city solicitor, from Ronald Simone, administrative
16 assistant, it's dated August 27, 2015.

17 Have you ever seen this document
18 before?

19 **A. Can I open it?**

20 **Q.** Sure, sure. You'll see on the next page, it
21 says North Wildwood Beach Patrol Rescue Report.

22 **A. This actual report?**

23 **Q.** Yes.

24 **A. I've never seen this.**

25 **Q.** Okay. The gentleman, Ronald Simone,

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1 administrative assistant, do you know to whom he is
2 an administrative assistant?

3 **A. To the mayor.**

4 **Q.** Mayor? Okay.

MR. D'AMATO: Spez, just we've got to
6 send out a letter, so we can take Mr. Simone's
7 deposition.

8 MR. SPEZIALI: Got it.

9 **Q.** All right.

10 MR. BARKER: I'll take the extra copy,
11 if you want.

12 MR. DiJOSEPH: Mr. Barker.

13 MR. BARKER: Yeah. 30.

14 (Photograph is received and marked for
15 identification as Exhibit 31.)

16 BY MR. D'AMATO:

17 **Q.** Okay. Let me show you what's been marked for
18 identification as Exhibit 31. Give a copy to Mr.
19 Barker, and an extra copy for the mayor, if he wants
20 to look at it.

21 MR. ROSENELLO: Thanks.

22 **Q.** This is a transcription of a conversation
23 that former Lieutenant Lindsay had with a Mrs.
24 Simpson.

25 Have you ever seen this transcript
WORD FOR WORD REPORTING, LLC

1 before?

2 **A. No.**

3 **Q.** Okay. Can I take you to page 4. The numbers
4 are in the upper right-hand corner. Okay?

5 I want to read into the record, because
6 I don't have copies for all the rest of the
7 attorneys, what Lieutenant Lindsay said, and we
8 actually have the recording of this.

9 "Yeah. At low tide, between mid and
10 low tide, the gentleman that drowned last year, when
11 -- we called him out of the water here, so they said,
12 'Okay, we can't go in the water, let's go for a
13 walk.' They're walking, him and his friend and their
14 two daughters, and they're in ankle deep water, and
15 they're right there, and they fell into the 30-foot
16 deep."

17 Now, I'm just going to stop there, and
18 I'll continue in a second.

19 The area, according to Lieutenant
20 Lindsay, where this event took place, it was 30-foot
21 deep.

Do you agree or disagree?

22 **A. Disagree.**

23 **Q.** Okay. And again, how many feet do you think
24 it is?
25

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1 **A. Ten.**

2 **Q.** Okay. Let me continue with the quote.

3 "And the thing is, is when from mid
4 tide to low tide, all the water in the back bay is
5 rushing out, and it doesn't -- the only place -- all
6 sand bars here, okay."

7 Then Mrs. Simpson says, "Oh." And
8 Lieutenant Lindsay says, "Here to Stone Harbor, all
9 that water comes out right through here."

10 Mrs. Simpson: "It's causing, like, a
11 canal?"

12 Lieutenant Lindsay: "It's like a
13 river. So, you -- they fell in here, and before they
14 knew it, they were getting sucked out, and he, the
15 one little girl, got on the dad's back, they managed
16 to swim, he managed to make it to shore. The other
17 little girl got picked up by a Jet Ski, bought in --
18 brought in. The Jet Ski went back out to get the
19 father. And by the time he got back out, the father
20 must have panicked, and once you panic, you're --
21 you're done."

22 My question to you is this: Did you
23 ever become aware of the existence of this recorded
24 conversation between Mrs. Simpson and Lieutenant
25 Lindsay?

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1 **A. No.**

2 **Q.** All right. There is the first time you ever
3 heard of it?

4 **A. Yes.**

5 **Q.** Okay. Okay. If I could take you to page 7.
6 Okay? And I'm getting to the part of his statements
7 that I want to ask you a question about.

8 "We could get the state and have this
9 whole -- from there to the Greek church, the rocks,
10 shut down. But then you run --"

11 Mrs. Simpson says: "Because of the
12 bars?"

13 Lieutenant Lindsay: "Then you run into
14 the people with the, you know, the bars, and the
15 condo owners, who want to walk over the bulkhead and
16 be on the beach. And for the local people, they
17 know, you know, they -- they know how dangerous it
18 is, but a guy comes down from Philly with his family,
19 and they're, like, because of a lot of -- a lot of
20 people, when we go down and say, 'Hey, you can't be'
21 -- they're, like, 'Oh, we didn't know, thanks for
22 telling us.'"

23 I have a couple questions. Did you,
24 personally, ever feel any pressure from any of the
25 bar owners in the area of Moore's Beach to keep

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1 Moore's Beach an area that was not closed down?

2 **A. Repeat that.**

3 **Q.** Okay. Let me change it up a little bit.

4 All right. Did you, before July 27,
5 2012, ever get any pressure from any of the bar
6 owners not to close down what we've been calling
7 Moore's Beach?

8 **A. No.**

9 MR. HUNKINS: Object to the form.

10 **Q.** How about from the condo owners?

11 **A. No.**

12 **Q.** Did anybody ever tell you, in city
13 government, that they were getting pressure from the
14 bar owners or the owners of the condos in that
15 condominium next to Moore's Beach that those
16 individuals didn't want Moore's Beach closed down, so
17 no one could sit on it?

18 **A. No.**

19 **Q.** Okay. I'll take that back.

20 (Discussion off the record.)

21 **Q.** Now, I have a series of North Wildwood patrol
22 daily reports.

23 MR. D'AMATO: Oh, here's an extra copy.

24 Mike, is this yours you gave you, or did you take it?

25 MR. BARKER: You brought it here.

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1 MR. D'AMATO: No, I know, but --

2 MR. BARKER: I don't think I brought
3 that into the room.

4 MR. D'AMATO: No, but we gave you a
5 copy. And I wonder if I took your copy. Is it --

6 MR. BARKER: Oh, you gave me a copy?

7 Then --

8 MR. D'AMATO: Yeah, okay.

9 MR. BARKER: No, I didn't know you did.

10 MR. D'AMATO: Here. All right. Sorry.

11 MR. BARKER: Did it have an exhibit
12 number, by the way, or --

13 MR. D'AMATO: Yes.

14 MR. DIJOSEPH: It did. It was the memo
15 from Mike Barker to Attorney Kaufman was Exhibit No.
16 30.

17 MR. BARKER: Yeah, but this is
18 something different. This is to Paul from me, dated
19 -- it's like a discovery.

20 MR. DIJOSEPH: That's not an exhibit.

21 MR. D'AMATO: No. Everybody, the
22 attachment is an exhibit. I didn't attach the
23 letter.

24 MR. BARKER: Oh, okay.

25 MR. D'AMATO: Okay? All right.

WORD FOR WORD REPORTING, LLC

1 MR. ROZELL: It's the Ron Simone

2 report.

3 MR. BARKER: Yeah. I have the report.

4 BY MR. D'AMATO:

5 **Q.** Okay. Did you read any North Wildwood Beach
6 Patrol daily reports in order to prepare for this
7 deposition?

8 **A. No.**

9 **Q.** All right. The -- let's see if we can do it
10 this way: Were there any occasions before July 27,
11 2012 where North Wildwood lifeguards had to
12 effectuate a rescue of a person that was in the water
13 off of Moore's Beach?

14 **A. Yes.**

15 **Q.** Okay. Now, let's go south to The Inlet
16 Beach.

17 Were there occasions before July 27,
18 2012 where lifeguards of the North Wildwood Beach
19 Patrol had to effectuate a rescue of someone that was
20 swimming off of what we've been calling The Inlet
21 Beach?

22 **A. Yes.**

23 **Q.** Okay. From your experience, is it safe to
24 say that in all the years that you have been a member
25 of the North Wildwood Beach Patrol, that before July

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1 27, 2012, there were occasions during the summer
2 season when North Wildwood lifeguards had to
3 effectuate rescues of individuals swimming both off
4 the Moore's Beach and off of The Inlet Beach?

5 MR. BARKER: Objection.

6 **A. Yes.**

7 MR. BARKER: You may --

8 **Q.** Okay. Typically, how would your lifeguards
9 be alerted to the fact that they had to effectuate a
10 rescue off of Moore's head -- Moore's Beach and The
11 Inlet Beach?

12 MR. BARKER: Objection. You may
13 answer.

14 **A. Police department, we would monitor the
15 police radio. The police would get a call,
16 somebody's in distress, Moore's or The Inlet, and we
17 would respond.**

18 **Q.** Okay. Let's do this: All right. Before
19 July 27, 2012, do you know if any of your lifeguards
20 had to effectuate a rescue of someone that fell into
21 that drop off that you and I were talking about
22 earlier?

23 MR. BARKER: Objection.

24 **A. No.**

25 **Q.** Okay.

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1 (Discussion off the record.)
 2 (North Wildwood Beach Patrol Daily
 3 Report is received and marked for identification as
 4 Exhibit 32.)
 BY MR. D'AMATO:
 6 Q. Let me show you a daily report from the North
 7 Wildwood Beach Department, or Beach Patrol, I meant
 8 to say. It's dated June 19, 2010.
 9 What I've done, to save some time, is
 10 to highlight what I'm going to ask you a question
 11 about, to save some time.
 12 And on 32, it says -- may I have this?
 13 "Two boogie boarding adults from The Inlet with Guard
 14 Lydon, no other incidents on a busy day."
 15 Now, when the author of that refers to
 16 The Inlet, given the fact that you're the chief of
 17 the beach patrol, is he referring to the body of
 18 water that we earlier called The Inlet, or is he
 19 referring to The Inlet Beach, if you can tell from
 20 that document?
 21 A. He's referring to the guarded beach.
 22 Q. Okay. And what guarded beach would that be?
 23 A. Surf Avenue, Ocean Avenue.
 24 Q. I got you. Okay. Thank you.
 25 (Discussion off the record.)
 WORD FOR WORD REPORTING, LLC

1 (North Wildwood Beach Patrol Daily
 2 Report is received and marked for identification as
 3 Exhibit 33.)
 4 Q. All right. All right. I'm now going to hand
 5 you what's been marked for identification as Exhibit
 6 33, a daily report dated July 25, 2010. And you'll
 7 see a reference to one inlet rescue. And my question
 8 is, can you tell from that document where the rescue
 9 -- no, more precisely, off of what beach the rescue
 10 took place?
 11 A. This would be in the unguarded area.
 12 Q. Okay.
 13 A. Because it's a kayak.
 14 Q. Okay. That would be Moore's Beach?
 15 A. Moore's Beach, or --
 16 Q. Or The Inlet Beach?
 17 A. The Inlet Beach.
 18 Q. Okay. Thanks. All right.
 19 (North Wildwood Beach Patrol Daily
 20 Report is received and marked for identification as
 21 Exhibit 34.)
 Q. Now, I'm going to hand to you what's been
 23 marked for identification as Exhibit 36. It's dated
 24 July 28, 2010.
 25 MR. DiJOSEPH: You're on 34.
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1 MR. D'AMATO: I'm sorry. Yep, you're
 2 right. That should be 34.
 3 Okay. Do you have that?
 4 Q. July 28, 2010. It says, "Kite surfer stuck
 5 in channel for 15 minutes."
 6 Can you tell where that event took
 7 place, in looking at that report? I know the --
 8 A. Out in Hereford Inlet.
 9 Q. Okay. And -- okay. You can take that.
 10 (North Wildwood Beach Patrol Daily
 11 Report is received and marked for identification as
 12 Exhibit 35.)
 13 Q. All right. Now, I'm going to show you, yep,
 14 one dated July 31, 2010, and this is Exhibit 35. And
 15 the highlighted part says, "3:55, Guard Lydon saw a
 16 group at The Point that was about 200 yards out.
 17 They drifted down from Moore's, and two of the
 18 victims were shaken up."
 19 Where was that rescue effectuated?
 20 A. About a hundred yards from Moore's Beach.
 21 Q. Okay. And that was off of an unprotected
 22 beach. Correct?
 23 A. Yes.
 24 (North Wildwood Beach Patrol Daily
 25 Report is received and marked for identification as
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1 Exhibit 36.)
 2 Q. All right. Let me show you a report dated
 3 August 23, 2010, marked for identification as Exhibit
 4 36. The highlighted part says, "Second and Surf
 5 rescue at The Point. People drifted down from
 6 Moore's."
 7 From your experience, was it unusual to
 8 see that people who had come from Moore's Beach into
 9 the water were drifting down towards The Inlet Beach?
 10 MR. BARKER: Objection.
 11 A. I'm confused the way they wrote this.
 12 Okay. Second and -- they -- they went
 13 in a hundred or so yards from Moore's, and drifted in
 14 the current.
 15 Q. Okay. All right.
 16 A. It was probably an outgoing tide.
 17 (North Wildwood Beach Patrol Daily
 18 Report is received and marked for identification as
 19 Exhibit 37.)
 20 Q. Okay. Let me show you what has been marked
 21 for identification as Exhibit 37. It's a report
 22 dated August 25, 2010. And the highlighted part
 23 says, "Major rescue off Moore's Beach. Fisherman
 24 fell off sea wall."
 25 It's back in 2010. Do you remember a
 WORD FOR WORD REPORTING, LLC

1 fisherman falling off a sea wall?

2 **A. Yes.**

3 **Q.** Is that something that happened more than
4 once, in your career?

5 **A. That's the first -- one time only, that I**
6 **know of.**

7 **Q.** Okay. Okay.

8 (North Wildwood Beach Patrol Daily
9 Report is received and marked for identification as
10 Exhibit 38.)

11 **Q.** Let me show you what's been marked for
12 identification as Exhibit 38. It's a daily report,
13 has a date of August 31, 2010. August 31, 2010. And
14 the highlighted part says, "Rescue at 'The Point.'"
15 Okay?

16 Can you tell from that document what
17 the author -- what specific area of the beach he is
18 referring to? That was Lieutenant Lindsay.

19 **A. He referred to that area as The Point. The**
20 **beach patrol did not refer to that. That was his**
21 **description.**

22 **Q.** Got it. Okay. So, we'll ask Lieutenant
23 Lindsay when we take his dep. All right.

24 Okay. Let's see here.

25 What I'm doing is, I'm -- because we're
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1 going to take Mr. Lindsay's deposition, I'm not going
2 to ask you about these.

3 MR. D'AMATO: Here you go. Take these.
4 It will be easier to find this. Okay?

5 **Q.** Before July 27, 2012, did the members of your
6 beach patrol have to effectuate any rescues relative
7 to Jet Ski accidents that had taken place off of
8 Moore's Beach and/or The Inlet Beach?

9 **A. Yes.**

10 **Q.** Can you give us an estimation in the
11 summertime how many rescues occur relative to Jet Ski
12 accidents?

13 **A. Half a dozen.**

14 **Q.** And how were the members of your patrol
15 alerted to the fact that a Jet Ski accident takes
16 place?

17 **A. Police radio. Somebody called 911.**

18 **Q.** Okay. Okay. Okay. Here, take these.

19 (North Wildwood Beach Patrol Daily
20 Report is received and marked for identification as
21 Exhibit 39.)

The next exhibit is dated July 24,
23 2011. I'm marking it as Exhibit 39. And my question
24 of you is about the entry here under ocean rescues.
25 Again, it's dated July 24, 2012.

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1 It says, "Guard Ryan Sanki - rescue
2 on woman 50 yards outside swim zone ignoring
3 whistles."

4 (Discussion off the record.)

5 MR. D'AMATO: July 24, 2011. Excuse
6 me. 2011.

7 **Q.** What swim zone is the author of this
8 referring to?

9 **A. The Surf Avenue chair, we put a flag west of**
10 **it, no swimming. This is referring to a woman that**
11 **was past the flag that went in the water.**

12 (North Wildwood Beach Patrol Daily
13 Report is received and marked for identification as
14 Exhibit 40.)

15 **Q.** Thank you. Okay. The next one is dated May
16 26, 2012, a couple months before the Smith event.
17 And the highlighted portion reads, "Two rescues,
18 guards, Goss and Muso did a good job on controlling
19 the crowd at First and Surf. There are heavy crowds
20 at First Street due to the parking lot."

21 Can you explain what he means that
22 there are heavy crowds due to the parking lot?
23 What's the connection?

24 **A. Well, there's a --**

25 MR. BARKER: Objection. You may
WORD FOR WORD REPORTING, LLC

1 answer.

2 **A. The city made a parking lot, and people come**
3 **down to the beach and park there, so they go out on**
4 **the First and Surf.**

5 **Q.** Got it. And from that parking lot that we've
6 been referring to that's next to the condominiums,
7 individuals that park their cars there, can take one
8 set of steps to get right on Moore's Beach?

9 **A. Yes.**

10 **Q.** All right. Okay. Here you go. You don't
11 have to get this one.

12 (North Wildwood Beach Patrol Daily
13 Report is received and marked for identification as
14 Exhibit 41.)

15 **Q.** Exhibit 41 is a daily report dated July 4,
16 2012. Couple weeks before Brad Smith's drowning.

17 The author, under ocean rescue, says,
18 "Two Jet Ski prevents at Moore's Beach."

19 You'll see that phrase, preventions, or
20 prevents, used in all these reports.

21 Can you tell what the author means from
22 that, by prevents?

23 MR. BARKER: Objection. You may
24 answer.

25 **A. They took the WaveRunner Jet Ski down to**
WORD FOR WORD REPORTING, LLC

1 **Moore's Beach, people were swimming out, Champagne**
 2 **Island, and they prevented them from doing that.**

3 **Q.** Okay. I've been educated by locals as to
 this Champagne Island.

Is there any prohibition from a person
 6 who's on The Inlet Beach, not Moore's Beach, The
 7 Inlet Beach, from swimming to Champagne Island? A
 8 prohibition.

9 **A. No.**

10 **Q.** Okay. Is there any prohibition for someone
 11 swimming to Champagne Island from Moore's Beach?

12 **A. No.**

13 **Q.** Okay. How many rescues in a given summer
 14 before July 27, 2012 did your lifeguards have to
 15 effectuate relative to people who were trying to swim
 16 from Moore's Beach and/or The Inlet Beach to
 17 Champagne Island and vice-versa?

18 **MR. BARKER:** Objection. You may answer
 19 the question.

20 **Q.** Go ahead.

21 **A. About a dozen a summer.**

22 (North Wildwood Beach Patrol Daily
 23 Report is received and marked for identification as
 24 Exhibit 42.)

25 **Q.** All right. Let me show you what's been

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1 marked for identification as Exhibit 42. This is a
 2 report dated August 17th, 2012.

3 And I'm going to hand it to you, and I
 4 want to ask you, at the bottom, it says, "Lifeguard
 5 issues - concerns - comp time used." It says, "Five
 6 preventions at The Point."

7 Given your years as the chief of the
 8 beach patrol, and again, you'll see that the crew is
 9 Edwards and Lindsay, is The Point, The Inlet Beach,
 10 that we've been referring to?

11 **A. Yes.**

12 **Q.** Okay. All right.

13 (North Wildwood Beach Patrol Daily
 14 Report is received and marked for identification as
 15 Exhibit 43.)

16 **Q.** Now, let me hand to you what's been marked
 17 for identification as Exhibit 43. And this is dated
 18 August 18, 2012. And at the bottom, it says, "Seven
 19 preventions at Inlet. Notified" -- I don't know if
 20 that's PD or PB -- "since alcohol was involved."

21 I'm thinking it means police.

22 Again, can you tell from that, when it
 23 says at The Inlet, does that mean The Inlet Beach, or
 24 the body of water called The Inlet? Can you tell
 25 from that?

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1 **A. Inlet Beach.**

2 **Q.** Okay.

3 (North Wildwood Beach Patrol Daily
 4 Report is received and marked for identification as
 5 Exhibit 44.)

6 **Q.** Okay. Now, let me show you what's been
 7 marked for identification as Exhibit 44. It's a
 8 daily report dated August 19, 2012. And at the
 9 bottom, the same category, again, it says, "Eight
 10 preventions at The Point."

11 Okay. Now, when it says eight
 12 preventions, does that -- if you can tell, does that
 13 mean preventing eight people from going into the
 14 water? What -- I don't understand this term
 15 preventions.

16 **MR. BARKER:** Objection. You may answer
 17 the question, if you can.

18 **A. They were trying to stop people from going in**
 19 **the water there.**

20 **Q.** Got it. Thank you.

21 (North Wildwood Beach Patrol Daily
 22 Report is received and marked for identification as
 23 Exhibit 45.)

24 **Q.** Let me show you what's been marked for
 25 identification as Exhibit 45. It's a daily report

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1 dated August 20, 2012. At the bottom, it says, "Ten
 2 preventions at Point."

3 Would your answer be the same as it
 4 just was, that they're trying to prevent --

5 **A. Yes.**

6 **Q.** -- people from going -- that are on The
 7 Point, the beach, going into the water?

8 **A. (Witness nods.)**

9 **Q.** Okay.

10 **MR. BARKER:** You have to answer
 11 verbally.

12 **A. Yes.**

13 **Q.** All right. Here. Finished with these.
 14 These are unused. Or actually duplicates. Okay?

15 **MR. D'AMATO:** If we can go off the
 16 video and steno record. It --

17 **VIDEOGRAPHER:** Off --

18 **MR. D'AMATO:** Just one second. It will
 19 save some time, because I think I'm almost finished.
 20 I just want to look at my notes here. Okay?

21 **MR. BARKER:** Certainly.

22 **MR. D'AMATO:** But nobody has to go far.
 23 Because I could do this real quick.

24 **VIDEOGRAPHER:** Off the record at 3:31.
 25 (Discussion off the record.)

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1 VIDEOGRAPHER: We're back on the record
 2 at 3:36.
 3 BY MR. D'AMATO:
 4 Q. Chief, I feel I have four questions, maybe
 not, some follow-up questions.
 6 When I was on the beach the past couple
 7 summers, I saw ice cream vendors.
 8 Now, in order to sell ice cream on the
 9 beaches of North Wildwood, do you need a mercantile
 10 license?
 11 A. Yes.
 12 Q. All right. Is it the responsibility of the
 13 lifeguards to determine if someone's on the beach and
 14 whether they have a mercantile license or not?
 15 A. No.
 16 Q. Is that the police department's
 17 responsibility?
 18 A. Yes.
 19 Q. Okay. From your experience, before July 27,
 20 2012, were the ice cream vendors, if they were able
 21 to, take their cart and sell ice cream to people who
 22 were sitting on The Inlet Beach?
 23 A. Yes.
 24 Q. As well as Moore's Beach?
 25 A. Yes.

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1 Q. Now, what about getting a permit to operate a
 2 vehicle on the beach, is that something that came
 3 under the jurisdiction of the beach patrol, or the
 4 police department?
 5 A. Police department.
 6 Q. Okay. Were there ever occasions before July
 7 27, 2012 where your lifeguards had to alert the North
 8 Wildwood Police Department that somebody was trying
 9 to operate some sort of vehicle on the beach, that
 10 you know of?
 11 A. Not that I know of.
 12 Q. No. Did you ever read the North Wildwood
 13 ordinance that deals with the beaches of North
 14 Wildwood? It's Ordinance -- it's Chapter 138, and
 15 the subsection is Section 196-1.
 16 Did you ever read that ordinance?
 17 A. Yes.
 18 Q. Okay. I could find you the definition here
 19 in a second, but the -- you know what, I'm -- I might
 20 have to -- let me do this. I'm going to have Joe ask
 21 you his questions, and let me find it. I have a -- I
 want to get a clean copy of what I have here.
 23 So, I'm finished. I thank you for your
 24 time. I hope you thought I was being fair with you.
 25 I know it was your first deposition. Thank you.

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1 MR. D'AMATO: Off the video record.
 2 (Discussion off the record.)
 3 MR. GRASSI: Do you have questions?
 4 MR. HUNKINS: Just a couple, yeah.
 5 MR. GRASSI: You want to go now?
 6 MR. HUNKINS: No, you can go.
 7 MR. D'AMATO: Joe, you want to sit
 8 here?
 9 MR. GRASSI: I don't think I need to do
 10 that. I might need your help with the exhibits. So,
 11 I'm going to refer back to Exhibit 5 and Exhibit 4.
 12 So, if you could give those to --
 13 MR. DIJOSEPH: 4 and 5?
 14 MR. GRASSI: Yeah, 4 and 5.
 15 MR. HUNKINS: Off the record. I was
 16 going to ask about Exhibit 13, also. So, if you pull
 17 them out. Sorry.
 18 MR. GRASSI: What number are we up to?
 19 MR. DIJOSEPH: We are at 45.
 20 MR. GRASSI: Okay. So, why don't we
 21 have this marked as 46.
 22 MR. D'AMATO: Okay.
 23 (Newspaper Article is received and
 24 marked for identification as Exhibit 46.)
 25 (Discussion off the record.)

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1 MR. GRASSI: While Mr. Cavalier's
 2 reviewing those exhibits, which one was 5?
 3 MR. DIJOSEPH: 5 is the Bass --
 4 (Discussion off the record.)
 5 MR. GRASSI: Exhibit 6, could we see
 6 Exhibit 6?
 7 All right. So, I said I wasn't going
 8 to move down there, but if it's going to help the
 9 court reporter, maybe I should.
 10 VIDEOGRAPHER: Let's go off the record
 11 at 3:42.
 12 (Discussion off the record.)
 13 VIDEOGRAPHER: We're back on the record
 14 at 3:43.
 15 EXAMINATION
 16 BY MR. GRASSI:
 17 Q. All right. So, Chief, I want to show you
 18 first an exhibit that Mr. D'Amato asked you a
 19 question about. That's Exhibit 6. And he asked you,
 20 I think, whether you would warn that woman that she
 21 was in some danger, or whether you would order her
 22 out of the water. And you said no?
 23 A. Correct.
 24 Q. Why is that?
 25 A. Because you can see past her, where the water

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1 -- the color of the water changes, that's where it
2 gets deeper.

3 Q. Okay.

4 A. She's standing in flat -- a flat area.

5 Q. All right. Okay. So that where she's
6 standing, she's not at the drop off; is she?

7 A. No.

8 Q. Are you able to see the drop off in the
9 photograph that she's in?

10 A. I would say where the water changes color.

11 Q. Okay. So, it's hard from the perspective,
12 but it's not very far from where she's standing, that
13 the water seems to drop -- that the water changes
14 color. Is that right?

15 A. Yes.

16 Q. Maybe 10 feet?

17 A. No. That's probably -- I'll bet that's 20
18 yards from where she's standing.

19 Q. Okay. And again, I say it's difficult with
20 the drop off.

21 A. Yes.

22 Q. But, in fact, if you go to the Exhibit 46,
23 that I had placed in front of you.

24 MR. BARKER: That's the newspaper
25 article?

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1 Q. That's a newspaper article from the Shore
2 News, that's a local North Wildwood paper, or
3 Wildwood paper, that you're familiar with; aren't
4 you?

5 A. This article? Yes.

6 Q. Well, the newspaper, in general, and that
7 particular article.

8 A. Yes.

9 Q. All right. Can you tell me what date that
10 article was published?

11 If I could borrow a copy of it, I can
12 tell you. I think it's --

13 A. It says 2011.

14 Q. It's July 27th, 2011. Right? July 27th,
15 2011?

16 A. Yes.

17 MR. BARKER: That's what it says.

18 Q. Okay. Yeah. And at the bottom, I've
19 actually circled the paragraph that I want to draw
20 your attention to right now. You indicate that "The
21 Inlet can look like it has calm water, but it is
22 deceiving. The water starts off shallow, but then
23 about two feet out from the shore, it can drop off."

24 Is that accurate?

25 A. Yes.

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1 Q. All right. And I'm going to assume that
2 you're discussing here the drop off that you
3 discussed earlier in the deposition?

4 A. Yes.

5 MR. HUNKINS: Object to the form.

6 Q. All right. Virtually, all the questions I'm
7 going to ask you about are going to be about that
8 drop off. Because I want to try to understand where
9 that drop off is, how it occurs. And you've
10 indicated that it moves along with the shore line.
11 Is that right?

12 A. Yes.

13 Q. So that it's a dynamic process?

14 A. Yes.

15 Q. But that it is relatively constant, and
16 they're not your words, so that it's a feature that,
17 that while it moves, it doesn't really go away; does
18 it?

19 A. No.

20 MR. BARKER: Objection.

21 Q. Okay. You can answer. You did answer it.
22 No, I'll move on.

23 MR. BARKER: I objected. He answered.

24 MR. GRASSI: Right, okay. So, we'll
25 move on.

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1 Q. It doesn't move from day to day; does it?

2 A. Yes. The Inlet changes every day.

3 Q. Okay.

4 A. The currents.

5 Q. Okay. Does the drop off change during the
6 tide?

7 A. Yes. Certain tides, there is no drop off.

8 Q. Okay. What kind of tides is there no drop
9 off, and what kind of tides is there a drop off?

10 A. High tide. High tide, it's a regular beach.

11 Q. Okay. And that's because the drop off --

12 A. Would be further out.

13 Q. -- is so far out that you couldn't walk to
14 it?

15 A. Correct.

16 Q. Is that right? Okay. Because by the time
17 you got out there, you'd be swimming, you wouldn't be
18 walking?

19 A. (Witness nods.)

20 Q. Is that correct?

21 A. No. Not exactly, no.

22 Q. Okay.

23 A. Say that again.

24 Q. Okay. The -- when you're saying that it
25 changes on different tides, I -- do you mean that it

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1 becomes inaccessible by walking when the tide is
 2 high?
 3 **A. Well, it's -- it's basically like this**
 4 **picture is showing you.**
 5 **Q. Okay.**
 6 **A. When the tide's up, it will be deep water.**
 7 MR. BARKER: He's holding Exhibit 6.
 8 MR. GRASSI: Okay.
 9 **A. When the water is out is when there is a drop**
 10 **off.**
 11 **Q. Okay. When it's low tide, there's a drop**
 12 **off?**
 13 **A. Not basically low tide. But mid tide.**
 14 **Q. Okay. And, in fact, at low tide, it may be**
 15 **that the drop off looks -- would it look more like**
 16 **those pictures where the beach was actually falling**
 17 **away?**
 18 **A. No.**
 19 MR. BARKER: Objection.
 20 MR. HUNKINS: Objection to form.
 21 **A. No.**
 22 **Q. Okay. You had indicated, and I'm going to**
 23 **ask you to take a look at 4 -- do I have 4?**
 24 MR. BARKER: That's the compendium of
 25 exhibits?

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1 MR. GRASSI: That's the compendium. I
 2 probably buried it somewhere. Yeah.
 3 MR. BARKER: There you go.
 4 **Q. Here's 4. And I turned it to the March 2012**
 5 **photograph.**
 6 MR. BARKER: March 14th, 2012.
 7 **Q. Since that's the -- the photograph that's the**
 8 **most approximate in time to the events.**
 9 You had indicated that there was an
 10 area that was about a tenth of a mile wide where the
 11 drop off occurred?
 12 **A. Yes.**
 13 **Q. Did I understand that right?**
 14 Could you indicate on that photograph
 15 where that area is?
 16 **A. Approximately.**
 17 **Q. Okay. Would you do that? And I don't know**
 18 **if we've had the green ink yet. Why don't you use**
 19 **the green ink to draw lines on the beach that show**
 20 **the area where that would occur.**
 21 MR. BARKER: Okay. Hold on. Is the
 22 packet that you gave him the same one that Paul was
 23 using? Because --
 24 MR. GRASSI: There's only one way --
 25 MR. DIJOSEPH: Should be marked on the

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1 front. That's the exhibit.
 2 MR. GRASSI: Yeah. That's the exhibit.
 3 MR. BARKER: It's not. This is a copy.
 4 MR. D'AMATO: Okay. There it is.
 5 MR. GRASSI: Switch with me.
 6 MR. BARKER: Okay. Let me get --
 7 MR. GRASSI: Are you going to get to
 8 the right page? Thanks.
 9 MR. BARKER: Yeah. He'll ask you the
 10 question again. Just a minute.
 11 BY MR. GRASSI:
 12 **Q. Okay. Perfect. All right.**
 13 MR. BARKER: No, he's going to ask you
 14 a question.
 15 **Q. Yeah. So, do you understand what I want you**
 16 **to -- what I want you to do is, is to give us the**
 17 **outlines of the area where the drop off appears.**
 18 MR. HUNKINS: Object to the form.
 19 MR. BARKER: Objection. You mean like
 20 appears in the photograph? Or --
 21 MR. GRASSI: No, no, no. Here's my
 22 understanding. And I'll run through the foundation
 23 again.
 24 **Q. Your testimony was that the drop off moves**
 25 **from time to time. Correct?**

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1 **A. Yes.**
 2 **Q. And that it -- and that it does that along a**
 3 **particular section of Inlet Beach, or Moore's Beach?**
 4 **A. Yes.**
 5 **Q. Okay. So, what I want you to do is give us**
 6 **the south and north or east and west limits of where**
 7 **it appears.**
 8 **A. (Witness complies.)**
 9 **Q. Okay. And if you would take those lines back**
 10 **into the beach a little bit, just so that we can see**
 11 **them on -- because of the contrast.**
 12 **A. (Witness complies.)**
 13 **Q. Okay. Now, I was up at the other end. So, I**
 14 **didn't really see where you were indicating that**
 15 **Lieutenant Lindsay called an area The Point. Is that**
 16 **The Point?**
 17 **A. Yes.**
 18 **Q. Okay. And that area on the aerial photos,**
 19 **that changes from time to time, moves -- moves**
 20 **around. But there's almost always some area on The**
 21 **Inlet throat where the sand falls away, as you start**
 22 **to go south?**
 23 MR. BARKER: Objection.
 24 **Q. Is that right?**
 25 MR. BARKER: I object. You may answer

WORD FOR WORD REPORTING, LLC

1 the question.

2 **Q.** Do you understand what I'm saying?

3 **A.** **Yeah. I don't -- I don't see sand falling away. I don't --**

4 **Q.** I didn't mean it -- okay. I have -- that's

5 probably the wrong way to put it. Because there are

6 -- there's an element here of sand falling away.

7 What I meant by that is, there's an area where you're

8 going in one direction, and then the beach sort of

9 takes another direction?

10 **A.** **Yes.**

11 **Q.** Okay. That's sort of The Point. Correct?

12 **A.** **Yes.**

13 **Q.** All right. And the drop off occurs on The

14 Inlet side of that Point when it occurs; doesn't it?

15 **MR. BARKER:** Objection.

16 **Q.** The drop off is occurring, like, on this

17 photograph, where The Point is here, the drop off is

18 occurring on The Inlet side of that?

19 **A.** **Yes.**

20 **MR. HUNKINS:** Object to the form. I

21 just don't know what you mean by The Inlet side.

22 **MR. BARKER:** You mean where the water

23 is?

24 **Q.** Well, the water -- it's in the water. But

25 **WORD FOR WORD REPORTING, LLC**

1 when I say The Inlet side, as opposed to the ocean

2 side.

3 **MR. HUNKINS:** So, you mean northwest as

4 opposed to southeast?

5 **MR. GRASSI:** Yeah, more or less

6 northwest of that Point, as opposed to southeast.

7 **Q.** But The Point where the current's actually

8 going in and out of The Inlet. Correct?

9 **A.** **Yes.**

10 **MR. BARKER:** Objection.

11 **MR. HUNKINS:** Objection to form.

12 **Q.** Have you ever studied any of or read any of

13 these studies of how The Inlet migrates?

14 **A.** **No.**

15 **Q.** Okay. Do you know whether the currents are

16 scouring that Point, that Lindsay calls a Point?

17 **MR. BARKER:** Objection. I'm objecting

18 to the form of the question. You may answer it, if

19 you understand it.

20 **A.** **I believe it scours the whole Inlet Beach,**

21 **the way the currents run, not just there.**

22 **Q.** Okay. All right. The area that you refer to

23 as a drop off, does it parallel Inlet Beach, or does

24 it run perpendicular to Inlet Beach?

25 **A.** **You got me confused on that one.**

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1 **Q.** Okay. Well, when the drop off appears, how

2 big an area is it?

3 **A.** **Ten, fifteen yards.**

4 **Q.** Okay. And how -- how -- what's the drop? In

5 other words, if someone is walking, and they

6 encounter this drop off, how far will they step down?

7 **A.** **Over their head.**

8 **Q.** Okay. All right. So, it's sort of a cliff?

9 **MR. BARKER:** Objection. You may answer

10 the question.

11 **Q.** You can answer it.

12 **A.** **I don't consider it that.**

13 **Q.** Okay.

14 **A.** **It's when the tide's out, it's just the water**

15 **drops off.**

16 **Q.** All right. It's a sudden drop off?

17 **A.** **Yes.**

18 **Q.** All right. So that, do you have any idea

19 what the slope of the sand at that drop off is?

20 **A.** **No, I don't.**

21 **Q.** Okay.

22 **A.** **No.**

23 **Q.** Have you ever lost your footing on the drop

24 off?

25 **A.** **No.**

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1 **Q.** Have you seen anyone do that?

2 **A.** **No.**

3 **Q.** Mr. D'Amato asked you whether you knew of

4 anyone who was rescued after stepping off the drop

5 off?

6 **A.** **I don't remember that.**

7 **Q.** Okay. Well, I'm going to ask you that.

8 Do you know of anyone who was rescued

9 after stepping off the drop off?

10 **A.** **No.**

11 **Q.** Do you know if the drop off is circular?

12 **MR. HUNKINS:** Object to the form.

13 **A.** **I don't know what you mean by that question.**

14 **Q.** Okay. Well, it's going back -- I guess what

15 I -- what I should probably ask you to do is, can you

16 -- can you draw the area, in other words, you're

17 saying it's 10 or 20 yards, can you show us where the

18 10 or 20 yards would be on the drop off?

19 **A.** **It's right here.**

20 **Q.** Would I encounter the drop off -- in this

21 case, the Sunderland version is that Smith,

22 Sunderland and the children were walking in ankle

23 deep water, parallel to the beach.

24 **A.** **Yes.**

25 **Q.** Okay. And two of them just fell away, the

WORD FOR WORD REPORTING, LLC

1 beach fell away.

2 And you indicate, you theorized they
3 fell in the drop off?

MR. BARKER: Objection.

MR. HUNKINS: Objection.

6 MR. BARKER: I'm objecting to that
7 question. I object to the form. But -- you're
8 pressing the question.

9 Q. You can answer. Is what I said accurate?

10 MR. HUNKINS: Object to the form.

11 MR. BARKER: Join.

12 Q. That you think they fell into the drop off,
13 based on the description of Sunderland?

14 A. Yes.

15 Q. Okay. What I'm trying to understand is,
16 would the drop off have been running along the beach,
17 and they got too close to it and slid in from the
18 side, or would they have encountered a drop off that
19 ran perpendicular to the direction they were walking?

20 Do you understand what I'm asking you?

21 A. Do you want me to explain how I think?

22 Q. Yeah, I do. Yeah, very much.

23 A. They were walking along, and they came to the
24 spot where it's -- I call a drop off, and it was over
25 their head, and they stepped into it.

WORD FOR WORD REPORTING, LLC

1 Q. Okay.

2 A. I don't call that a cliff.

3 Q. Okay. Well, that's fine. I just -- It's
4 fine. You've called it a drop off, and I'm -- I want
5 to call it what you call it. I just am trying to
6 understand where it is, what shape it is.

7 And do you discuss where the drop off
8 is with any of your personnel during the course of a
9 summer?

10 A. No.

11 Q. Do they discuss it with you?

12 A. Yes.

13 Q. Okay. So, the drop off is a phenomenon that
14 the guards will discuss --

15 A. Yes.

16 Q. -- amongst themselves?

17 And you recognize it as a risk?

18 A. Yes.

19 Q. Regardless of knowing that it's a cliff, or
20 -- or calling it a cliff?

21 A. Yes.

22 Q. You understand that that drop off is a risk
23 to people who are using the beach.

24 A. (Witness nods.)

25 Q. Is that right?

WORD FOR WORD REPORTING, LLC

1 A. Yes.

2 Q. And you recognize that it's a risk that comes
3 up to someone who is simply walking, not swimming?

4 A. Yes.

5 Q. Is that correct?

6 And how long have you recognized that
7 risk?

8 A. Ten years.

9 Q. What caused you to recognize that risk 10
10 years ago?

11 A. Some of the rescues we had down there.

12 Q. Okay. Can you tell me which -- what rescues
13 you had, and where they would be documented, that led
14 you to recognize that risk?

15 A. No. I -- it's my own personal experience of
16 going down there, and looking at it.

17 Q. Okay. Have you ever discussed that risk with
18 the police chief? Have you discussed that risk with
19 the police chief?

20 A. No.

21 Q. Have you discussed it with -- and I'm -- I'm
22 asking you a pretty broad area of time. So, I'm
23 going to ask you if you ever discussed that risk with
24 a business administrator, mayor, council president?

25 A. No.

WORD FOR WORD REPORTING, LLC

1 Q. Okay. Have you discussed it with anyone,
2 other than other lifeguards?

3 A. No.

4 Q. Okay. At the time that the borough
5 administrator was devising warnings for that area
6 that Lindsay calls The Point, did you have any
7 discussions with him about the risk that was
8 presented by the drop off?

9 A. No.

10 Q. All right. The December -- strike that.

11 The July 27th, 2011 article, that --

12 that article discusses the disappearance of a woman
13 named Christina Tsiotsias, I might be butchering
14 that, from Baltimore, Maryland.

15 That indicates that woman came to the
16 beach at about three o'clock in the afternoon, and
17 that people came looking for her at six to pick her
18 up, and that she was gone. They then reported her
19 missing to the police at about eight p.m. that night.

20 A. Yes.

21 Q. Okay. When did you learn that a woman had
22 been missing from the beach?

23 A. The next day.

24 Q. Okay. And at that point, did you attempt any
25 rescue?

WORD FOR WORD REPORTING, LLC

1 **A. No.**
 2 **Q.** Did you learn that her -- when the people
 3 came to find her, that although they couldn't find
 4 her, they did find her beach blanket, and belongings?
 5 **A. Yes.**
 6 **Q.** Do you know if there was ever any type of
 7 analysis of what happened to her?
 8 **A. Not to my knowledge.**
 9 **Q.** And you would agree with me that, for most of
 10 that time, between three p.m. and six p.m.,
 11 lifeguards were on duty?
 12 **A. No.**
 13 **Q.** All right. And that's because she appears to
 14 have been at an unprotected beach?
 15 **A. I don't even know where Spruce Avenue is in**
 16 **The Inlet.**
 17 **Q.** Okay.
 18 **A. It's saying Spruce Avenue. I -- that's --**
 19 **that's pretty far down.**
 20 **Q.** Moore's Inlet Bar was on Spruce Avenue.
 21 Right?
 22 **A. Yeah. I -- that's Moore's Beach.**
 23 **Q.** So, that's Moore's Beach. Right?
 24 So, and you're saying that because the
 25 article says that the people who said they dropped
 WORD FOR WORD REPORTING, LLC

1 her off dropped her off at Spruce Avenue, so that --
 2 **A. Yeah, I'm not familiar with somebody saying**
 3 **Spruce Avenue, I'm just --**
 4 **Q.** I understand. You'd agree with me that's
 5 likely the parking lot at Moore's Beach that you
 6 talked about earlier. Correct?
 7 **A. Yes. It runs into Central Avenue.**
 8 **Q.** Okay. But my question is, is, is about the
 9 time of day. That time of day is the time of day
 10 when guards are on duty; isn't it?
 11 **A. Three p.m., yes.**
 12 **Q.** Okay. And what time do the guards go off?
 13 **A. 5:30.**
 14 **Q.** Okay. All right.
 15 MR. GRASSI: Would it be best to take a
 16 break now, so you can take care of that?
 17 VIDEOGRAPHER: You've got five minutes.
 18 MR. GRASSI: Oh, I could take longer
 19 than five minutes. All right. So, I'll -- just give
 20 me another warning.
 21 BY MR. GRASSI:
 22 **Q.** There was a -- there've been a number of
 23 drownings at Inlet Beach and Moore's Beach in the
 24 last 10 years; haven't there?
 25 MR. BARKER: Objection.
 WORD FOR WORD REPORTING, LLC

1 **Q.** You can answer.
 2 MR. BARKER: You can answer.
 3 **A. A number?**
 4 **Q.** Yes.
 5 **A. In the last 10 years?**
 6 **Q.** Yes.
 7 **A. I don't think more than three.**
 8 **Q.** Okay. Well, we know about Mr. Smith.
 9 **A. Right.**
 10 **Q.** All right. And then there was a drowning
 11 last year; wasn't there?
 12 MR. HUNKINS: Are we talking about
 13 Inlet Beach, or any of the beaches?
 14 MR. GRASSI: Only in The Inlet. I'm
 15 just talking about The Inlet.
 16 MR. HUNKINS: Yeah. And I know, but
 17 Inlet Beach, or --
 18 MR. BARKER: Moore's Beach?
 19 MR. GRASSI: Moore's Beach, Inlet
 20 Beach.
 21 MR. HUNKINS: Oh, any of the beaches?
 22 **A. To my knowledge, that was a suicide.**
 23 **Q.** The one from this past summer?
 24 **A. Yes.**
 25 **Q.** Okay. And how about Jamilah Watkins and
 WORD FOR WORD REPORTING, LLC

1 Shayne Hart?
 2 **A. Yes.**
 3 **Q.** All right. They were two women who died?
 4 **A. Yes.**
 5 **Q.** In 2000 --
 6 **A. Nine.**
 7 **Q.** 2009. Did you participate -- and when I say
 8 you, I mean the --
 9 **A. Yes.**
 10 **Q.** -- Wildwood Crest Beach Patrol?
 11 **A. We recovered the bodies.**
 12 **Q.** Okay. And when was that?
 13 **A. After hours.**
 14 **Q.** Okay. So, they were recovered that evening?
 15 **A. Yes.**
 16 **Q.** Okay. Do you know whether there was any
 17 analysis of what occurred there?
 18 **A. When we knock off at 5:25, we clear the**
 19 **water. They were -- the lifeguards remember those**
 20 **two women, and they got them out of the -- young**
 21 **ladies, got them out of the water. That's our**
 22 **policy. We drove away. They went back in the water.**
 23 **Q.** Would you have the name of the third woman
 24 who survived?
 25 **A. The police would.**
 WORD FOR WORD REPORTING, LLC

1 Q. Okay. Because I don't know that that
2 incident didn't -- I don't know that it occurred --
3 that it appeared in the reports that we were
4 reviewing earlier.

MR. DIJOSEPH: It does not.

6 Q. All right. So, the police would have that.
7 And are you aware that the Coast Guard assisted in
8 that --

9 A. Yes.

10 Q. -- recovery?

11 And did you read an article where Petty
12 Officer Kennedy indicated that it appeared that those
13 women had been wading in the water, and then were
14 swept away?

15 A. No.

16 Q. Is that the first time you're hearing that?

17 A. Yes.

18 Q. Okay. Because you've indicated in your
19 discussions of this that they were swimming.

20 A. **They were swimming off where we were**
21 **protecting the beach.**

22 Q. That was earlier in the evening?

23 A. Yes.

24 Q. Okay. You don't know if they were swimming
25 or wading at the time that they were carried away; do

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1 you?

2 A. No.

3 Q. Do you know of someone drowning in 2008?

4 A. **I can't remember.**

5 Q. Where -- where would I best locate records of
6 people who drowned off Inlet Beach?

7 A. **Well, it's in those records that Mr. -- Paul**
8 **had.**

9 MR. BARKER: We've provided records in
10 discovery.

11 MR. GRASSI: Of --

12 MR. BARKER: From different sources.
13 Police, fire, and beach patrol. You have them all.

14 MR. GRASSI: Okay. So, you think I
15 have this one for this lady from Baltimore, who
16 floated away and was found a day or two later in
17 Avalon?

18 MR. BARKER: I can't remember what
19 records, you know, whether one would correspond
20 directly to that.

21 MR. GRASSI: I'll just look later.

MR. BARKER: You could look.

23 VIDEOGRAPHER: Two minutes. Two
24 minutes.

25 MR. GRASSI: Two minutes? Okay.

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1 BY MR. GRASSI:

2 Q. The vortex that you talked about before, how
3 far is the vortex from the drop off?

4 MR. HUNKINS: Object to the form.

5 MR. BARKER: Objection. Joined.

6 Q. You can answer.

7 MR. BARKER: You may answer, if you
8 can.

9 A. **That's -- that's where it is.**

10 Q. Oh, okay. All right. So, the vortex is, is
11 related to --

12 A. Yes.

13 Q. -- the drop off? Okay.

14 MR. GRASSI: All right. Why don't you
15 change. I'll take a look and see if I've got
16 anything else.

17 VIDEOGRAPHER: This ends video 2. The
18 time is 4:09. We're off the record.

19 (There was a brief recess.)

20 VIDEOGRAPHER: This marks the beginning
21 of videotape 3. The time is 4:14. We're back on the
22 record.

23 BY MR. GRASSI:

24 Q. The drop off is, is present every year; isn't
25 it, someplace or other?

WORD FOR WORD REPORTING, LLC

1 A. Yes.

2 Q. Okay.

3 MR. GRASSI: I don't have any other
4 questions. Thank you.

5 MR. D'AMATO: Are you going to sit over
6 here, or are you going to sit there?

7 MR. HUNKINS: I'm good here.

8 MR. BARKER: You have a clear line of
9 sight?

10 MR. HUNKINS: I do. I'm good.

11 EXAMINATION

12 BY MR. HUNKINS:

13 Q. Sir, you've been very patient. We won't be
14 too much longer. Maybe I have 10 minutes of
15 questions for you, tops.

16 I'm the attorney for the State of New
17 Jersey. Do you need a break at all?

18 MR. BARKER: Can you hear him?

19 A. **No. I really have bad hearing, too.**

20 Q. Oh, okay. I'll move --

21 MR. BARKER: Would you change with
22 Will, then?

23 MR. HUNKINS: Yes.

24 VIDEOGRAPHER: Off the record at 4:14.
25 (Discussion off the record.)

WORD FOR WORD REPORTING, LLC

- 1 VIDEOGRAPHER: Back on the record at
2 4:15.
3 BY MR. HUNKINS:
4 Q. Sir, I'm sitting a little closer now, I'm
5 speaking a little louder. Can you hear me now okay?
6 A. Yes.
7 Q. Okay. I'm the attorney for the State. And I
8 have a few questions for you, maybe 10 minutes, tops.
9 Do you feel okay?
10 A. Yes.
11 Q. All right. We've been using the term drop
12 off many times. You've been asked many questions
13 about it. And I just want to verify in my own mind
14 what we've got here.
15 When we were talking about the drop
16 off, did you say that that drop off, in your
17 estimate, is 50 or 60 feet deep, or am I confusing
18 things?
19 A. No, I never -- I didn't say that.
20 Q. Okay. Okay. The drop off that we've been
21 talking about is typically how deep?
22 A. Ten.
23 Q. Okay. And are there other areas along any of
24 these beaches where there are other drop offs?
25 A. Yes.

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- 1 Q. Okay. Are those other drop offs, can they be
2 as deep as 10 feet, also?
3 A. 50 feet. 50 to 60 feet.
4 Q. Okay.
5 A. That's the drop off at Moore's Beach, where
6 they fish.
7 Q. All right. So, I just want to nail down
8 where these drop offs can happen, and how deep they
9 typically are.
10 So, maybe if we start at the northwest,
11 that would be Moore's Beach. Right?
12 A. Yes.
13 Q. And do drop offs occur there?
14 A. That's where it's deep, yes.
15 Q. Okay. That's where you'd get a 50 or 60-foot
16 deep?
17 A. Yes.
18 Q. And is that also where you testified the
19 vortex would be?
20 A. No.
21 Q. Okay. So, as we move southeast along the
22 beaches, after Moore's Beach, then you get to what?
23 A. Inlet Beach.
24 Q. Okay. And do drop offs occur at Inlet Beach?
25 A. Yes.

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- 1 Q. And how deep are they, typically?
2 A. Ten.
3 Q. Okay. And as you move southeast from Inlet
4 Beach, at some point, you get to the protected beach.
5 Is that right?
6 A. Yes.
7 Q. Is there a drop off ever on the protected
8 beach?
9 A. No.
10 Q. Okay. Now, what's your understanding of
11 where the drowning occurred? Do you understand that
12 it occurred off of The Inlet Beach?
13 A. Yes.
14 Q. Okay. Do you have an understanding of how
15 far south it was from The Point?
16 A. It was at The Point.
17 Q. Okay. So, that was my other question. Is
18 The Point located on The Inlet Beach?
19 A. Yes.
20 Q. Okay. So, if I follow you correctly, the
21 drop off, when the drowning occurred, was at The
22 Point, and it was about 10 or 15 feet deep?
23 A. Yes.
24 Q. But I also understand that at different times
25 of the year, or different years, that drop off can be

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- 1 at a different location. Correct?
2 A. Yes.
3 Q. By that, do you mean that it can be located
4 at places other than The Point?
5 A. No.
6 Q. Okay. At mid tide or low tide, is the drop
7 off visible by looking at the color of the water?
8 A. Yes.
9 Q. So, anybody walking along could look and see
10 that the color -- the water is a different color, and
11 that there is a deeper water there?
12 A. People that would know. Some people don't
13 recognize that.
14 Q. Okay. When coming to the drop off at mid or
15 low tide, can you observe the vortex happening in the
16 water?
17 A. Yes.
18 Q. So, somebody walking along could see the
19 vortex?
20 A. Yes.
21 Q. I'm confused as to where there were any no
22 swimming signs posted, if there were any. So, was --
23 at the time of this incident, was Moore's Beach
24 posted as no swimming?
25 A. Yes.

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1 **Q.** Was Inlet Beach posted as no swimming?
 2 **A.** **Yes.**
 3 **Q.** Okay. And then I think my last question has
 4 to do with Exhibit 13, if we have it. It's the photo
 5 where Mr. Sunderland was showing where the incident
 6 occurred, and there's a jet skier in the background.

7 Thank you. Let me show you Exhibit 13.
 8 Do you see that?

9 **A.** **(Witness nods.)**

10 **Q.** Earlier, you were questioned about it, and I
 11 think the indication was that the man standing in the
 12 foreground is Mr. Sunderland?

13 MR. DIJOSEPH: Correct.

14 **Q.** Okay. And he's standing -- maybe I can get
 15 some help from counsel. He's standing near where the
 16 drowning occurred, or at the spot where --

17 MR. D'AMATO: Okay. May I suggest, you
 18 got to be careful. Because there's going to be
 19 testimony in this case that he didn't drown
 20 instantly. You kept saying the drowning. He was
 21 dragged out, according to some witnesses. So, the
 22 drowning doesn't take place where --

23 MR. HUNKINS: Understood. Thank you.

24 **Q.** I guess what I'm -- here's what I'm really
 25 trying to ask you: I think you've indicated that the

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1 shore line or the beach changes along The Inlet,
 2 because of the normal action of the tides --

3 **A.** **Yes.**

4 **Q.** -- and the fact that it's an inlet. Is that
 5 right?

6 **A.** **Yes.**

7 **Q.** And I think the photo we're looking at,
 8 Exhibit 13, was taken in August of 2012, and
 9 counsel's indicating that's correct, so --

10 MR. DIJOSEPH: Yes, that's correct.

11 **Q.** -- I would assume at least a couple of weeks
 12 went by between the drowning and the time this
 13 photograph was taken.

14 MR. DIJOSEPH: What's the date on the
 15 photo?

16 MR. BARKER: August 16, 2012, 1:20 p.m.

17 MR. DIJOSEPH: So, you're looking at
 18 almost 15, 16 days.

19 **Q.** Okay. So, a couple of weeks went by. So, my
 20 question is, and I'm not an expert on the shore, so
 21 here's why I'm asking. In the course of those two
 22 weeks, could the normal action of tides have moved
 23 sand around in that area?

24 **A.** **Yes.**

25 **Q.** So, although Mr. Sunderland is standing on a

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1 certain piece of sand in Exhibit 13, from your
 2 experience, is it possible that a couple of weeks
 3 earlier, that piece of sand wasn't even there?

4 **A.** **It depends on the tide, when the tide was.**

5 **Q.** Because things change all the time?

6 **A.** **Yes.**

7 **Q.** All right. Because here's what I'm getting
 8 at: If we look at Exhibit 13, and Mr. Sunderland's
 9 standing on that piece of, I'll say, sand, it could
 10 have been -- it could have looked differently on the
 11 day of the accident?

12 **A.** **Yes.**

13 **Q.** Okay.

14 MR. HUNKINS: I think that's all I
 15 have.

16 MR. D'AMATO: Okay. I have three quick
 17 questions.

18 EXAMINATION

19 BY MR. D'AMATO:

20 **Q.** I found the clean copy of the North Wildwood
 21 Ordinance. I marked it for identification as 47,
 22 Exhibit 47.

23 It says Article 1, government
 24 supervision, use, and policing. Then it gives
 25 definitions. I just want to hand this to you. It's

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1 pretty evident that these are regulations regarding
 2 what can be done on the beaches of North Wildwood,
 3 and what can't be done. Correct?

4 **A.** **Yes.**

5 **Q.** Now, I read the definition of beach that --
 6 you see at the top there, where it says "definition
 7 of beach"?

8 **A.** **Yes.**

9 **Q.** Yeah. Now, when I read that, and I checked
 10 with the people to my right, when it talks about
 11 Spruce Avenue -- well, let me rephrase that.

12 Would you not agree that that
 13 definition includes, A, Moore's Beach; B, what we've
 14 been calling here today The Inlet Beach?

15 **A.** **Let me read it.**

16 **Q.** Yeah.

17 (Discussion off the record.)

18 **A.** **Yes.**

19 **Q.** Okay. Thanks. Now, two final questions.

20 When you spoke to the chief of the
 21 North Wildwood Police Department, as you had shared
 22 with us a couple hours ago, what were the two of you
 23 talking about?

24 **A.** **Who was I talking to?**

25 **Q.** The chief of police of North Wildwood,

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1 regarding patrols on the beach. I asked, did you
2 ever speak to the chief of police of North Wildwood
3 about patrolling the beach, you said yes. I didn't
follow up on it.

A. Right.

6 **Q.** Do you remember generally what the
7 conversation was?

8 **A. That was instituted by the mayor to control**
9 **the rowdiness on the beach at Moore's Beach.**

10 **Q.** Okay.

11 **A. That's why the police were down there.**

12 **Q.** Okay, I see.

13 **A. He's been proactive of trying to clean it up.**

14 MR. BARKER: Who's he?

15 **A. Mayor Rosenello. Sorry.**

16 **Q.** Mayor.

17 Now, final question: If it was up to
18 you, would you have a manned lifeguard stand on what
19 we have called Moore's Beach and on The Inlet Beach?

20 MR. BARKER: Objection.

21 **A. No.**

22 **Q.** Okay. And can you tell us why not?

23 **A. Wouldn't have enough lifeguards to guard it.**
24 **It's too big an area.**

25 MR. D'AMATO: Okay. Thank you.

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1 Nothing else.

2 VIDEOGRAPHER: Anyone else?

3 MR. D'AMATO: Nope.

4 VIDEOGRAPHER: This concludes this
5 deposition of Joseph A. Cavalier. The time is 4:25.
6 We're off the record.

7 (Deposition concludes at 4:25 p.m.)

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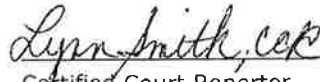
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CERTIFICATE

1
2
3
4 I, LYNN SMITH, a Certified Court Reporter of the
5 State of New Jersey, do hereby certify that prior to
6 the commencement of the examination, Joseph Anthony
7 Cavalier was duly sworn by me to testify the truth,
8 the whole truth and nothing but the truth.

9
10 I DO FURTHER CERTIFY that I am neither a relative nor
11 employee nor attorney nor counsel of any of the
12 parties to this action, and that I am neither a
13 relative nor employee of such attorney or counsel,
14 and that I am not financially interested in the
15 action.

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| 64 [2] - 3:21, 3:22 66 [1] - 3:23 67 [1] - 4:3 69 [1] - 4:4 | 138:22, 143:12, 143:15 ACTION [1] - 1:4 actual [4] - 38:16, 51:20, 53:2, 84:22 adjacent [4] - 16:3, 23:4, 37:3, 39:7 administrative [3] - 84:15, 85:1, 85:2 administrator [3] - 62:24, 123:24, 124:5 adults [1] - 93:13 advises [1] - 82:10 Aerial [2] - 3:13, 3:16 aerial [24] - 17:8, 18:13, 18:19, 18:25, 19:8, 19:9, 20:3, 20:5, 22:20, 23:3, 23:6, 23:8, 23:15, 23:24, 23:25, 24:2, 39:5, 51:1, 54:1, 54:3, 55:1, 55:9, 57:2, 116:18 aerials [1] - 20:11 affixed [1] - 67:4 afternoon [1] - 124:16 ago [6] - 16:12, 16:15, 16:17, 32:3, 123:10, 140:22 agree [22] - 8:10, 17:20, 18:14, 21:4, 22:20, 23:16, 51:16, 60:22, 60:24, 62:1, 62:3, 62:5, 65:14, 70:6, 73:12, 75:5, 76:10, 76:23, 86:22, 125:9, 126:4, 140:12 ahead [5] - 22:2, 29:21, 46:11, 79:11, 101:20 air [1] - 9:17 alcohol [3] - 33:3, 33:9, 102:20 alcoholic [2] - 32:17, 32:20 alert [1] - 106:7 alerted [3] - 58:9, 92:9, 98:15 alive [1] - 35:4 alleged [1] - 38:9 almost [4] - 73:10, 104:19, 116:20, 138:18 analysis [2] - 125:7, 128:17 AND [2] - 1:4, 2:17 angle [1] - 64:12 animal [1] - 70:19 animals [2] - 70:14, 71:12 | ankle [5] - 26:3, 49:16, 62:2, 86:14, 120:22 annual [2] - 12:13, 28:13 answer [38] - 7:22, 7:25, 8:9, 8:13, 8:20, 27:18, 28:24, 29:1, 34:7, 42:6, 45:13, 45:14, 45:15, 46:14, 53:6, 58:13, 58:15, 70:21, 71:3, 81:4, 92:13, 100:1, 100:24, 101:18, 103:16, 104:3, 104:10, 111:21, 116:25, 118:18, 119:9, 119:11, 121:9, 127:1, 127:2, 131:6, 131:7 answered [1] - 111:23 Anthony [2] - 6:2, 143:6 ANTHONY [2] - 1:6, 3:3 appear [1] - 45:7 appearance [1] - 6:5 appeared [2] - 129:3, 129:12 appreciate [3] - 9:10, 22:9, 57:18 appropriate [2] - 44:25 approval [1] - 74:12 approve [1] - 47:21 approved [1] - 47:24 approximate [1] - 114:8 April [8] - 23:7, 23:16, 24:3, 24:6, 24:17, 24:21, 25:13, 54:2 area [54] - 11:22, 15:15, 17:15, 19:14, 20:2, 25:9, 25:10, 25:16, 26:10, 26:20, 27:1, 31:10, 33:13, 52:21, 52:22, 53:13, 53:20, 57:1, 60:3, 64:8, 70:4, 71:10, 72:3, 74:2, 74:7, 74:8, 74:14, 75:6, 78:6, 79:2, 82:16, 83:12, 86:19, 88:25, 89:1, 94:11, 97:17, 97:19, 109:4, 114:10, 114:15, 114:20, 115:17, 116:15, 116:18, 116:20, 117:8, 118:22, 119:2, 120:16, 123:22, | 124:5, 138:23, 141:24 Area [1] - 71:25 areas [2] - 66:20, 133:23 arranging [1] - 50:11 article [9] - 109:25, 110:1, 110:5, 110:7, 110:10, 124:11, 124:12, 125:25, 129:11 Article [3] - 5:8, 107:23, 139:23 AS [1] - 1:4 assist [1] - 64:24 assistance [1] - 44:8 assistant [3] - 84:16, 85:1, 85:2 assisted [1] - 129:7 assume [3] - 59:15, 111:1, 138:11 assuming [1] - 29:17 Atkinson [1] - 74:25 Atlantic [1] - 45:22 attach [1] - 90:22 attachment [1] - 90:22 attempt [1] - 124:24 attend [1] - 31:15 attendance [1] - 20:16 attention [1] - 110:20 attorney [4] - 132:16, 133:7, 143:11, 143:13 Attorney [2] - 84:14, 90:15 attorneys [2] - 79:25, 86:7 audio [1] - 69:20 August [21] - 61:18, 62:14, 64:7, 65:22, 68:7, 68:8, 79:16, 79:21, 80:3, 82:16, 84:16, 96:3, 96:22, 97:13, 102:2, 102:18, 103:8, 104:1, 138:8, 138:16 author [5] - 93:15, 97:17, 99:7, 100:17, 100:21 available [1] - 27:22 Avalon [1] - 130:17 Avenue [18] - 1:18, 2:7, 24:24, 25:2, 25:6, 26:22, 47:7, 69:17, 93:23, 99:9, 125:15, 125:18, 125:20, 126:1, 126:3, 126:7, 140:11 average [1] - 45:24 aware [6] - 37:21, | 43:19, 72:18, 79:1, 87:23, 129:7 B background [1] - 137:6 bad [1] - 132:19 ball [5] - 65:25, 66:12, 66:13, 66:15, 73:22 balloon [2] - 67:1, 67:4 balls [1] - 66:16 Baltimore [2] - 124:14, 130:15 bar [3] - 88:25, 89:5, 89:14 Bar [4] - 15:24, 18:18, 18:21, 125:20 BARKER [117] - 2:11, 2:13, 6:8, 9:2, 11:8, 12:9, 13:9, 13:13, 13:19, 19:20, 21:25, 22:3, 22:7, 29:7, 29:12, 29:16, 29:21, 39:12, 39:14, 39:21, 39:23, 40:6, 40:8, 40:16, 40:18, 40:22, 40:25, 45:13, 46:1, 46:13, 46:16, 49:24, 50:5, 50:20, 51:8, 51:10, 53:6, 55:6, 57:4, 60:4, 66:4, 68:4, 68:10, 68:13, 69:2, 70:21, 71:2, 73:15, 78:8, 79:4, 79:7, 80:10, 81:3, 82:14, 84:1, 84:6, 85:10, 85:13, 89:25, 90:2, 90:6, 90:9, 90:11, 90:17, 90:24, 91:3, 92:5, 92:7, 92:12, 92:23, 96:10, 99:25, 100:23, 101:18, 103:16, 104:10, 104:21, 109:24, 110:17, 111:20, 111:23, 113:7, 113:19, 113:24, 114:3, 114:6, 114:21, 115:3, 115:6, 115:9, 115:13, 115:19, 116:23, 116:25, 117:16, 117:23, 118:10, 118:17, 119:9, 121:4, 121:6, 121:11, 126:25, 127:2, 127:18, 130:9, 130:12, |
| 7 7 [4] - 3:16, 50:9, 50:17, 88:5 71 [1] - 4:5 73 [1] - 4:6 74 [1] - 4:7 76 [2] - 4:8, 4:9 77 [2] - 4:10, 4:11 777-4872 [1] - 2:19 78 [1] - 4:12 | 8 8 [5] - 3:17, 51:8, 51:9, 51:13, 52:19 82 [1] - 4:14 84 [1] - 4:15 85 [1] - 4:16 856 [2] - 1:23 | 9 9 [4] - 1:19, 3:18, 58:23, 58:25 90 [1] - 32:10 900 [1] - 1:17 911 [1] - 98:17 93 [1] - 4:17 94 [2] - 4:18, 4:19 95 [2] - 4:20, 4:21 96 [1] - 4:22 97 [1] - 4:23 98 [1] - 4:24 99 [1] - 4:25 9th [1] - 6:1 | A ABC [1] - 1:9 able [8] - 32:14, 44:8, 44:24, 55:3, 64:23, 65:8, 105:20, 109:8 access [1] - 52:1 accident [2] - 98:15, 139:11 accidents [2] - 98:7, 98:12 according [2] - 86:19, 137:21 accurate [2] - 110:24, 121:9 acknowledging [1] - 19:15 action [4] - 138:2, | |

| | | | | |
|--|---|---|---|--|
| 130:18, 130:22, 131:5, 131:7, 132:8, 132:18, 132:21, 138:16, 141:14, 141:20 Barker [17] - 6:8, 7:12, 7:18, 8:10, 8:23, 9:18, 9:19, 10:12, 15:10, 18:5, 44:7, 61:19, 80:6, 84:13, 85:12, 85:19, 90:15 Barker's [2] - 7:23, 8:19 BARRY [1] - 2:7 bars [3] - 87:6, 88:12, 88:14 based [2] - 42:6, 121:13 basic [1] - 7:16 basing [1] - 42:5 basis [5] - 28:13, 46:4, 57:19, 57:21, 63:25 Bass [1] - 108:3 BassBarn [4] - 3:14, 48:10, 48:25, 50:6 bathe [1] - 77:12 bathers [3] - 59:20, 59:25, 60:11 bathing [1] - 59:15 bay [9] - 11:16, 17:17, 43:15, 43:23, 44:4, 44:20, 60:12, 60:18, 87:4 bays [1] - 43:5 be' [1] - 88:20 Beach [201] - 4:17, 6:24, 7:3, 7:10, 10:1, 10:2, 10:24, 11:3, 12:16, 12:21, 12:22, 15:1, 15:13, 15:16, 19:1, 19:9, 19:11, 19:15, 20:2, 20:7, 20:14, 20:16, 21:1, 21:13, 23:8, 23:17, 24:1, 24:3, 24:9, 25:5, 25:6, 25:11, 25:13, 25:17, 25:20, 25:25, 26:4, 26:5, 26:21, 26:22, 27:6, 27:9, 27:15, 27:19, 28:9, 31:10, 31:12, 31:18, 31:24, 32:7, 33:13, 33:20, 33:21, 34:2, 34:6, 35:23, 36:1, 36:9, 36:25, 37:18, 38:2, 39:7, 41:7, 41:17, 47:5, 47:6, 47:7, 47:18, 48:16, 49:11, 49:17, 50:10, 50:13, 51:17, | 51:23, 52:2, 52:7, 52:12, 53:9, 53:12, 54:18, 56:11, 56:17, 59:2, 59:11, 59:17, 59:19, 59:20, 59:25, 64:23, 70:18, 72:25, 74:9, 75:4, 76:24, 78:6, 79:2, 81:12, 81:14, 82:11, 83:13, 83:15, 84:21, 88:25, 89:1, 89:7, 89:15, 89:16, 91:5, 91:13, 91:16, 91:18, 91:21, 91:25, 92:4, 92:10, 92:11, 93:2, 93:7, 93:19, 94:1, 94:14, 94:15, 94:16, 94:17, 94:19, 95:10, 95:20, 95:24, 96:8, 96:9, 96:17, 96:23, 97:8, 98:8, 98:19, 99:12, 100:8, 100:12, 100:18, 101:1, 101:6, 101:7, 101:11, 101:16, 101:22, 102:9, 102:13, 102:23, 103:1, 103:3, 103:21, 105:22, 105:24, 116:3, 118:20, 118:23, 118:24, 125:22, 125:23, 126:5, 126:23, 127:13, 127:17, 127:18, 127:19, 127:20, 128:10, 130:6, 134:5, 134:11, 134:22, 134:23, 134:24, 135:4, 135:12, 135:18, 136:23, 137:1, 140:13, 140:14, 141:9, 141:19 beach [99] - 7:4, 14:20, 17:7, 21:2, 21:6, 24:18, 24:20, 25:2, 25:7, 25:10, 25:16, 25:24, 31:6, 31:21, 32:8, 32:23, 33:15, 34:5, 34:14, 36:11, 36:13, 36:18, 37:19, 42:13, 43:22, 44:11, 44:14, 44:15, 44:16, 52:15, 53:11, 57:1, 57:3, 59:8, 60:8, 65:9, 66:17, 69:13, 69:15, 70:11, 70:15, 71:14, 71:15, 71:17, 72:8, 72:15, 72:18, 72:21, 73:14, | 73:22, 75:1, 75:3, 75:10, 75:18, 77:6, 78:7, 79:1, 80:25, 88:16, 93:17, 93:21, 93:22, 94:9, 95:22, 97:17, 97:20, 98:6, 100:3, 102:8, 104:7, 105:6, 105:13, 106:2, 106:3, 106:9, 112:10, 113:16, 114:19, 116:10, 117:9, 120:23, 121:1, 121:16, 122:23, 124:16, 124:22, 125:4, 125:14, 129:21, 130:13, 135:4, 135:8, 138:1, 140:5, 140:7, 141:1, 141:3, 141:9 beaches [13] - 21:22, 28:2, 34:9, 37:2, 37:15, 81:7, 105:9, 106:13, 127:13, 127:21, 133:24, 134:22, 140:2 bear [1] - 14:24 became [1] - 7:2 become [2] - 79:1, 87:23 becomes [1] - 113:1 BEFORE [1] - 1:15 begin [2] - 8:23, 24:6 beginning [5] - 26:22, 27:7, 28:16, 67:19, 131:20 begins [3] - 25:2, 25:20, 26:5 Belasco [1] - 63:1 belongings [1] - 125:4 below [3] - 24:17, 70:13, 71:11 benefit [3] - 10:18, 48:14, 69:10 best [7] - 14:7, 18:8, 31:22, 48:15, 55:10, 126:15, 130:5 bet [1] - 109:17 between [12] - 25:9, 25:19, 25:24, 26:4, 26:10, 47:7, 61:4, 61:9, 86:9, 87:24, 125:10, 138:12 beverages [2] - 32:17, 32:20 big [3] - 71:10, 119:2, 141:24 bigger [1] - 44:11 birds [3] - 71:25, 72:2, 72:4 | bit [4] - 20:10, 69:23, 89:3, 116:10 blacktopped [2] - 16:10, 16:19 blanket [1] - 125:4 blue [9] - 12:16, 14:5, 14:7, 14:14, 24:12, 24:17, 73:23, 73:24, 77:3 boarding [1] - 93:13 boat [3] - 38:7, 44:6, 44:24 bodies [1] - 128:11 body [7] - 11:16, 12:4, 38:17, 39:6, 43:17, 93:17, 102:24 boogie [1] - 93:13 booklet [1] - 8:5 born [1] - 18:3 borough [1] - 124:4 borrow [1] - 110:11 bottom [7] - 73:20, 74:1, 102:4, 102:18, 103:9, 104:1, 110:18 bought [1] - 87:17 Brad [5] - 58:9, 64:18, 66:18, 78:25, 100:16 BRADLEY [1] - 1:5 break [6] - 9:12, 9:16, 67:14, 126:16, 132:17 Brian [2] - 6:12, 15:20 BRIAN [1] - 2:20 brief [1] - 131:19 bringing [1] - 64:24 BROAD [1] - 1:22 broad [1] - 123:22 broke [2] - 38:8 brought [4] - 32:6, 87:18, 89:25, 90:2 building [1] - 51:21 built [3] - 16:6, 16:13, 18:22 bulkhead [1] - 88:15 Bureau [1] - 49:12 buried [1] - 114:2 business [1] - 123:24 busy [1] - 93:14 butchering [1] - 124:13 BY [34] - 2:4, 2:9, 2:13, 2:20, 6:21, 15:22, 22:13, 30:2, 41:4, 41:14, 46:7, 50:7, 51:14, 54:25, 58:1, 59:13, 67:24, 68:15, 69:8, 70:2, 82:22, 84:10, 85:16, 91:4, 93:5, 105:3, 108:16, 115:11, 126:21, | 131:1, 131:23, 132:12, 133:3, 139:19 |
| C | | | | |
| calf [3] - 26:11, 26:19, 62:7 calm [1] - 110:21 canal [1] - 87:11 cannot [3] - 8:3, 9:19, 46:14 capacity [1] - 6:23 Cape [1] - 35:7 CAPE [1] - 1:1 captain [1] - 7:8 care [3] - 29:14, 78:14, 126:16 career [1] - 97:4 careful [1] - 137:18 carried [1] - 129:25 cars [1] - 100:7 cart [2] - 76:22, 105:21 case [3] - 36:20, 120:21, 137:19 category [1] - 103:9 cats [2] - 70:14, 71:12 caught [1] - 47:2 caused [1] - 123:9 causes [1] - 44:3 causing [1] - 87:10 CAVALIER [2] - 1:7, 3:3 Cavalier [2] - 6:3, 143:7 cavalier [1] - 142:5 cavalier's [1] - 108:1 center [1] - 42:24 Center [3] - 1:17, 10:21, 12:13 Central [2] - 1:18, 126:7 certain [5] - 42:11, 47:11, 56:20, 112:7, 139:1 certainly [2] - 80:10, 104:21 CERTIFIED [1] - 1:21 Certified [2] - 1:15, 143:4 certified [1] - 143:20 certify [1] - 143:5 CERTIFY [1] - 143:10 chair [1] - 99:9 chairs [2] - 21:18, 30:19 Champagne [5] - 101:1, 101:4, 101:7, 101:11, 101:17 chance [1] - 7:20 | | | | |

| | | | | |
|--|---|--|---|--|
| <p>change [5] - 89:3, 112:5, 131:15, 132:21, 139:5</p> <p>changed [1] - 30:20</p> <p>changes [9] - 42:19, 44:10, 109:1, 109:10, 109:13, 112:2, 112:25, 116:19, 138:1</p> <p>changing [1] - 42:18</p> <p>channel [1] - 95:5</p> <p>Chapter [1] - 106:14</p> <p>Charles [1] - 74:25</p> <p>checked [1] - 140:9</p> <p>chief [19] - 6:24, 7:2, 7:8, 13:21, 31:6, 31:21, 32:23, 33:18, 33:25, 37:7, 70:25, 93:16, 102:7, 105:4, 123:18, 123:19, 140:20, 140:25, 141:2</p> <p>Chief [1] - 108:17</p> <p>child [1] - 49:15</p> <p>children [2] - 21:24, 120:22</p> <p>Christina [1] - 124:13</p> <p>church [1] - 88:9</p> <p>circle [11] - 11:2, 11:12, 14:6, 15:15, 19:3, 19:14, 20:1, 20:7, 23:19, 24:10, 64:10</p> <p>circled [2] - 14:13, 110:19</p> <p>circular [2] - 45:7, 120:11</p> <p>city [10] - 12:11, 16:5, 30:7, 30:9, 30:17, 30:18, 62:24, 84:15, 89:12, 100:2</p> <p>CITY [1] - 1:8</p> <p>City [12] - 6:22, 10:20, 26:6, 26:12, 28:1, 31:8, 33:15, 34:1, 45:22, 68:23, 76:12, 81:11</p> <p>CIVIL [1] - 1:4</p> <p>clarity [1] - 39:14</p> <p>clean [8] - 34:10, 34:14, 35:22, 106:22, 139:20, 141:13</p> <p>cleaned [1] - 36:4</p> <p>clear [3] - 78:12, 128:18, 132:8</p> <p>clerk [3] - 30:7, 30:9, 30:18</p> <p>cliff [5] - 55:16, 119:8, 122:2, 122:19,</p> | <p>122:20</p> <p>clip [1] - 65:23</p> <p>close [3] - 77:22, 89:6, 121:17</p> <p>close-up [1] - 77:22</p> <p>closed [4] - 36:3, 71:25, 89:1, 89:16</p> <p>closer [1] - 133:4</p> <p>closest [1] - 52:6</p> <p>co [1] - 6:15</p> <p>co-plaintiff [1] - 6:15</p> <p>Coast [1] - 129:7</p> <p>Coastal [2] - 10:21, 12:12</p> <p>collapsed [1] - 21:23</p> <p>collapsing [1] - 79:2</p> <p>colleague [1] - 74:23</p> <p>colleagues [4] - 10:18, 48:14, 51:4, 69:11</p> <p>collective [2] - 65:21, 66:2</p> <p>collectively [1] - 17:11</p> <p>color [7] - 69:5, 109:1, 109:10, 109:14, 136:7, 136:10</p> <p>comfortable [1] - 33:24</p> <p>coming [3] - 44:7, 48:18, 136:14</p> <p>commencement [1] - 143:6</p> <p>commencing [1] - 1:19</p> <p>Community [1] - 1:17</p> <p>comp [1] - 102:5</p> <p>compendium [6] - 39:16, 39:21, 40:9, 54:3, 113:24, 114:1</p> <p>complaint [1] - 71:13</p> <p>complaints [1] - 33:1</p> <p>completely [2] - 27:21, 31:13</p> <p>Complex [1] - 2:18</p> <p>complies [16] - 11:4, 12:17, 14:9, 15:17, 19:5, 19:16, 19:22, 20:4, 20:8, 23:1, 24:15, 25:3, 54:8, 55:7, 116:8, 116:12</p> <p>composed [1] - 40:13</p> <p>con [1] - 65:24</p> <p>concerned [1] - 60:9</p> <p>concerns [1] - 102:5</p> <p>concludes [2] - 142:4, 142:7</p> <p>concrete [5] - 65:24, 66:14, 66:17, 67:1, 67:3</p> <p>condition [4] - 42:17,</p> | <p>73:1, 80:25, 81:15</p> <p>conditions [1] - 81:5</p> <p>condo [2] - 88:15, 89:10</p> <p>condominium [3] - 51:20, 51:21, 89:15</p> <p>condominiums [9] - 15:23, 16:3, 16:13, 18:15, 23:4, 51:1, 51:20, 77:2, 100:6</p> <p>condos [1] - 89:14</p> <p>configuration [2] - 17:22, 66:25</p> <p>confused [3] - 96:11, 118:25, 136:21</p> <p>confusing [1] - 133:17</p> <p>connected [3] - 37:3, 66:17, 67:1</p> <p>connection [1] - 99:23</p> <p>consider [1] - 119:12</p> <p>consideration [1] - 21:11</p> <p>considered [2] - 28:8, 57:3</p> <p>considering [2] - 37:6, 65:8</p> <p>consistently [1] - 53:13</p> <p>constant [1] - 111:15</p> <p>continue [2] - 86:18, 87:2</p> <p>contrast [1] - 116:11</p> <p>control [4] - 33:3, 33:5, 33:7, 141:8</p> <p>controlling [1] - 99:18</p> <p>conversation [3] - 85:22, 87:24, 141:7</p> <p>copies [2] - 69:5, 86:6</p> <p>copy [14] - 40:12, 40:13, 50:20, 85:10, 85:18, 85:19, 89:23, 90:5, 90:6, 106:22, 110:11, 115:3, 139:20</p> <p>cordoned [1] - 72:3</p> <p>corner [5] - 13:5, 13:7, 52:12, 61:17, 86:4</p> <p>CORPORATIONS [1] - 1:10</p> <p>CORRADO [1] - 2:7</p> <p>correct [30] - 13:23, 14:15, 15:2, 17:18, 18:16, 25:7, 31:1, 37:23, 44:21, 44:22, 52:2, 52:9, 53:4, 69:18, 78:15, 83:10, 95:22, 108:23, 112:15, 112:20, 115:25, 117:12, 118:8, 123:5, 126:6,</p> | <p>136:1, 137:13, 138:9, 138:10, 140:3</p> <p>corrected [1] - 68:11</p> <p>correctly [1] - 135:20</p> <p>correspond [1] - 130:19</p> <p>council [13] - 28:7, 28:12, 28:20, 29:4, 29:18, 30:5, 30:10, 31:7, 31:15, 31:23, 63:21, 123:24</p> <p>counsel [5] - 6:4, 78:24, 137:15, 143:11, 143:13</p> <p>counsel's [1] - 138:9</p> <p>COUNTY [1] - 1:1</p> <p>county [2] - 17:9, 17:10</p> <p>County [2] - 39:24, 40:2</p> <p>couple [11] - 28:15, 40:25, 88:23, 99:16, 100:16, 105:6, 107:4, 138:11, 138:19, 139:2, 140:22</p> <p>course [2] - 122:8, 138:21</p> <p>court [2] - 6:16, 108:9</p> <p>COURT [2] - 1:1, 1:21</p> <p>Court [4] - 1:15, 35:7, 143:4, 143:20</p> <p>cover [1] - 71:10</p> <p>covered [2] - 7:18, 23:10</p> <p>covering [1] - 19:15</p> <p>CPM-L-331-14 [1] - 1:2</p> <p>cream [4] - 105:7, 105:8, 105:20, 105:21</p> <p>created [2] - 43:23, 60:13</p> <p>Crest [1] - 128:10</p> <p>crew [1] - 102:8</p> <p>crowd [1] - 99:19</p> <p>crowds [2] - 99:19, 99:22</p> <p>current [4] - 74:2, 74:7, 74:14, 96:14</p> <p>current's [1] - 118:7</p> <p>currents [5] - 43:7, 43:9, 112:4, 118:15, 118:21</p> <p>cut [3] - 23:13, 35:12, 35:13</p> | <p>13:14, 40:8, 108:18, 120:3</p> <p>D'AMATO [126] - 2:2, 2:4, 6:6, 6:21, 11:7, 11:9, 12:10, 12:19, 13:6, 14:10, 15:19, 15:22, 17:1, 17:4, 19:18, 22:2, 22:6, 22:8, 22:13, 29:10, 29:13, 29:20, 29:23, 30:2, 39:19, 40:3, 40:7, 40:15, 40:17, 40:20, 40:23, 41:2, 41:4, 41:10, 41:14, 46:3, 46:7, 46:20, 48:5, 48:8, 48:12, 49:6, 49:25, 50:7, 50:18, 50:22, 51:7, 51:9, 51:11, 51:14, 53:24, 54:10, 54:15, 54:20, 54:22, 54:24, 54:25, 57:6, 57:10, 57:13, 57:17, 58:1, 58:20, 59:6, 59:9, 59:12, 59:13, 60:6, 65:17, 66:1, 66:6, 67:24, 68:9, 68:12, 68:15, 69:4, 69:8, 70:2, 70:24, 72:11, 73:4, 75:22, 79:10, 79:13, 79:17, 79:22, 80:11, 80:19, 81:19, 81:22, 82:9, 82:22, 83:18, 83:24, 84:2, 84:4, 84:10, 85:5, 85:16, 89:23, 90:1, 90:4, 90:8, 90:10, 90:13, 90:21, 90:25, 91:4, 93:5, 95:1, 98:3, 99:5, 104:15, 104:18, 104:22, 105:3, 107:1, 107:7, 107:22, 115:4, 132:5, 137:17, 139:16, 139:19, 141:25, 142:3</p> <p>D'Amato's [1] - 46:17</p> <p>dad's [1] - 87:15</p> <p>DAG [1] - 2:20</p> <p>daily [9] - 36:8, 89:22, 91:6, 93:6, 94:6, 97:12, 100:15, 103:8, 103:25</p> <p>Daily [28] - 4:17, 4:18, 4:19, 4:20, 4:21, 4:22, 4:23, 4:24, 4:25, 5:3, 5:4, 5:5, 5:6, 5:7, 93:2, 94:1, 94:19, 95:10, 95:24, 96:17, 97:8, 98:19,</p> |
|--|---|--|---|--|

D

D'Amato [6] - 3:4, 6:6,

| | | | | |
|---|--|---|--|--|
| <p>99:12, 100:12, 101:22, 102:13, 103:3, 103:21</p> <p>danger [1] - 108:21</p> <p>dangerous [4] - 49:20, 60:2, 60:8, 88:17</p> <p>dark [1] - 52:22</p> <p>date [11] - 10:14, 17:12, 68:7, 79:9, 80:15, 82:14, 82:17, 82:19, 97:13, 110:9, 138:14</p> <p>dated [21] - 24:2, 24:17, 24:21, 55:2, 80:3, 84:16, 90:18, 93:8, 94:6, 94:23, 95:14, 96:2, 96:22, 98:22, 98:25, 99:15, 100:15, 102:2, 102:17, 103:8, 104:1</p> <p>dates [2] - 30:20, 40:10</p> <p>daughter [2] - 64:24, 72:17</p> <p>daughters [3] - 48:17, 48:20, 86:14</p> <p>days [1] - 138:18</p> <p>deals [1] - 106:13</p> <p>deceiving [1] - 110:22</p> <p>December [1] - 124:10</p> <p>decided [1] - 72:17</p> <p>decision [2] - 63:23, 63:25</p> <p>deep [21] - 26:3, 48:19, 49:16, 53:4, 53:8, 53:10, 53:13, 62:2, 86:14, 86:16, 86:21, 113:6, 120:23, 133:17, 133:21, 134:2, 134:8, 134:14, 134:16, 135:1, 135:22</p> <p>deeper [2] - 109:2, 136:11</p> <p>Defendant [1] - 2:14</p> <p>Defendants [1] - 1:11</p> <p>defendants [2] - 6:9, 6:11</p> <p>definition [4] - 106:18, 140:5, 140:6, 140:13</p> <p>definitions [1] - 139:25</p> <p>dep [1] - 97:23</p> <p>DEPARTMENT [1] - 2:17</p> <p>department [5] - 33:2, 37:3, 92:14, 106:4, 106:5</p> <p>Department [12] -</p> | <p>33:19, 34:18, 34:21, 34:24, 35:19, 35:22, 36:24, 37:17, 68:22, 93:7, 106:8, 140:21</p> <p>department's [1] - 105:16</p> <p>DEPOSITION [1] - 1:5</p> <p>deposition [18] - 6:2, 7:14, 8:16, 9:10, 9:14, 9:20, 9:24, 17:10, 41:16, 45:2, 74:10, 85:7, 91:7, 98:1, 106:25, 111:3, 142:5, 142:7</p> <p>depth [1] - 53:2</p> <p>describe [1] - 55:16</p> <p>description [3] - 49:2, 97:21, 121:13</p> <p>DESCRIPTION [3] - 3:9, 4:2, 5:2</p> <p>Designee-5 [1] - 39:25</p> <p>determine [1] - 105:13</p> <p>devising [1] - 124:5</p> <p>diameter [1] - 45:9</p> <p>died [1] - 128:3</p> <p>different [10] - 46:18, 53:3, 83:2, 90:18, 112:25, 130:12, 135:24, 135:25, 136:1, 136:10</p> <p>differently [1] - 139:10</p> <p>difficult [1] - 109:19</p> <p>difficulties [1] - 53:2</p> <p>difficulty [1] - 56:9</p> <p>dig [1] - 78:12</p> <p>digress [1] - 20:10</p> <p>DiJoseph [50] - 2:22, 15:20, 17:3, 39:22, 40:1, 40:4, 48:7, 49:5, 49:12, 50:3, 50:6, 53:22, 54:23, 58:18, 59:1, 59:4, 59:7, 59:10, 61:18, 65:1, 65:3, 65:22, 68:2, 74:24, 77:21, 78:1, 79:14, 79:16, 79:19, 80:17, 81:21, 82:2, 82:7, 82:9, 82:11, 82:15, 82:19, 85:12, 90:14, 90:20, 94:25, 107:13, 107:19, 108:3, 114:25, 129:5, 137:13, 138:10, 138:14, 138:17</p> <p>DiJoseph's [1] - 65:5</p> <p>direct [1] - 46:14</p> <p>direction [3] - 117:9, 117:10, 121:19</p> <p>directly [1] - 130:20</p> | <p>disagree [2] - 86:22, 86:23</p> <p>disappear [3] - 27:21, 67:10, 67:12</p> <p>disappearance [2] - 21:21, 124:12</p> <p>discontinued [1] - 21:1</p> <p>discovery [2] - 90:19, 130:10</p> <p>discuss [4] - 13:19, 122:7, 122:11, 122:14</p> <p>discussed [6] - 111:3, 123:17, 123:18, 123:21, 123:23, 124:1</p> <p>discusses [1] - 124:12</p> <p>discussing [1] - 111:2</p> <p>discussion [23] - 31:5, 31:16, 32:6, 48:9, 54:12, 63:20, 69:24, 76:16, 79:12, 81:23, 83:23, 84:3, 84:7, 89:20, 93:1, 93:25, 99:4, 104:25, 107:25, 108:4, 108:12, 132:25, 140:17</p> <p>Discussion [1] - 107:2</p> <p>discussions [3] - 33:25, 124:7, 129:19</p> <p>distress [1] - 92:16</p> <p>DIVISION [2] - 1:1, 2:17</p> <p>DO [1] - 143:10</p> <p>DOCKET [1] - 1:2</p> <p>document [4] - 84:17, 93:20, 94:8, 97:16</p> <p>documented [1] - 123:13</p> <p>DOE [2] - 1:9</p> <p>dogs [6] - 32:21, 33:3, 33:8, 70:14, 71:11, 71:14</p> <p>domestic [2] - 70:14, 71:12</p> <p>Dominic [1] - 6:6</p> <p>DOMINIC [1] - 2:5</p> <p>done [5] - 18:8, 87:21, 93:9, 140:2, 140:3</p> <p>down [26] - 8:3, 38:8, 42:8, 52:12, 52:14, 69:22, 75:19, 88:10, 88:18, 88:20, 89:1, 89:6, 89:16, 95:17, 96:5, 96:9, 100:3, 100:25, 108:8, 119:6, 123:11, 123:16, 125:19,</p> | <p>134:7, 141:11</p> <p>dozen [2] - 98:13, 101:21</p> <p>Dr [3] - 42:23, 44:19, 60:16</p> <p>dragged [1] - 137:21</p> <p>draw [5] - 24:12, 25:1, 110:19, 114:19, 120:16</p> <p>drawn [2] - 25:4, 25:5</p> <p>drifted [3] - 95:17, 96:5, 96:13</p> <p>drifting [1] - 96:9</p> <p>drink [1] - 32:17</p> <p>drinking [1] - 32:19</p> <p>drive [3] - 21:17, 21:18, 21:22</p> <p>drop [80] - 42:12, 42:14, 42:21, 55:24, 55:25, 56:1, 56:3, 56:5, 56:8, 56:10, 56:13, 56:17, 58:10, 82:23, 82:25, 83:2, 83:9, 92:21, 109:6, 109:8, 109:13, 109:20, 110:23, 111:2, 111:8, 111:9, 112:5, 112:7, 112:8, 112:9, 112:11, 113:9, 113:11, 113:15, 114:11, 115:17, 115:24, 117:14, 117:17, 117:18, 118:23, 119:1, 119:4, 119:6, 119:16, 119:19, 119:23, 120:4, 120:9, 120:11, 120:18, 120:20, 121:3, 121:12, 121:16, 121:18, 121:24, 122:4, 122:7, 122:13, 122:22, 124:8, 131:3, 131:13, 131:24, 133:11, 133:15, 133:16, 133:20, 133:24, 134:1, 134:5, 134:8, 134:13, 134:24, 135:7, 135:21, 135:25, 136:6, 136:14</p> <p>dropped [2] - 125:25, 126:1</p> <p>drops [3] - 42:15, 55:17, 119:15</p> <p>drove [1] - 128:22</p> <p>drown [1] - 137:19</p> <p>drowned [3] - 38:10,</p> | <p>86:10, 130:6</p> <p>drowning [13] - 41:18, 62:20, 66:18, 70:18, 100:16, 127:10, 130:3, 135:11, 135:21, 137:16, 137:20, 137:22, 138:12</p> <p>drownings [3] - 47:5, 47:8, 126:23</p> <p>due [2] - 99:20, 99:22</p> <p>duly [2] - 6:19, 143:7</p> <p>duplicates [1] - 104:14</p> <p>during [5] - 25:15, 77:3, 92:1, 112:5, 122:8</p> <p>duties [1] - 34:8</p> <p>duty [2] - 125:11, 126:10</p> <p>dynamic [1] - 111:13</p> |
| E | | | | |
| <p>early [1] - 21:4</p> <p>easier [1] - 98:4</p> <p>east [1] - 116:6</p> <p>edge [2] - 73:2, 83:4</p> <p>educated [1] - 101:3</p> <p>education [1] - 11:15</p> <p>Edwards [1] - 102:9</p> <p>effectuate [7] - 91:12, 91:19, 92:3, 92:9, 92:20, 98:6, 101:15</p> <p>effectuated [1] - 95:19</p> <p>Egg [1] - 2:3</p> <p>eight [5] - 16:17, 35:20, 103:11, 103:13, 124:19</p> <p>Eight [1] - 103:9</p> <p>either [1] - 13:1</p> <p>element [1] - 117:7</p> <p>eliminate [1] - 33:9</p> <p>eliminated [1] - 33:8</p> <p>employed [2] - 6:22, 15:1</p> <p>employee [2] - 143:11, 143:13</p> <p>employees [3] - 35:22, 37:18, 76:11</p> <p>employment [1] - 35:3</p> <p>EMTs [1] - 37:10</p> <p>encounter [2] - 119:6, 120:20</p> <p>encountered [1] - 121:18</p> <p>end [5] - 26:21, 27:7, 78:4, 78:5, 116:13</p> <p>endangered [2] - 71:25, 72:1</p> | | | | |

| | | | | |
|--|---|--|--|---|
| <p>ended [1] - 25:5</p> <p>ends [6] - 24:3, 25:20, 26:5, 26:22, 67:16, 131:17</p> <p>enforce [2] - 70:19, 71:6</p> <p>enforces [1] - 72:6</p> <p>engineer [1] - 17:10</p> <p>ensure [1] - 34:9</p> <p>entire [1] - 67:4</p> <p>entry [1] - 98:24</p> <p>eroded [1] - 21:2</p> <p>especially [1] - 25:15</p> <p>ESQUIRE [5] - 2:4, 2:5, 2:9, 2:13, 2:14</p> <p>establish [1] - 21:12</p> <p>ESTATE [1] - 1:4</p> <p>estimate [5] - 16:8, 31:22, 55:10, 60:11, 133:17</p> <p>estimation [1] - 98:10</p> <p>evening [2] - 128:14, 129:22</p> <p>event [12] - 18:12, 53:25, 54:4, 57:2, 64:9, 64:19, 65:4, 65:7, 79:15, 86:20, 95:6, 99:16</p> <p>events [1] - 114:8</p> <p>evident [1] - 140:1</p> <p>exactly [1] - 112:21</p> <p>EXAMINATION [4] - 6:20, 108:15, 132:11, 139:18</p> <p>Examination [3] - 3:4, 3:5, 3:5</p> <p>examination [2] - 8:24, 143:6</p> <p>example [1] - 37:6</p> <p>excuse [2] - 19:7, 99:5</p> <p>EXECUTRIX [1] - 1:4</p> <p>Exhibit [116] - 10:6, 10:8, 10:10, 10:16, 10:17, 11:11, 12:7, 13:13, 13:14, 13:21, 13:25, 14:3, 14:13, 15:9, 15:23, 16:3, 16:14, 17:11, 17:14, 18:1, 39:15, 39:16, 39:24, 40:9, 48:11, 48:25, 49:1, 49:9, 50:9, 50:17, 51:9, 51:13, 52:19, 54:3, 58:23, 58:25, 61:14, 61:16, 62:11, 62:13, 64:4, 64:5, 64:14, 64:16, 66:10, 66:12, 66:13, 67:23, 68:1, 68:6, 69:7, 70:3, 71:21, 71:24, 73:7,</p> | <p>73:9, 74:20, 74:22, 76:2, 76:4, 76:7, 76:9, 77:18, 77:20, 77:23, 77:25, 78:20, 78:22, 81:6, 82:4, 82:6, 83:19, 84:9, 84:12, 85:15, 85:18, 90:15, 93:4, 94:3, 94:5, 94:21, 94:23, 95:12, 95:14, 96:1, 96:3, 96:19, 96:21, 97:10, 97:12, 98:21, 98:23, 99:14, 100:14, 101:24, 102:1, 102:15, 102:17, 103:5, 103:7, 103:23, 103:25, 107:11, 107:16, 107:24, 108:6, 108:19, 109:22, 113:7, 137:4, 137:7, 138:8, 139:1, 139:8, 139:22</p> <p>exhibit [28] - 10:12, 12:16, 13:4, 13:7, 13:16, 13:17, 19:7, 48:24, 49:5, 50:2, 52:9, 60:1, 65:21, 66:2, 66:11, 68:14, 69:10, 84:5, 90:11, 90:20, 90:22, 98:22, 100:15, 108:5, 108:18, 115:1, 115:2</p> <p>Exhibits [2] - 66:8, 69:3</p> <p>exhibits [7] - 10:13, 12:24, 17:1, 17:9, 107:10, 108:2, 113:25</p> <p>exist [5] - 42:21, 52:6, 73:13, 73:16, 73:17</p> <p>existed [2] - 42:17, 73:24</p> <p>existence [1] - 87:23</p> <p>existing [1] - 43:9</p> <p>experience [6] - 9:11, 91:23, 96:7, 105:19, 123:15, 139:2</p> <p>expert [1] - 138:20</p> <p>explain [4] - 46:11, 81:15, 99:21, 121:21</p> <p>expression [1] - 14:18</p> <p>extra [4] - 50:18, 85:10, 85:19, 89:23</p> <p>extras [1] - 39:11</p> <p>eyes [1] - 55:4</p> | <p>59:11, 82:8, 82:12, 82:20</p> <p>fact [10] - 9:9, 9:10, 51:25, 64:25, 92:9, 93:16, 98:15, 109:22, 113:14, 138:4</p> <p>fair [2] - 70:9, 106:24</p> <p>fall [1] - 78:11</p> <p>falling [4] - 97:1, 113:16, 117:3, 117:7</p> <p>falls [1] - 116:21</p> <p>familiar [3] - 28:3, 110:3, 126:2</p> <p>family [3] - 72:14, 88:18</p> <p>far [14] - 35:13, 37:22, 42:17, 55:11, 56:6, 60:8, 60:13, 104:22, 109:12, 112:13, 119:6, 125:19, 131:3, 135:15</p> <p>Farrell [3] - 42:24, 44:19, 60:16</p> <p>father [2] - 87:19</p> <p>fault [1] - 57:11</p> <p>Fax [1] - 1:23</p> <p>feature [1] - 111:16</p> <p>February [2] - 1:19, 6:1</p> <p>feet [12] - 27:1, 27:9, 53:4, 53:13, 86:24, 109:16, 110:23, 133:17, 134:2, 134:3, 135:22</p> <p>fell [10] - 48:20, 53:18, 86:15, 87:13, 92:20, 96:24, 120:25, 121:1, 121:3, 121:12</p> <p>fellows [1] - 64:20</p> <p>felt [1] - 32:9</p> <p>few [1] - 133:8</p> <p>fifteen [1] - 119:3</p> <p>final [2] - 140:19, 141:17</p> <p>finally [3] - 33:5, 33:6, 66:13</p> <p>financially [1] - 143:14</p> <p>fine [5] - 12:6, 16:25, 23:23, 122:3, 122:4</p> <p>finish [1] - 57:13</p> <p>finished [3] - 104:13, 104:19, 106:23</p> <p>Fire [2] - 2:3, 36:24</p> <p>fire [2] - 37:3, 130:13</p> <p>fired [1] - 15:6</p> <p>FIRM [1] - 2:2</p> <p>First [7] - 36:10, 36:11, 36:17, 72:21, 99:19, 99:20, 100:4</p> | <p>first [15] - 6:19, 7:13, 7:19, 9:9, 24:20, 36:13, 40:11, 43:10, 68:6, 80:24, 88:2, 97:5, 106:25, 108:18, 129:16</p> <p>fish [1] - 134:6</p> <p>fisherman [2] - 96:23, 97:1</p> <p>five [10] - 20:21, 45:6, 53:16, 60:19, 60:25, 61:4, 61:9, 66:19, 126:17, 126:19</p> <p>Five [1] - 102:5</p> <p>flag [2] - 99:9, 99:11</p> <p>flags [9] - 62:15, 62:16, 62:23, 63:2, 63:6, 63:11, 64:7, 66:21</p> <p>flat [2] - 109:4</p> <p>floated [1] - 130:16</p> <p>flow [1] - 78:13</p> <p>follow [6] - 30:23, 76:5, 80:14, 105:5, 135:20, 141:4</p> <p>follow-up [3] - 76:5, 80:14, 105:5</p> <p>following [3] - 9:25, 26:25, 42:2</p> <p>follows [1] - 6:19</p> <p>foot [1] - 53:9</p> <p>footing [1] - 119:23</p> <p>FOR [1] - 1:21</p> <p>foreground [1] - 137:12</p> <p>form [13] - 22:3, 53:5, 89:9, 111:5, 113:20, 115:18, 117:21, 118:11, 118:18, 120:12, 121:7, 121:10, 131:4</p> <p>former [2] - 67:2, 85:23</p> <p>forthcoming [1] - 42:6</p> <p>foundation [1] - 115:22</p> <p>four [4] - 20:21, 65:21, 66:19, 105:4</p> <p>frequently [2] - 8:15, 30:15</p> <p>fresh [1] - 9:17</p> <p>friend [3] - 48:15, 48:20, 86:13</p> <p>front [7] - 10:19, 12:25, 29:15, 78:4, 78:5, 109:23, 115:1</p> <p>FURTHER [1] - 143:10</p> | <p>G</p> <p>Gary [3] - 34:19, 34:20, 34:24</p> <p>GELFAND [1] - 2:11</p> <p>general [1] - 110:6</p> <p>generally [1] - 141:6</p> <p>generated [2] - 41:6, 47:18</p> <p>gentleman [9] - 35:1, 47:14, 48:2, 49:2, 64:17, 65:6, 74:23, 84:25, 86:10</p> <p>GEORGE [1] - 1:5</p> <p>gestures [1] - 8:2</p> <p>girl [2] - 87:15, 87:17</p> <p>given [13] - 9:9, 16:22, 17:6, 28:11, 28:15, 30:4, 31:20, 43:21, 79:24, 81:13, 93:16, 101:13, 102:7</p> <p>Goss [1] - 99:18</p> <p>government [3] - 58:14, 89:13, 139:23</p> <p>GRASSI [36] - 2:7, 2:9, 6:14, 55:24, 107:3, 107:5, 107:9, 107:14, 107:18, 107:20, 108:1, 108:5, 108:16, 111:24, 113:8, 114:1, 114:24, 115:2, 115:5, 115:7, 115:11, 115:21, 118:5, 126:15, 126:18, 126:21, 127:14, 127:19, 130:11, 130:14, 130:21, 130:25, 131:1, 131:14, 131:23, 132:3</p> <p>Grassi [2] - 3:5, 6:14</p> <p>gravel [2] - 16:20, 16:21</p> <p>Greek [1] - 88:9</p> <p>green [7] - 11:11, 12:3, 24:25, 52:22, 52:23, 114:18, 114:19</p> <p>group [3] - 59:10, 82:12, 95:16</p> <p>guard [2] - 32:6, 141:23</p> <p>Guard [4] - 93:13, 95:15, 99:1, 129:7</p> <p>guarded [2] - 93:21, 93:22</p> <p>guards [4] - 99:18, 122:14, 126:10, 126:12</p> |
| | <p>F</p> <p>Facebook [5] - 59:7,</p> | | | |

| | | | | | | | | | | | | | | | |
|--|--|--|--|---|----------|--|--|--|--|--|--|--|--|--|--|
| <p>guess [4] - 8:13, 11:24, 120:14, 137:24</p> <p>guy [1] - 88:18</p> | <p>hope [3] - 7:25, 9:14, 106:24</p> <p>hopefully [1] - 60:17</p> <p>hour [6] - 60:20, 60:25, 61:2, 61:5, 61:7, 61:10</p> <p>hours [2] - 128:13, 140:22</p> <p>House [1] - 35:7</p> <p>house [1] - 77:11</p> <p>Hughes [1] - 2:18</p> <p>hum [3] - 13:12, 55:5, 60:21</p> <p>hundred [4] - 55:13, 65:11, 95:20, 96:13</p> <p>HUNKINS [40] - 2:20, 6:12, 15:21, 50:2, 51:6, 53:5, 54:13, 54:16, 54:21, 79:5, 79:8, 80:13, 80:18, 80:21, 82:17, 83:6, 89:9, 107:4, 107:6, 107:15, 111:5, 113:20, 115:18, 117:21, 118:3, 118:11, 120:12, 121:5, 121:10, 127:12, 127:16, 127:21, 131:4, 132:7, 132:10, 132:12, 132:23, 133:3, 137:23, 139:14</p> <p>Hunkins [2] - 3:5, 6:12</p> <p>HUSBAND [1] - 1:5</p> | <p>85:15, 85:18, 93:3, 94:2, 94:5, 94:20, 94:23, 95:11, 95:25, 96:3, 96:18, 96:21, 97:9, 97:12, 98:20, 99:13, 100:13, 101:23, 102:1, 102:14, 102:17, 103:4, 103:7, 103:22, 103:25, 107:24, 139:21</p> <p>identified [1] - 70:4</p> <p>ignoring [1] - 99:2</p> <p>important [1] - 38:19</p> <p>inaccessible [2] - 21:16, 113:1</p> <p>inch [2] - 54:6, 55:3</p> <p>incident [6] - 73:11, 74:3, 78:25, 129:2, 136:23, 137:5</p> <p>incidents [1] - 93:14</p> <p>includes [1] - 140:13</p> <p>including [1] - 8:17</p> <p>Indians [1] - 53:1</p> <p>indicate [6] - 13:22, 54:14, 54:17, 110:20, 114:14, 121:2</p> <p>indicated [8] - 24:1, 39:15, 111:10, 113:22, 114:9, 129:12, 129:18, 137:25</p> <p>indicates [2] - 78:2, 124:15</p> <p>indicating [3] - 25:18, 116:14, 138:9</p> <p>indication [2] - 11:12, 137:11</p> <p>individual [1] - 76:14</p> <p>individually [2] - 66:3, 66:5</p> <p>INDIVIDUALLY [1] - 1:4</p> <p>individuals [7] - 25:22, 26:2, 51:19, 51:22, 89:16, 92:3, 100:7</p> <p>initial [1] - 21:20</p> <p>injury [2] - 37:9</p> <p>ink [2] - 114:18, 114:19</p> <p>inlet [6] - 17:16, 38:16, 43:9, 52:25, 94:7, 138:4</p> <p>Inlet [107] - 10:1, 10:24, 11:3, 11:12, 11:13, 11:15, 11:23, 11:24, 12:3, 12:22, 15:13, 15:16, 17:15,</p> | <p>17:22, 25:11, 25:13, 25:16, 25:25, 26:4, 26:20, 27:6, 27:9, 27:14, 27:19, 31:10, 33:13, 33:21, 34:2, 34:6, 35:23, 36:1, 38:6, 38:22, 39:6, 43:5, 43:17, 45:5, 47:6, 48:16, 53:2, 54:18, 56:11, 59:11, 74:9, 75:3, 76:24, 79:2, 82:11, 83:15, 91:15, 91:20, 92:4, 92:11, 92:16, 93:13, 93:16, 93:18, 93:19, 94:16, 94:17, 95:8, 96:9, 98:8, 101:6, 101:7, 101:16, 102:9, 102:19, 102:23, 102:24, 103:1, 105:22, 110:21, 112:2, 116:3, 116:21, 117:15, 117:19, 117:22, 118:1, 118:8, 118:13, 118:20, 118:23, 118:24, 125:16, 125:20, 126:23, 127:13, 127:14, 127:15, 127:17, 127:19, 130:6, 134:23, 134:24, 135:3, 135:12, 135:18, 137:1, 138:1, 140:14, 141:19</p> <p>inlet's [1] - 42:18</p> <p>instantly [1] - 137:20</p> <p>instituted [3] - 75:13, 75:15, 141:8</p> <p>Intelligence [1] - 49:12</p> <p>interested [1] - 143:14</p> <p>international [1] - 63:5</p> <p>interrupt [1] - 80:13</p> <p>interview [2] - 79:10, 80:2</p> <p>interviewed [2] - 79:14, 79:20</p> <p>Investigator [2] - 59:1, 68:2</p> <p>investigator [3] - 49:14, 64:6, 74:24</p> <p>involved [1] - 102:20</p> <p>involving [1] - 64:9</p> <p>Iroquois [1] - 53:1</p> <p>Island [5] - 101:2, 101:4, 101:7,</p> | <p>101:11, 101:17</p> <p>issued [1] - 47:22</p> <p>issues [1] - 102:5</p> | | | | | | | | | | | |
| H | | | | | | | | | | | | | | | |
| <p>half [3] - 54:6, 55:3, 98:13</p> <p>hand [28] - 8:2, 10:12, 10:17, 12:7, 12:14, 13:5, 13:7, 15:11, 48:3, 52:20, 59:3, 61:17, 66:10, 66:12, 68:3, 69:12, 76:15, 80:6, 83:3, 84:13, 86:4, 94:4, 94:22, 102:3, 102:16, 139:25</p> <p>handed [1] - 70:3</p> <p>hands [1] - 49:16</p> <p>Harbor [2] - 2:3, 87:8</p> <p>hard [1] - 109:11</p> <p>Harry [1] - 34:25</p> <p>Hart [1] - 128:1</p> <p>hate [1] - 80:13</p> <p>hazardous [1] - 73:1</p> <p>head [9] - 8:2, 34:17, 34:20, 34:23, 35:18, 45:16, 92:10, 119:7, 121:25</p> <p>hear [3] - 49:1, 132:18, 133:5</p> <p>heard [4] - 14:18, 38:22, 43:11, 88:3</p> <p>hearing [2] - 129:16, 132:19</p> <p>heavy [2] - 99:19, 99:22</p> <p>held [1] - 6:25</p> <p>help [7] - 8:11, 54:18, 54:19, 55:19, 107:10, 108:8, 137:15</p> <p>HER [1] - 1:5</p> <p>hereby [1] - 143:5</p> <p>Hereford [6] - 38:22, 39:1, 39:5, 95:8</p> <p>hereford [1] - 38:25</p> <p>high [6] - 74:2, 74:7, 74:13, 112:10, 113:2</p> <p>highlight [1] - 93:10</p> <p>highlighted [5] - 95:15, 96:4, 96:22, 97:14, 99:17</p> <p>hitting [1] - 44:4</p> <p>hold [7] - 7:3, 17:5, 40:23, 48:5, 73:5, 83:20, 114:21</p> <p>holding [1] - 113:7</p> | I | | | | | | | | | | | | | | |
| <p>ice [4] - 105:7, 105:8, 105:20, 105:21</p> <p>ID [3] - 3:9, 4:2, 5:2</p> <p>idea [5] - 18:21, 62:22, 66:24, 76:17, 119:18</p> <p>identification [75] - 10:6, 10:8, 10:10, 10:11, 10:16, 15:9, 17:14, 48:4, 48:11, 49:9, 50:9, 50:17, 50:25, 51:13, 58:23, 58:25, 61:14, 61:16, 62:11, 62:13, 64:4, 64:5, 64:14, 64:16, 66:8, 67:23, 68:1, 69:7, 69:10, 71:21, 71:23, 73:7, 73:9, 74:20, 74:22, 76:2, 76:4, 76:7, 76:9, 77:18, 77:20, 77:25, 78:20, 78:22, 82:4, 82:6, 84:9, 84:12,</p> | | | | | J | | | | | | | | | | |
| <p>JAMES [1] - 2:11</p> <p>Jamilah [1] - 127:25</p> <p>January [1] - 68:2</p> <p>JERSEY [4] - 1:1, 1:9, 1:22, 2:16</p> <p>Jersey [14] - 1:16, 1:18, 2:3, 2:8, 2:12, 2:19, 2:20, 6:13, 37:23, 38:1, 38:15, 49:13, 132:17, 143:5</p> <p>jet [1] - 137:6</p> <p>Jet [12] - 32:21, 38:8, 64:20, 64:21, 65:6, 87:17, 87:18, 98:7, 98:11, 98:15, 100:18, 100:25</p> <p>job [2] - 34:15, 99:18</p> <p>jobs [1] - 34:12</p> <p>Joe [2] - 106:20, 107:7</p> <p>JOHN [1] - 1:9</p> <p>join [2] - 53:6, 121:11</p> <p>joined [1] - 131:5</p> <p>joking [1] - 38:20</p> <p>Joseph [4] - 6:2, 6:14, 142:5, 143:6</p> <p>JOSEPH [3] - 1:6, 2:9, 3:3</p> <p>July [49] - 21:21, 25:14, 26:3, 26:18, 27:15, 29:5, 31:7, 31:14, 33:12, 35:21, 36:21, 36:23, 37:16, 37:25, 38:14, 42:21, 53:12, 58:8, 59:19, 59:24, 62:1, 62:5, 62:16, 69:12, 71:23, 72:15, 73:14, 75:8, 75:18, 89:4, 91:10, 91:17, 91:25, 92:19, 94:6, 94:24, 95:4, 95:14, 98:5, 98:22, 98:25, 99:5, 100:15, 101:14, 105:19, 106:6, 110:14, 124:11</p> <p>June [2] - 73:10, 93:8</p> <p>jurisdiction [1] - 106:3</p> <p>Justice [1] - 2:18</p> | | | | | | | | | | | | | | | |
| | | | | K | | | | | | | | | | | |
| | | | | | | | | | <p>Kaufman [2] - 84:14, 90:15</p> <p>kayak [1] - 94:13</p> | | | | | | |
| | | | | | | | | | | | | | | | |

keep [1] - 88:25
 Kennedy [1] - 129:12
 kept [1] - 137:20
 kind [3] - 56:9, 112:8,
 112:9
 Kite [1] - 95:4
 knee [1] - 48:19
 knock [1] - 128:18
 knowing [1] - 122:19
 knowledge [4] - 47:1,
 56:4, 125:8, 127:22
 known [2] - 13:2,
 15:13
 knows [2] - 9:19, 9:22

L

labels [1] - 13:11
 Labor [1] - 63:9
 ladies [1] - 128:21
 lady [3] - 8:3, 49:11,
 130:15
 land [1] - 83:9
 large [2] - 19:18, 45:4
 last [12] - 30:17, 34:3,
 35:8, 36:14, 36:17,
 58:2, 72:21, 86:10,
 126:24, 127:5,
 127:11, 137:3
 LATE [1] - 1:5
 LAW [4] - 1:1, 2:2,
 2:17, 2:17
 lawyer [1] - 8:16
 lawyers [3] - 8:7, 8:12,
 18:8
 learn [2] - 124:21,
 125:2
 learned [1] - 72:1
 least [1] - 138:11
 leave [2] - 40:21,
 50:23
 led [1] - 123:13
 ledge [1] - 48:21
 left [4] - 8:3, 35:2,
 35:3, 47:5
 length [1] - 53:15
 less [2] - 48:19, 118:5
 letter [2] - 85:6, 90:23
 license [2] - 105:10,
 105:14
 License [2] - 1:16,
 143:21
 licensed [2] - 49:14,
 74:24
 lieutenant [4] - 7:8,
 14:25, 87:12, 88:13
 Lieutenant [8] - 85:23,
 86:7, 86:19, 87:8,
 87:24, 97:18, 97:22,
 116:15

lieutenants [1] - 14:19
 Lifeguard [1] - 102:4
 lifeguard [20] - 20:15,
 20:22, 20:23, 20:25,
 21:1, 21:12, 21:13,
 27:13, 27:14, 31:9,
 31:16, 31:17, 32:9,
 32:10, 32:13, 35:24,
 141:18
 lifeguards [18] - 31:9,
 55:15, 56:2, 59:18,
 91:11, 91:18, 92:2,
 92:8, 92:19, 101:14,
 105:13, 106:7,
 124:2, 125:11,
 128:19, 141:23
 light [1] - 52:22
 likely [1] - 126:5
 limitation [2] - 56:20,
 56:21
 limits [1] - 116:6
 Lindsay [16] - 14:21,
 14:22, 14:25, 85:23,
 86:7, 86:20, 87:8,
 87:12, 87:25, 88:13,
 97:18, 97:23, 102:9,
 116:15, 118:16,
 124:6
 Lindsay's [1] - 98:1
 line [8] - 24:12, 24:17,
 25:1, 25:4, 25:5,
 111:10, 132:8, 138:1
 lines [4] - 25:10,
 25:24, 114:19, 116:9
 Linwood [1] - 2:12
 literally [1] - 42:15
 litigation [1] - 8:13
 live [1] - 35:6
 LLC [1] - 1:21
 loader [2] - 78:4, 78:5
 local [2] - 88:16, 110:2
 locals [1] - 101:3
 locate [1] - 130:5
 located [11] - 24:22,
 37:22, 37:23, 49:17,
 52:8, 68:20, 73:1,
 74:8, 77:1, 135:18,
 136:3
 location [8] - 15:24,
 17:23, 53:17, 63:13,
 65:10, 73:13, 74:3,
 136:1
 locations [3] - 30:19,
 63:13, 81:10
 logs [1] - 36:9
 longitudinal [1] - 43:8
 look [18] - 10:22,
 10:23, 13:17, 17:25,
 18:7, 18:13, 19:25,
 23:2, 85:20, 104:20,

110:21, 113:15,
 113:23, 130:21,
 130:22, 131:15,
 136:9, 139:8
 looked [3] - 13:6,
 40:13, 139:10
 looking [15] - 23:7,
 23:20, 51:16, 52:19,
 59:14, 63:11, 69:17,
 74:23, 76:11, 95:7,
 123:16, 124:17,
 136:7, 138:7, 138:17
 looks [4] - 31:1, 52:21,
 73:21, 113:15
 lost [1] - 119:23
 Lou [2] - 2:22, 63:1
 louder [1] - 133:5
 low [8] - 86:9, 86:10,
 87:4, 113:11,
 113:13, 113:14,
 136:6, 136:15
 lower [3] - 13:5, 13:7,
 61:17
 lower-hand [1] - 13:5
 Lydon [2] - 93:14,
 95:15
 LYNN [2] - 1:15, 143:4

M

maintain [1] - 68:23
 maintains [1] - 77:14
 Major [1] - 96:23
 man [2] - 64:21,
 137:11
 managed [2] - 87:15,
 87:16
 manned [1] - 141:18
 maps [1] - 39:5
 March [4] - 55:2, 55:6,
 114:4, 114:6
 Margate [1] - 45:22
 Marine [3] - 37:23,
 38:1, 38:15
 marine [3] - 38:7,
 38:12, 38:15
 mark [13] - 12:3,
 12:15, 12:25, 13:1,
 15:9, 17:11, 48:4,
 50:25, 66:3, 66:4,
 76:7, 77:21, 79:25
 marked [86] - 10:5,
 10:7, 10:9, 10:11,
 10:15, 11:22, 11:25,
 17:2, 17:13, 39:15,
 39:20, 39:24, 40:2,
 48:11, 49:1, 49:7,
 49:8, 50:4, 50:8,
 50:16, 51:12, 54:3,
 58:22, 58:25, 61:13,

61:15, 62:10, 62:12,
 64:3, 64:5, 64:14,
 64:15, 66:7, 67:22,
 67:25, 68:8, 69:6,
 69:9, 71:20, 71:23,
 73:6, 73:8, 74:19,
 74:22, 76:1, 76:4,
 76:8, 77:17, 77:19,
 77:24, 78:19, 78:21,
 82:3, 82:6, 84:8,
 84:11, 85:14, 85:17,
 93:3, 94:2, 94:5,
 94:20, 94:23, 95:11,
 95:25, 96:3, 96:18,
 96:20, 97:9, 97:11,
 98:20, 99:13,
 100:13, 101:23,
 102:1, 102:14,
 102:16, 103:4,
 103:7, 103:22,
 103:24, 107:21,
 107:24, 114:25,
 139:21
 marker [5] - 12:16,
 14:7, 19:4, 24:12,
 24:25
 Market [1] - 2:18
 marking [1] - 98:23
 marks [2] - 67:19,
 131:20
 married [1] - 50:13
 MARY [1] - 1:9
 Maryland [1] - 124:14
 matter [3] - 9:15, 9:20,
 9:21
 MAY [1] - 1:1
 mayor [24] - 28:7,
 28:12, 28:20, 29:4,
 29:18, 30:5, 30:9,
 31:7, 31:15, 31:23,
 32:5, 32:7, 32:25,
 63:20, 67:2, 75:13,
 85:3, 85:4, 85:19,
 123:24, 141:8,
 141:15, 141:16
 Mayor [1] - 32:5
 mean [17] - 10:3,
 16:10, 29:13, 42:14,
 54:18, 71:5, 102:23,
 103:13, 112:25,
 115:19, 117:5,
 117:22, 117:23,
 118:3, 120:13,
 128:8, 136:3
 meaning [2] - 82:17,
 83:6
 means [6] - 11:13,
 70:7, 70:10, 99:21,
 100:21, 102:21
 meant [4] - 45:17,

51:20, 93:7, 117:8
 medical [1] - 37:14
 meeting [2] - 31:7,
 31:15
 meetings [1] - 31:23
 meets [1] - 48:17
 member [2] - 81:14,
 91:24
 members [4] - 36:25,
 38:2, 98:5, 98:14
 memo [1] - 84:13,
 90:14
 mention [1] - 43:11
 mercantile [2] - 105:9,
 105:14
 MICHAEL [1] - 2:13
 Michael [1] - 6:8
 mid [8] - 26:11, 26:19,
 62:7, 86:9, 87:3,
 113:13, 136:6,
 136:14
 might [4] - 8:16,
 106:19, 107:10,
 124:13
 migrates [1] - 118:13
 Mike [10] - 11:7, 12:19,
 13:7, 19:19, 35:15,
 54:10, 55:19, 83:24,
 89:24, 90:15
 mile [5] - 56:19, 56:23,
 56:24, 56:25, 114:10
 miles [6] - 60:19,
 60:25, 61:2, 61:4,
 61:7, 61:10
 mind [7] - 8:22, 11:19,
 12:21, 17:25, 18:3,
 24:13, 133:13
 mine [1] - 83:24
 minute [2] - 39:12,
 115:10
 minutes [8] - 95:5,
 126:17, 126:19,
 130:23, 130:24,
 130:25, 132:14,
 133:8
 miss [1] - 30:22
 missing [2] - 124:19,
 124:22
 misspoke [1] - 68:5
 moment [2] - 20:12,
 52:21
 monitor [1] - 92:14
 month [1] - 28:17
 months [2] - 28:15,
 99:16
 Moore's [107] - 10:1,
 12:16, 12:21, 12:22,
 15:13, 15:16, 15:24,
 18:18, 18:21, 19:1,
 19:9, 19:11, 19:14,

| | | | | |
|--|---|---|--|--|
| <p>53:5, 89:9, 111:5, 115:18, 116:25, 117:21, 120:12, 121:7, 121:10, 131:4</p> <p>objected [2] - 46:10, 111:23</p> <p>objecting [5] - 22:3, 79:6, 79:7, 118:17, 121:6</p> <p>objection [37] - 21:25, 29:7, 29:8, 29:16, 46:1, 57:4, 57:18, 60:4, 70:21, 71:2, 73:15, 78:8, 79:4, 81:3, 92:5, 92:12, 92:23, 96:10, 99:25, 100:23, 101:18, 103:16, 111:20, 113:19, 113:20, 115:19, 116:23, 117:16, 118:10, 118:11, 118:17, 119:9, 121:4, 121:5, 126:25, 131:5, 141:20</p> <p>observation [1] - 33:16</p> <p>observe [2] - 25:15, 136:15</p> <p>observed [2] - 37:8, 75:9</p> <p>obtained [1] - 17:8</p> <p>occasionally [1] - 75:19</p> <p>occasions [4] - 91:10, 91:17, 92:1, 106:6</p> <p>occur [4] - 98:11, 114:20, 134:13, 134:24</p> <p>occurred [9] - 18:13, 114:11, 128:17, 129:2, 135:11, 135:12, 135:21, 137:6, 137:16</p> <p>occurring [3] - 37:1, 117:17, 117:19</p> <p>occurs [4] - 81:16, 111:9, 117:14, 117:15</p> <p>ocean [21] - 11:17, 17:17, 26:18, 27:5, 43:6, 43:16, 43:24, 44:4, 44:20, 45:20, 45:23, 48:17, 48:19, 53:18, 60:12, 60:19, 60:20, 67:10, 98:24, 100:17, 118:1</p> <p>Ocean [1] - 93:23</p> <p>October [2] - 15:5, 70:15</p> | <p>OF [9] - 1:1, 1:4, 1:5, 1:8, 1:9, 1:6, 2:16, 2:17, 2:17</p> <p>offer [1] - 36:24</p> <p>Officer [1] - 129:12</p> <p>officers [6] - 33:14, 33:20, 34:5, 74:25, 75:9, 75:17</p> <p>offs [5] - 133:24, 134:1, 134:8, 134:13, 134:24</p> <p>often [2] - 38:4, 38:5</p> <p>old [4] - 18:1, 48:17, 48:18, 55:4</p> <p>once [3] - 32:1, 87:20, 97:4</p> <p>one [39] - 13:7, 14:19, 31:23, 32:16, 34:12, 34:22, 39:4, 39:19, 40:11, 41:2, 41:22, 50:18, 53:22, 54:23, 57:17, 60:16, 65:5, 65:21, 66:2, 68:5, 69:19, 72:21, 87:15, 89:17, 94:7, 95:14, 97:5, 99:15, 100:7, 100:11, 104:18, 108:2, 114:22, 114:24, 117:9, 118:25, 127:23, 130:15, 130:19</p> <p>ones [2] - 59:20, 65:18</p> <p>open [2] - 59:10, 84:19</p> <p>operate [2] - 106:1, 106:9</p> <p>opportunity [2] - 41:5, 41:15</p> <p>opposed [4] - 30:16, 118:1, 118:4, 118:6</p> <p>opposite [1] - 36:15</p> <p>oral [1] - 8:2</p> <p>orange [7] - 11:1, 11:22, 65:25, 66:11, 66:13, 66:15, 66:16</p> <p>order [7] - 8:15, 41:15, 52:6, 74:13, 91:6, 105:8, 108:21</p> <p>ordinance [8] - 25:23, 26:6, 26:12, 26:23, 27:3, 75:23, 106:13, 106:16</p> <p>Ordinance [3] - 70:16, 106:14, 139:21</p> <p>orientation [3] - 51:15, 68:16, 69:13</p> <p>outgoing [1] - 96:16</p> <p>outlines [1] - 115:17</p> <p>outside [2] - 9:17, 99:2</p> | <p>own [3] - 51:19, 123:15, 133:13</p> <p>owners [6] - 88:15, 88:25, 89:6, 89:10, 89:14</p> <p>owns [1] - 16:3</p> | <p>passed [1] - 28:1</p> <p>past [5] - 45:5, 99:11, 105:6, 108:25, 127:23</p> <p>patient [1] - 132:13</p> <p>Patricia [2] - 78:23, 80:2</p> <p>Patrick [1] - 2:23</p> <p>Patrol [39] - 4:17, 6:24, 7:3, 7:10, 15:1, 20:14, 28:9, 36:9, 36:25, 37:18, 38:3, 41:7, 41:17, 47:18, 56:17, 59:19, 64:23, 70:18, 81:15, 84:21, 91:6, 91:19, 91:25, 93:2, 93:7, 94:1, 94:19, 95:10, 95:24, 96:17, 97:8, 98:19, 99:12, 100:12, 101:22, 102:13, 103:3, 103:21, 128:10</p> <p>patrol [23] - 7:4, 14:20, 17:7, 31:6, 31:21, 32:23, 33:20, 34:5, 38:16, 43:22, 65:9, 71:15, 71:17, 72:8, 75:17, 89:21, 93:17, 97:20, 98:6, 98:14, 102:8, 106:3, 130:13</p> <p>patrolling [2] - 34:1, 141:3</p> <p>patrols [2] - 75:14, 141:1</p> <p>pattern [1] - 34:4</p> <p>PAUL [1] - 2:4</p> <p>Paul [8] - 6:6, 8:17, 24:9, 51:6, 59:4, 90:18, 114:22, 130:7</p> <p>PB [1] - 102:20</p> <p>PD [1] - 102:20</p> <p>pen [2] - 11:1, 11:11</p> <p>pension [1] - 15:7</p> <p>people [36] - 21:6, 23:20, 25:15, 27:22, 32:8, 32:10, 32:23, 33:2, 38:23, 47:5, 50:11, 52:1, 59:15, 61:24, 71:5, 77:12, 88:14, 88:16, 88:20, 96:5, 96:8, 100:2, 101:1, 101:15, 103:13, 103:18, 104:6, 105:21, 122:23, 124:17, 125:2, 125:25, 130:6, 136:12, 140:10</p> <p>per [6] - 60:19, 60:25,</p> | <p>61:2, 61:4, 61:7, 61:10</p> <p>percent [1] - 32:10</p> <p>perfect [1] - 115:12</p> <p>perhaps [1] - 31:17</p> <p>period [1] - 20:18</p> <p>permission [2] - 7:23, 8:19</p> <p>permit [1] - 106:1</p> <p>perpendicular [2] - 118:24, 121:19</p> <p>person [4] - 26:17, 26:25, 91:12, 101:5</p> <p>personal [1] - 123:15</p> <p>personally [3] - 25:14, 75:9, 88:24</p> <p>personnel [1] - 122:8</p> <p>persons [1] - 76:10</p> <p>perspective [1] - 109:11</p> <p>Petty [1] - 129:11</p> <p>Ph [1] - 1:23</p> <p>phenomenon [1] - 122:13</p> <p>Philly [1] - 88:18</p> <p>phone [1] - 71:13</p> <p>photo [5] - 20:3, 79:9, 137:4, 138:7, 138:15</p> <p>Photograph [42] - 3:12, 3:15, 3:16, 3:18, 3:19, 3:20, 3:21, 4:3, 4:4, 4:5, 4:6, 4:7, 4:8, 4:9, 4:10, 4:11, 4:12, 4:14, 4:15, 4:16, 10:9, 49:8, 50:16, 51:12, 58:22, 61:13, 62:10, 64:3, 64:15, 67:22, 69:6, 71:20, 73:6, 74:19, 76:1, 76:8, 77:17, 77:24, 78:19, 82:3, 84:8, 85:14</p> <p>photograph [68] - 3:17, 10:22, 10:23, 13:22, 15:8, 15:12, 17:12, 18:14, 18:16, 18:19, 18:25, 19:8, 19:9, 19:12, 20:6, 22:20, 23:3, 23:7, 23:8, 23:16, 23:24, 24:2, 24:16, 24:21, 25:13, 50:9, 51:1, 54:2, 55:2, 59:1, 59:14, 59:21, 61:17, 62:14, 63:12, 64:6, 64:17, 64:25, 66:14, 68:1, 68:17, 68:20, 69:11, 70:6, 71:23, 73:9, 74:21, 75:2,</p> |
|--|---|---|--|--|

| | | | | | | |
|---|--|---|---|---|---|---|
| <p>75:10, 76:5, 76:6, 77:19, 77:22, 78:22, 79:3, 80:8, 82:5, 82:24, 83:3, 83:13, 109:9, 114:5, 114:7, 114:14, 115:20, 117:18, 138:13</p> <p>photographs [13] - 17:8, 20:11, 24:1, 40:10, 47:11, 47:13, 54:3, 55:9, 55:11, 57:2, 65:21, 66:22, 78:24</p> <p>Photographs [5] - 3:13, 3:22, 3:23, 17:13, 66:7</p> <p>photos [1] - 116:18</p> <p>phrase [4] - 11:13, 36:1, 55:14, 100:19</p> <p>phrases [1] - 9:25</p> <p>pick [1] - 124:17</p> <p>picked [1] - 87:17</p> <p>picture [1] - 113:4</p> <p>pictures [1] - 113:16</p> <p>piece [7] - 11:10, 65:24, 66:14, 67:1, 139:1, 139:3, 139:9</p> <p>pieces [1] - 67:3</p> <p>pile [1] - 65:18</p> <p>pipe [1] - 78:11</p> <p>place [16] - 44:25, 53:25, 54:4, 54:7, 57:3, 64:9, 65:5, 65:7, 79:15, 86:20, 87:5, 94:10, 95:7, 98:7, 98:16, 137:22</p> <p>placed [1] - 109:23</p> <p>places [1] - 136:4</p> <p>plaintiff [1] - 6:15</p> <p>Plaintiff [1] - 1:6</p> <p>Plaintiffs [2] - 2:5, 2:9</p> <p>plaintiffs [1] - 6:7</p> <p>plan [1] - 15:7</p> <p>pleasant [1] - 9:11</p> <p>point [11] - 13:10, 13:21, 18:15, 29:15, 40:6, 40:11, 44:5, 46:16, 47:10, 124:24, 135:4</p> <p>Point [34] - 10:2, 13:2, 13:23, 14:8, 14:14, 14:16, 14:17, 14:18, 14:20, 56:18, 95:16, 96:5, 97:14, 97:19, 102:6, 102:9, 103:10, 104:2, 104:7, 116:15, 116:16, 117:12, 117:15, 117:18, 118:6, 118:7,</p> | <p>118:16, 124:6, 135:15, 135:16, 135:18, 135:22, 136:4</p> <p>points [1] - 53:3</p> <p>police [29] - 33:2, 33:14, 33:20, 33:25, 34:5, 37:20, 38:7, 38:12, 71:16, 71:19, 75:9, 75:17, 92:14, 92:15, 98:17, 102:21, 105:16, 106:4, 106:5, 123:18, 123:19, 124:19, 128:25, 129:6, 130:13, 140:25, 141:2, 141:11</p> <p>Police [8] - 33:19, 37:17, 37:23, 38:1, 38:15, 49:13, 106:8, 140:21</p> <p>policing [1] - 139:24</p> <p>policy [1] - 128:22</p> <p>pool [1] - 45:21</p> <p>porta [2] - 77:3, 77:4</p> <p>portion [2] - 24:18, 99:17</p> <p>position [1] - 6:25</p> <p>Possey [2] - 78:23, 80:3</p> <p>possible [1] - 139:2</p> <p>post [1] - 74:13</p> <p>posted [11] - 27:14, 48:24, 62:16, 63:12, 66:17, 66:20, 74:2, 82:20, 136:22, 136:24, 137:1</p> <p>posting [1] - 20:25</p> <p>potty [2] - 77:3, 77:4</p> <p>practical [1] - 8:21</p> <p>precisely [1] - 94:9</p> <p>prefer [2] - 66:3, 66:4</p> <p>prepare [2] - 41:16, 91:6</p> <p>prepared [4] - 9:13, 10:19, 12:11, 41:17</p> <p>prepares [1] - 42:25</p> <p>preparing [2] - 8:4, 9:24</p> <p>present [4] - 2:22, 34:17, 75:13, 131:24</p> <p>presented [1] - 124:8</p> <p>presently [1] - 6:22</p> <p>president [1] - 123:24</p> <p>pressing [1] - 121:8</p> <p>pressure [3] - 88:24, 89:5, 89:13</p> <p>pretty [3] - 123:22, 125:19, 140:1</p> | <p>prevent [1] - 104:4</p> <p>prevented [1] - 101:2</p> <p>preventing [1] - 103:13</p> <p>preventions [7] - 100:19, 102:6, 102:19, 103:10, 103:12, 103:15, 104:2</p> <p>prevents [3] - 100:18, 100:20, 100:22</p> <p>previously [4] - 17:15, 39:24, 40:2, 51:3</p> <p>Printout [2] - 3:14, 48:10</p> <p>private [2] - 49:14, 74:24</p> <p>proactive [1] - 141:13</p> <p>problem [1] - 21:17</p> <p>problems [2] - 37:19, 38:6</p> <p>proceed [1] - 8:12</p> <p>process [1] - 111:13</p> <p>profile [1] - 82:8</p> <p>prohibited [1] - 27:9</p> <p>prohibition [4] - 51:22, 101:5, 101:8, 101:10</p> <p>pronounce [1] - 38:21</p> <p>protected [19] - 21:22, 24:18, 24:20, 25:1, 25:6, 28:2, 34:9, 36:11, 36:13, 36:18, 37:2, 37:15, 70:10, 72:15, 72:20, 78:7, 81:7, 135:4, 135:7</p> <p>protecting [1] - 129:21</p> <p>protection [1] - 35:24</p> <p>provide [4] - 37:8, 37:17, 38:1, 69:4</p> <p>provided [4] - 49:14, 79:19, 80:4, 130:9</p> <p>PUBLIC [1] - 2:17</p> <p>public [8] - 33:1, 59:4, 59:7, 59:10, 82:7, 82:12</p> <p>Public [14] - 34:16, 34:18, 34:21, 34:23, 35:18, 35:22, 68:22, 74:6, 76:11, 76:18, 77:10, 77:15, 78:2, 78:14</p> <p>published [1] - 110:10</p> <p>pull [1] - 107:16</p> <p>pulled [1] - 59:1</p> <p>put [15] - 14:10, 22:24, 32:9, 39:10, 54:1, 54:17, 57:1, 62:22, 64:10, 65:18, 67:7,</p> | <p>79:22, 83:21, 99:9, 117:6</p> <p>puts [1] - 77:9</p> <p>putting [3] - 63:19, 63:21, 78:6</p> | <p>Q</p> <p>quarter [2] - 56:23, 64:11</p> <p>questioned [1] - 137:10</p> <p>questions [14] - 8:7, 8:21, 88:23, 105:4, 105:5, 106:21, 107:3, 111:6, 132:4, 132:15, 133:8, 133:12, 139:17, 140:19</p> <p>quick [2] - 104:23, 139:16</p> <p>quickly [1] - 9:15</p> <p>quiet [1] - 69:22</p> <p>quote [1] - 87:2</p> | <p>R</p> <p>R.J [1] - 2:18</p> <p>radio [2] - 92:15, 98:17</p> <p>raised [1] - 45:21</p> <p>ran [1] - 121:19</p> <p>rank [3] - 7:4, 7:6</p> <p>ranks [1] - 7:7</p> <p>rather [1] - 24:12</p> <p>re [2] - 21:12, 35:2</p> <p>re-establish [1] - 21:12</p> <p>read [28] - 22:14, 22:17, 27:25, 30:23, 36:8, 41:5, 41:16, 43:13, 46:8, 46:24, 47:13, 47:17, 48:13, 48:23, 58:2, 58:4, 70:24, 71:1, 80:7, 86:5, 91:5, 106:12, 106:16, 118:12, 129:11, 140:5, 140:9, 140:15</p> <p>reading [2] - 52:25, 54:19</p> <p>reads [1] - 99:17</p> <p>ready [2] - 41:9, 57:15</p> <p>real [1] - 104:23</p> <p>really [6] - 9:13, 80:6, 111:17, 116:14, 132:19, 137:24</p> <p>received [44] - 10:5, 10:7, 10:9, 10:15, 17:13, 30:6, 48:10,</p> | <p>49:8, 50:16, 51:12, 58:22, 61:13, 62:10, 64:3, 64:15, 66:7, 67:22, 69:6, 71:20, 73:6, 74:19, 76:1, 76:8, 77:17, 77:24, 78:19, 82:3, 84:8, 85:14, 93:3, 94:2, 94:20, 95:11, 95:25, 96:18, 97:9, 98:20, 99:13, 100:13, 101:23, 102:14, 103:4, 103:22, 107:23</p> <p>recess [1] - 131:19</p> <p>Recess [1] - 67:18</p> <p>recognize [5] - 122:17, 123:2, 123:9, 123:14, 136:13</p> <p>recognized [1] - 123:6</p> <p>recollection [1] - 79:13</p> <p>recommendation [1] - 74:5</p> <p>recommendations [9] - 7:17, 28:8, 28:11, 28:18, 28:23, 29:3, 29:18, 30:3, 30:12</p> <p>Record [3] - 22:17, 46:24, 58:4</p> <p>record [64] - 6:3, 6:5, 22:1, 22:12, 29:9, 29:24, 29:25, 39:12, 39:13, 39:14, 41:12, 46:2, 46:4, 46:5, 48:9, 54:12, 54:14, 54:17, 57:5, 57:8, 57:23, 57:24, 67:15, 67:17, 67:21, 68:10, 69:21, 69:24, 69:25, 71:1, 76:16, 79:12, 79:23, 80:1, 81:23, 83:18, 83:23, 84:3, 84:7, 86:5, 89:20, 93:1, 93:25, 99:4, 104:16, 104:24, 104:25, 105:1, 107:1, 107:2, 107:15, 107:25, 108:4, 108:10, 108:12, 108:13, 131:18, 131:22, 132:24, 132:25, 133:1, 140:17, 142:6</p> <p>recorded [1] - 87:23</p> <p>recording [1] - 86:8</p> <p>records [4] - 130:5, 130:7, 130:9, 130:19</p> <p>recovered [2] -</p> |
|---|--|---|---|---|---|---|

| | | | | |
|---|--|--|---|---|
| <p>128:11, 128:14 recovery [1] - 129:10 red [5] - 19:3, 62:15, 62:16, 63:2, 63:6 refer [7] - 11:16, 11:22, 11:24, 56:3, 97:20, 107:11, 118:22 reference [3] - 24:23, 28:7, 94:7 referenced [4] - 18:16, 28:19, 51:3, 64:22 references [2] - 36:10, 70:15 referencing [1] - 55:12 referred [5] - 17:16, 68:5, 68:7, 82:23, 97:19 referring [16] - 13:10, 13:15, 22:21, 27:2, 27:20, 30:4, 51:5, 83:19, 93:17, 93:19, 93:21, 97:18, 99:8, 99:10, 100:6, 102:10 refers [2] - 74:8, 93:15 regarding [2] - 140:1, 141:1 regardless [1] - 122:19 regards [1] - 75:24 regular [1] - 112:10 regulations [1] - 140:1 related [1] - 131:11 relative [13] - 17:22, 28:2, 37:1, 37:15, 41:7, 41:18, 47:19, 56:3, 98:6, 98:11, 101:15, 143:10, 143:13 relatively [1] - 111:15 remember [12] - 16:24, 20:24, 35:25, 55:19, 55:22, 67:13, 96:25, 120:6, 128:19, 130:4, 130:18, 141:6 repair [1] - 68:24 repeat [4] - 26:14, 27:6, 70:23, 89:2 rephrase [4] - 7:24, 36:7, 52:5, 140:11 Report [33] - 3:10, 3:11, 4:17, 4:18, 4:19, 4:20, 4:21, 4:22, 4:23, 4:24, 4:25, 5:3, 5:4, 5:5, 5:6, 5:7, 10:5, 10:7, 84:21, 93:3, 94:2, 94:20, 95:11, 95:25, 96:18, 97:9, 98:20,</p> | <p>99:13, 100:13, 101:23, 102:14, 103:4, 103:22 report [23] - 10:15, 10:19, 12:11, 12:14, 78:1, 80:3, 80:17, 80:18, 80:19, 81:21, 84:22, 91:2, 91:3, 93:6, 94:6, 95:7, 96:2, 96:21, 97:12, 100:15, 102:2, 103:8, 103:25 reported [1] - 124:18 reporter [2] - 6:16, 108:9 Reporter [3] - 1:16, 143:4, 143:20 REPORTERS [1] - 1:21 REPORTING [1] - 1:21 reports [10] - 41:6, 41:16, 43:2, 47:17, 64:22, 65:5, 89:22, 91:6, 100:20, 129:3 represent [1] - 79:9 representation [2] - 49:18, 59:16 representing [1] - 6:13 represents [2] - 14:14, 17:16 Rescue [2] - 84:21, 97:14 rescue [13] - 91:12, 91:19, 92:10, 92:20, 94:7, 94:8, 94:9, 95:19, 96:5, 96:23, 99:1, 100:17, 124:25 rescued [2] - 120:4, 120:8 rescues [8] - 92:3, 98:6, 98:11, 98:24, 99:17, 101:13, 123:11, 123:12 research [2] - 42:25, 44:1 Research [2] - 10:21, 12:13 resolution [3] - 30:17, 30:18, 75:23 resolutions [5] - 27:25, 28:4, 28:6, 28:19, 30:24 resource [2] - 42:24 respect [1] - 30:11 respond [4] - 33:2, 37:5, 38:7, 92:17 response [1] - 8:7 responses [1] - 8:1 responsibilities [1] -</p> | <p>34:9 responsibility [4] - 70:17, 72:8, 105:12, 105:17 rest [1] - 86:6 Restaurant [1] - 15:25 restrooms [1] - 77:13 result [2] - 62:19 retired [2] - 15:7, 49:12 review [1] - 30:19 reviewing [2] - 108:2, 129:4 Richard [1] - 12:12 ride [1] - 75:19 right-hand [3] - 13:7, 61:17, 86:4 rip [3] - 74:2, 74:7, 74:13 risk [13] - 74:2, 74:7, 74:13, 122:17, 122:22, 123:2, 123:7, 123:9, 123:14, 123:17, 123:18, 123:23, 124:7 river [1] - 87:13 Road [2] - 2:3, 2:11 Robert [1] - 2:24 rocks [1] - 88:9 Ron [1] - 91:1 Ronald [2] - 84:15, 84:25 room [1] - 90:3 Rosenello [2] - 2:23, 141:15 ROSENELLO [1] - 85:21 rowdiness [1] - 141:9 Rozell [1] - 6:10 ROZELL [4] - 2:14, 6:10, 39:17, 91:1 rules [1] - 7:17 run [5] - 88:10, 88:13, 115:22, 118:21, 118:24 running [1] - 121:16 runs [2] - 56:5, 126:7 rushing [1] - 87:5 Ryan [1] - 99:1</p> | <p>139:3, 139:9 SANDY [1] - 1:3 Sanki [1] - 99:1 save [6] - 57:10, 65:20, 73:4, 93:9, 93:11, 104:19 saw [7] - 13:21, 49:19, 53:25, 59:24, 66:21, 95:15, 105:7 schedule [1] - 38:16 scientist [1] - 44:2 scouring [1] - 118:16 scours [1] - 118:20 sea [2] - 96:24, 97:1 season [12] - 27:22, 28:3, 28:16, 42:20, 53:3, 56:10, 56:13, 63:7, 67:5, 67:8, 92:2 second [13] - 14:2, 20:10, 41:3, 50:23, 54:11, 57:17, 69:19, 71:5, 73:19, 86:18, 96:12, 104:18, 106:19 Second [1] - 96:4 Section [1] - 106:15 section [2] - 42:12, 116:3 see [85] - 10:23, 11:5, 11:7, 11:25, 12:1, 12:13, 12:18, 13:11, 14:2, 14:5, 14:12, 15:13, 15:19, 15:23, 16:2, 16:14, 18:15, 18:18, 19:1, 19:9, 19:11, 19:19, 19:20, 19:23, 22:21, 23:3, 23:17, 23:22, 24:17, 36:9, 40:22, 42:3, 44:8, 48:5, 49:15, 50:12, 52:9, 52:13, 52:20, 52:21, 52:22, 54:10, 55:3, 59:14, 59:21, 60:10, 61:16, 61:21, 62:15, 64:7, 64:17, 64:20, 65:24, 66:11, 66:13, 68:19, 69:22, 70:10, 73:19, 74:25, 75:10, 75:23, 77:5, 79:19, 83:9, 84:20, 91:9, 94:7, 96:8, 97:24, 100:19, 102:8, 108:5, 108:25, 109:8, 116:10, 116:14, 117:3, 131:15, 136:9, 136:18, 137:8, 140:6, 141:12 seeing [1] - 80:25</p> | <p>sell [2] - 105:8, 105:21 send [1] - 85:6 sense [1] - 65:10 sent [1] - 84:12 separate [1] - 65:18 September [6] - 79:20, 80:5, 80:15, 80:22, 81:1, 81:7 series [4] - 27:25, 40:10, 62:15, 89:21 services [7] - 36:24, 37:4, 37:8, 37:13, 37:16, 38:2, 38:5 set [4] - 34:4, 38:15, 52:14, 100:8 sets [2] - 52:17, 52:18 seven [2] - 16:17, 48:17 Seven [1] - 102:18 seven-year-old [1] - 48:17 several [2] - 23:25, 33:14 shaken [1] - 95:18 shaking [1] - 45:15 shallow [1] - 110:22 shape [1] - 122:6 shared [1] - 140:21 Shayne [1] - 128:1 shore [6] - 64:24, 87:16, 110:23, 111:10, 138:1, 138:20 Shore [1] - 110:1 show [34] - 15:10, 18:9, 18:12, 51:4, 54:4, 58:24, 61:15, 61:19, 62:12, 64:9, 64:13, 69:9, 71:22, 73:8, 74:21, 76:3, 77:19, 78:21, 82:5, 82:24, 84:11, 85:17, 93:6, 95:13, 96:2, 96:20, 97:11, 101:25, 103:6, 103:24, 108:17, 114:19, 120:17, 137:7 showing [7] - 51:1, 59:16, 68:17, 69:14, 69:16, 113:4, 137:5 shown [8] - 19:12, 23:8, 24:20, 59:25, 70:5, 79:2, 81:6, 83:12 shows [4] - 50:10, 66:14, 75:5, 77:22 shut [1] - 88:10 side [9] - 48:16, 48:19, 51:10, 117:15,</p> |
|---|--|--|---|---|

S

safe [1] - 91:23
SAFETY [1] - 2:17
sand [13] - 21:23, 24:5, 48:21, 78:5, 87:6, 116:21, 117:3, 117:7, 119:19, 138:23, 139:1,

117:19, 117:22,
118:1, 118:2, 121:18
sight [1] - 132:9
sign [14] - 61:21,
61:24, 70:6, 70:10,
70:13, 70:19, 70:20,
71:6, 71:11, 72:7,
72:25, 74:1, 74:8,
74:13
signal [2] - 63:4, 63:5
significance [1] - 65:2
signify [1] - 63:3
signs [5] - 58:8, 62:2,
62:6, 73:12, 136:22
similar [1] - 66:20
Simone [3] - 84:15,
84:25, 91:1
Simone's [1] - 85:6
simply [3] - 8:11,
10:14, 123:3
Simpson [5] - 85:24,
87:7, 87:10, 87:24,
88:11
sit [6] - 21:6, 27:22,
89:17, 107:7, 132:5,
132:6
sitting [5] - 25:16,
25:23, 72:15,
105:22, 133:4
situations [1] - 37:1
six [3] - 53:10, 124:17,
125:10
size [1] - 64:11
Ski [11] - 38:8, 64:20,
64:21, 65:6, 87:17,
87:18, 98:7, 98:11,
98:15, 100:18,
100:25
skier [1] - 137:6
Skis [1] - 32:21
slid [1] - 121:17
Sloan [2] - 34:19,
34:24
slope [1] - 119:19
small [1] - 77:11
smaller [2] - 44:11,
44:13
SMITH [4] - 1:3, 1:5,
1:15, 143:4
Smith [23] - 18:13,
41:18, 41:21, 47:2,
47:4, 47:14, 47:19,
48:2, 49:2, 53:18,
57:3, 58:9, 62:20,
64:9, 64:18, 72:14,
72:17, 73:11, 74:3,
78:25, 99:16,
120:21, 127:8
Smith's [5] - 21:20,
64:24, 66:18, 70:18,

100:16
solicitor [1] - 84:15
someone [8] - 38:9,
52:7, 91:19, 92:20,
101:10, 119:5,
123:3, 130:3
someplace [2] -
56:11, 131:25
sometimes [2] -
57:20, 60:18
somewhere [5] -
54:17, 61:4, 61:9,
82:16, 114:2
son [2] - 48:18, 72:16
sorry [11] - 9:4, 28:25,
35:12, 45:18, 50:3,
54:15, 79:5, 90:10,
95:1, 107:17, 141:15
sort [4] - 106:9, 117:9,
117:12, 119:8
sources [1] - 130:12
south [5] - 24:6,
91:15, 116:6,
116:22, 135:15
southeast [4] - 118:4,
118:6, 134:21, 135:3
speaking [1] - 133:5
specific [3] - 22:5,
22:10, 97:17
spell [1] - 35:8
Spez [1] - 85:5
SPEZIALI [2] - 2:5,
85:8
Speziali [1] - 6:7
spinal [1] - 37:9
Spit [1] - 10:2
spot [2] - 121:24,
137:16
Spruce [6] - 125:15,
125:18, 125:20,
126:1, 126:3, 140:11
stable [1] - 57:3
stairs [5] - 51:25,
52:4, 52:6, 52:8,
52:17
stand [10] - 20:15,
20:22, 21:1, 21:12,
22:11, 27:13, 31:17,
49:20, 68:11, 141:18
standing [16] - 24:5,
49:16, 49:19, 60:2,
64:21, 65:4, 83:9,
109:4, 109:6,
109:12, 109:18,
137:11, 137:14,
137:15, 138:25,
139:9
stands [1] - 31:9
start [3] - 7:9, 116:21,
134:10

started [1] - 9:23
starts [3] - 25:6,
26:21, 110:22
STATE [2] - 1:9, 2:16
state [2] - 6:4, 88:8
State [7] - 1:16, 2:20,
6:13, 49:13, 132:16,
133:7, 143:5
statement [3] - 47:13,
48:1, 79:24
statements [2] -
60:17, 88:6
station [1] - 37:22
stay [1] - 23:23
stays [1] - 56:20
steno [1] - 104:16
step [1] - 119:6
stepped [2] - 29:21,
121:25
stepping [2] - 120:4,
120:9
steps [4] - 52:14,
68:19, 68:23, 100:8
Stewart [1] - 42:23
still [2] - 35:1, 35:3
Stockton [2] - 10:20,
12:12
Stone [1] - 87:8
stop [4] - 15:4, 20:9,
86:17, 103:18
stopped [1] - 63:19
Street [2] - 2:18, 99:20
STREET [1] - 1:22
street [2] - 24:22
strike [2] - 27:12,
124:10
stuck [1] - 95:4
studied [1] - 118:12
studies [1] - 118:13
stuff [2] - 14:11, 39:22
subject [3] - 9:14,
9:19, 9:21
subsection [1] -
106:15
sucked [1] - 87:14
sudden [1] - 119:16
suggest [1] - 137:17
suggestion [1] - 74:5
suicide [1] - 127:22
SUITE [1] - 1:22
Suite [1] - 2:3
summer [18] - 27:22,
28:3, 28:16, 42:20,
44:7, 44:23, 63:7,
63:14, 63:16, 67:5,
67:7, 72:3, 79:15,
92:1, 101:13,
101:21, 122:9,
127:23
summers [2] - 21:5,

105:7
summertime [4] -
25:15, 26:17, 77:3,
98:11
sunbathe [2] - 21:7,
27:23
sunbathing [1] - 51:22
Sunderland [11] -
21:23, 64:18, 65:4,
72:14, 72:16,
120:21, 120:22,
121:13, 137:5,
137:12, 138:25
Sunderland's [1] -
139:8
SUPERIOR [1] - 1:1
supervision [1] -
139:24
supplied [1] - 78:24
Surf [17] - 24:24, 25:2,
25:6, 25:20, 26:5,
26:22, 36:10, 36:11,
36:17, 47:7, 69:17,
72:22, 93:23, 96:4,
99:9, 99:19, 100:4
surfer [1] - 95:4
survived [1] - 128:24
swear [1] - 6:17
swept [1] - 129:14
swim [6] - 45:24,
59:22, 87:16, 99:2,
99:7, 101:15
swimmer [3] - 45:21,
45:24
swimming [23] - 27:1,
27:5, 27:9, 60:2,
61:25, 63:5, 65:25,
70:7, 70:19, 91:20,
92:3, 99:10, 101:1,
101:7, 101:11,
112:17, 123:3,
129:19, 129:20,
129:24, 136:22,
136:24, 137:1
switch [1] - 115:5
sworn [2] - 6:19,
143:7

T

TAKEN [1] - 1:15
talks [4] - 43:4, 43:7,
43:8, 140:10
tape [1] - 67:15
technically [1] - 8:20
telephone [1] - 2:21
Ten [1] - 104:1
ten [8] - 53:10, 61:2,
61:4, 87:1, 119:3,
123:8, 133:22, 135:2

tenth [3] - 56:24,
56:25, 114:10
term [2] - 103:14,
133:11
testified [3] - 6:19,
29:19, 134:18
testify [2] - 65:3, 143:7
testimony [4] - 31:4,
82:24, 115:24,
137:19
TESTIMONY [1] - 1:6
THE [5] - 1:4, 13:12,
13:18, 46:15, 57:24
themselves [1] -
122:16
theorized [1] - 121:2
there've [1] - 126:22
thinking [1] - 102:21
third [1] - 128:23
Thirty [1] - 7:1
three [5] - 124:16,
125:10, 126:11,
127:7, 139:16
throat [1] - 116:21
tide [19] - 42:11, 86:9,
86:10, 87:4, 96:16,
112:6, 112:10,
113:1, 113:11,
113:13, 113:14,
136:6, 136:15, 139:4
tide's [2] - 113:6,
119:14
tides [6] - 112:7,
112:8, 112:9,
112:25, 138:2,
138:22
tightly [1] - 11:2
time's [1] - 67:17
today [6] - 6:1, 8:8,
10:3, 50:23, 60:17,
140:14
today's [1] - 10:14
took [15] - 53:25, 54:4,
54:7, 57:3, 64:9,
65:4, 65:7, 70:4,
79:15, 80:16, 86:20,
90:5, 94:10, 95:6,
100:25
top [7] - 17:12, 40:10,
70:7, 73:20, 73:21,
140:6
tops [2] - 132:15,
133:8
towards [2] - 72:24,
96:9
Township [1] - 2:3
tractor [1] - 78:2
transcript [3] - 8:4,
54:19, 85:25
transcription [1] -

| | | | | |
|--|---|--|--|--|
| 85:22 Trenton [1] - 2:19 tried [2] - 18:9, 18:12 truth [3] - 143:7, 143:8 try [1] - 111:8 trying [10] - 8:12, 29:15, 101:15, 103:18, 104:4, 106:8, 121:15, 122:5, 137:25, 141:13 Tsiotsias [1] - 124:13 Tuesday [1] - 1:19 turned [1] - 114:4 twelve [1] - 32:3 twenty [3] - 45:6, 53:16 Twenty [1] - 56:7 twenty-five [2] - 45:6, 53:16 Two [2] - 99:17, 100:18 two [23] - 9:18, 12:24, 25:9, 52:17, 52:18, 55:8, 55:11, 73:10, 74:25, 86:14, 93:13, 95:17, 110:23, 120:25, 128:3, 128:20, 130:16, 130:23, 130:25, 138:21, 140:19, 140:22 type [4] - 37:7, 38:5, 76:20, 125:6 typically [6] - 28:15, 56:3, 92:8, 133:21, 134:9, 135:1 | 63:8, 66:24, 76:5, 77:22, 80:14, 82:1, 84:5, 87:17, 89:3, 95:18, 105:5, 107:18, 113:6, 116:13, 123:3, 124:18, 141:4, 141:13, 141:17 upcoming [1] - 28:3 upper [1] - 86:4 uses [1] - 44:19 | 26:6, 26:12, 26:23, 27:2 virtually [1] - 111:6 visible [1] - 136:7 vortex [18] - 43:16, 43:22, 44:3, 44:9, 44:14, 44:18, 45:1, 45:5, 45:25, 47:2, 60:12, 60:14, 131:2, 131:3, 131:10, 134:19, 136:15, 136:19 vs [1] - 1:7 | 117:23, 117:25, 119:14, 120:23, 128:19, 128:21, 128:22, 129:13, 136:7, 136:10, 136:11, 136:16 water's [2] - 73:1, 83:4 waterway [1] - 38:6 Watkins [1] - 127:25 WaveRunner [1] - 100:25 Website [2] - 3:14, 48:10 website [4] - 48:25, 49:10, 50:10, 59:2 wedding [1] - 50:11 weeks [5] - 100:16, 138:11, 138:19, 138:22, 139:2 west [3] - 69:17, 99:9, 116:6 whirlpool [10] - 43:17, 43:23, 44:3, 44:9, 44:14, 44:18, 45:1, 45:4, 60:13, 60:14 whistles [1] - 99:3 whole [3] - 88:9, 118:20, 143:8 wide [1] - 114:10 wildlife [1] - 72:9 WILDWOOD [1] - 1:8 Wildwood [94] - 1:17, 1:18, 2:8, 2:14, 4:17, 6:9, 6:11, 6:23, 6:24, 7:3, 7:10, 10:20, 12:12, 15:1, 15:4, 16:5, 16:23, 17:21, 20:14, 25:23, 26:7, 26:13, 27:3, 28:1, 28:8, 28:12, 29:5, 31:6, 31:8, 33:15, 33:19, 33:20, 34:1, 34:10, 34:18, 36:9, 36:24, 36:25, 37:2, 37:16, 37:17, 37:18, 38:2, 41:6, 41:17, 47:18, 55:15, 56:17, 58:15, 59:19, 64:23, 66:18, 67:2, 68:23, 70:18, 73:13, 76:12, 81:6, 81:11, 81:14, 84:21, 89:21, 91:5, 91:11, 91:18, 91:25, 92:2, 93:2, 93:7, 94:1, 94:19, 95:10, 95:24, 96:17, 97:8, 98:19, 99:12, 100:12, 101:22, 102:13, 103:3, 103:21, 105:9, | 106:8, 106:12, 106:14, 110:2, 110:3, 128:10, 139:20, 140:2, 140:21, 140:25, 141:2 WILL [1] - 2:14 William [2] - 6:10, 84:14 wish [1] - 16:8 Witness [23] - 11:4, 12:17, 14:9, 15:17, 19:5, 19:16, 19:22, 20:4, 20:8, 23:1, 24:15, 25:3, 45:11, 54:8, 55:7, 61:11, 61:23, 104:8, 112:19, 116:8, 116:12, 122:24, 137:9 WITNESS [4] - 3:2, 13:12, 13:18, 46:15 witness [3] - 6:17, 13:11, 57:14 witness' [1] - 40:12 witnessed [1] - 33:14 witnesses [1] - 137:21 woman [8] - 49:15, 99:2, 99:10, 108:20, 124:12, 124:15, 124:21, 128:23 women [3] - 128:3, 128:20, 129:13 wonder [1] - 90:5 wondering [1] - 79:8 WOODBURY [1] - 1:22 wooden [1] - 68:19 word [4] - 55:15, 55:17, 55:22, 56:2 WORD [2] - 1:21 words [7] - 10:3, 11:21, 44:19, 48:23, 111:16, 119:5, 120:16 Works [14] - 34:16, 34:18, 34:21, 34:23, 35:18, 35:22, 68:22, 74:6, 76:11, 76:19, 77:10, 77:15, 78:2, 78:14 worry [2] - 29:11, 29:13 Wozunk [3] - 34:25, 35:11, 74:6 writing [4] - 28:19, 29:6, 30:13, 30:16 written [7] - 28:22, 29:3, 29:17, 30:3, 43:3, 64:22, 65:6 |
| U | | | | |
| um-hum [3] - 13:12, 55:5, 60:21 unclear [2] - 7:20, 7:21 under [6] - 8:24, 33:5, 33:6, 98:24, 100:17, 106:3 understood [1] - 137:23 unguarded [1] - 94:11 units [1] - 51:20 University [1] - 10:21 unprotected [6] - 27:10, 27:11, 60:8, 81:7, 95:21, 125:14 unused [3] - 81:19, 81:24, 104:14 unusual [1] - 96:7 up [24] - 26:11, 26:19, 32:6, 48:18, 63:6, | vehicle [6] - 75:20, 76:11, 76:19, 76:20, 106:2, 106:9 vehicles [1] - 21:22 vendors [2] - 105:7, 105:20 verbal [3] - 8:1, 30:16, 45:15 verbally [2] - 45:14, 104:11 verify [1] - 133:13 versa [4] - 11:17, 17:17, 43:6, 101:17 version [1] - 120:21 vertical [1] - 43:8 Via [1] - 2:21 vice [4] - 11:17, 17:17, 43:6, 101:17 vice-versa [4] - 11:17, 17:17, 43:6, 101:17 victims [1] - 95:18 video [10] - 6:2, 29:24, 41:9, 41:11, 57:22, 67:15, 80:4, 104:16, 107:1, 131:17 VIDEOGRAPHER [34] - 6:1, 6:16, 22:1, 22:11, 29:9, 29:25, 39:13, 41:8, 41:12, 46:2, 46:5, 57:5, 57:9, 57:12, 57:15, 57:24, 60:5, 67:16, 67:19, 69:21, 69:25, 104:17, 104:24, 105:1, 108:10, 108:13, 126:17, 130:23, 131:17, 131:20, 132:24, 133:1, 142:2, 142:4 Videographer [1] - 2:24 VIDEOGRAPHERS [1] - 1:21 videotape [3] - 67:16, 67:20, 131:21 violation [5] - 25:23, | w-O-Z-U-N-K [1] - 35:9 wading [2] - 129:13, 129:25 walt [1] - 83:7 walk [6] - 24:6, 62:6, 72:17, 86:13, 88:15, 112:13 walking [23] - 21:24, 26:3, 26:9, 26:18, 33:15, 48:16, 62:2, 72:20, 72:24, 73:2, 75:1, 75:9, 75:14, 86:13, 112:18, 113:1, 119:5, 120:22, 121:19, 121:23, 123:3, 136:9, 136:18 wall [2] - 96:24, 97:1 wants [1] - 85:19 warn [1] - 108:20 warning [5] - 58:8, 61:24, 63:3, 72:25, 126:20 warnings [1] - 124:5 water [63] - 11:16, 12:4, 17:16, 19:11, 19:15, 23:10, 26:3, 26:9, 26:11, 26:18, 26:19, 37:2, 38:17, 39:6, 43:17, 48:19, 49:16, 59:21, 60:19, 60:20, 62:3, 62:6, 71:6, 78:12, 83:5, 83:8, 86:11, 86:12, 86:14, 87:4, 87:9, 91:12, 93:18, 96:9, 99:11, 102:24, 103:14, 103:19, 104:7, 108:22, 108:25, 109:1, 109:10, 109:13, 110:21, 110:22, 113:6, 113:9, | water's [2] - 73:1, 83:4 waterway [1] - 38:6 Watkins [1] - 127:25 WaveRunner [1] - 100:25 Website [2] - 3:14, 48:10 website [4] - 48:25, 49:10, 50:10, 59:2 wedding [1] - 50:11 weeks [5] - 100:16, 138:11, 138:19, 138:22, 139:2 west [3] - 69:17, 99:9, 116:6 whirlpool [10] - 43:17, 43:23, 44:3, 44:9, 44:14, 44:18, 45:1, 45:4, 60:13, 60:14 whistles [1] - 99:3 whole [3] - 88:9, 118:20, 143:8 wide [1] - 114:10 wildlife [1] - 72:9 WILDWOOD [1] - 1:8 Wildwood [94] - 1:17, 1:18, 2:8, 2:14, 4:17, 6:9, 6:11, 6:23, 6:24, 7:3, 7:10, 10:20, 12:12, 15:1, 15:4, 16:5, 16:23, 17:21, 20:14, 25:23, 26:7, 26:13, 27:3, 28:1, 28:8, 28:12, 29:5, 31:6, 31:8, 33:15, 33:19, 33:20, 34:1, 34:10, 34:18, 36:9, 36:24, 36:25, 37:2, 37:16, 37:17, 37:18, 38:2, 41:6, 41:17, 47:18, 55:15, 56:17, 58:15, 59:19, 64:23, 66:18, 67:2, 68:23, 70:18, 73:13, 76:12, 81:6, 81:11, 81:14, 84:21, 89:21, 91:5, 91:11, 91:18, 91:25, 92:2, 93:2, 93:7, 94:1, 94:19, 95:10, 95:24, 96:17, 97:8, 98:19, 99:12, 100:12, 101:22, 102:13, 103:3, 103:21, 105:9, | 106:8, 106:12, 106:14, 110:2, 110:3, 128:10, 139:20, 140:2, 140:21, 140:25, 141:2 WILL [1] - 2:14 William [2] - 6:10, 84:14 wish [1] - 16:8 Witness [23] - 11:4, 12:17, 14:9, 15:17, 19:5, 19:16, 19:22, 20:4, 20:8, 23:1, 24:15, 25:3, 45:11, 54:8, 55:7, 61:11, 61:23, 104:8, 112:19, 116:8, 116:12, 122:24, 137:9 WITNESS [4] - 3:2, 13:12, 13:18, 46:15 witness [3] - 6:17, 13:11, 57:14 witness' [1] - 40:12 witnessed [1] - 33:14 witnesses [1] - 137:21 woman [8] - 49:15, 99:2, 99:10, 108:20, 124:12, 124:15, 124:21, 128:23 women [3] - 128:3, 128:20, 129:13 wonder [1] - 90:5 wondering [1] - 79:8 WOODBURY [1] - 1:22 wooden [1] - 68:19 word [4] - 55:15, 55:17, 55:22, 56:2 WORD [2] - 1:21 words [7] - 10:3, 11:21, 44:19, 48:23, 111:16, 119:5, 120:16 Works [14] - 34:16, 34:18, 34:21, 34:23, 35:18, 35:22, 68:22, 74:6, 76:11, 76:19, 77:10, 77:15, 78:2, 78:14 worry [2] - 29:11, 29:13 Wozunk [3] - 34:25, 35:11, 74:6 writing [4] - 28:19, 29:6, 30:13, 30:16 written [7] - 28:22, 29:3, 29:17, 30:3, 43:3, 64:22, 65:6 |

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| <p>wrote [2] - 78:1, 96:11 Wynn [1] - 2:24</p> |
| X |
| <p>X's [2] - 55:8, 55:11 XIO1520 [2] - 1:17, 143:21 XYZ [1] - 1:10</p> |
| Y |
| <p>yards [16] - 45:6, 45:10, 53:16, 55:13, 56:7, 60:15, 65:11, 95:16, 95:20, 96:13, 99:2, 109:18, 119:3, 120:17, 120:18 year [14] - 18:3, 18:14, 20:6, 28:13, 34:22, 42:19, 44:10, 48:17, 48:18, 56:19, 86:10, 127:11, 131:24, 135:25 year's [1] - 30:18 years [29] - 7:1, 16:12, 16:17, 16:22, 17:6, 17:21, 20:13, 20:20, 29:5, 31:20, 32:3, 33:23, 34:3, 35:20, 36:20, 37:7, 37:25, 43:21, 56:16, 65:9, 73:10, 81:13, 91:24, 102:7, 123:8, 123:10, 126:24, 127:5, 135:25 young [4] - 8:3, 49:11, 64:21, 128:20 yourself [2] - 29:22, 63:23 yup [1] - 54:22</p> |
| Z |
| <p>zone [2] - 99:2, 99:7</p> |

**2014 ANNUAL REPORT - TO THE CITY OF NORTH WILDWOOD
ON THE
CONDITION OF THE CITY BEACHES**



View on September 25, 2014 looking northwest into Hereford Inlet. Considerable southerly expansion of the tip of Stone Harbor's beaches is shown in the distance extending only a few hundred feet from the North Wildwood rock revetment wall. The main channel can be seen as the linear darker-colored water running along the north end inlet beaches. The western portion of Champagne Island is exposed at the higher tide cycle and the distinct outline of the remainder of the island is visible just below the surface. (Aerial photo taken by Ted Kingston)

**PREPARED FOR: THE CITY OF NORTH WILDWOOD
901 ATLANTIC AVENUE
NORTH WILDWOOD, NJ 08260**

**PREPARED BY: THE STOCKTON UNIVERSITY COASTAL RESEARCH CENTER
30 WILSON AVENUE
PORT REPUBLIC, NJ 08241
APRIL 30, 2015**



**2012 ANNUAL REPORT - TO THE CITY OF NORTH WILDWOOD
ON THE
CONDITION OF THE CITY BEACHES**



View taken June 15, 2012 showing North Wildwood, Hereford Inlet and Seven-Mile Beach. The back pass operation was complete and the beach stands in bold relief against the dune system backing it up. Note that the shoreline tapers to a minimal width at the Hereford Inlet jetty with sand deposited along the No. Wildwood inlet shoreline. Large ebb-tidal shoals surround Hereford Inlet and are the repository for both island's beach nourishment sand.

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30 WILSON AVENUE
PORT REPUBLIC, NJ 08241
APRIL 2013**

**2012 ANNUAL REPORT - TO THE CITY OF NORTH WILDWOOD
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CONDITION OF THE CITY BEACHES**



View taken June 15, 2012 showing North Wildwood, Hereford Inlet and Seven-Mile Beach. The back pass operation was complete and the beach stands in bold relief against the dune system backing it up. Note that the shoreline tapers to a minimal width at the Hereford Inlet jetty with sand deposited along the No. Wildwood inlet shoreline. Large ebb-tidal shoals surround Hereford Inlet and are the repository for both island's beach nourishment sand.

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APRIL 2013**



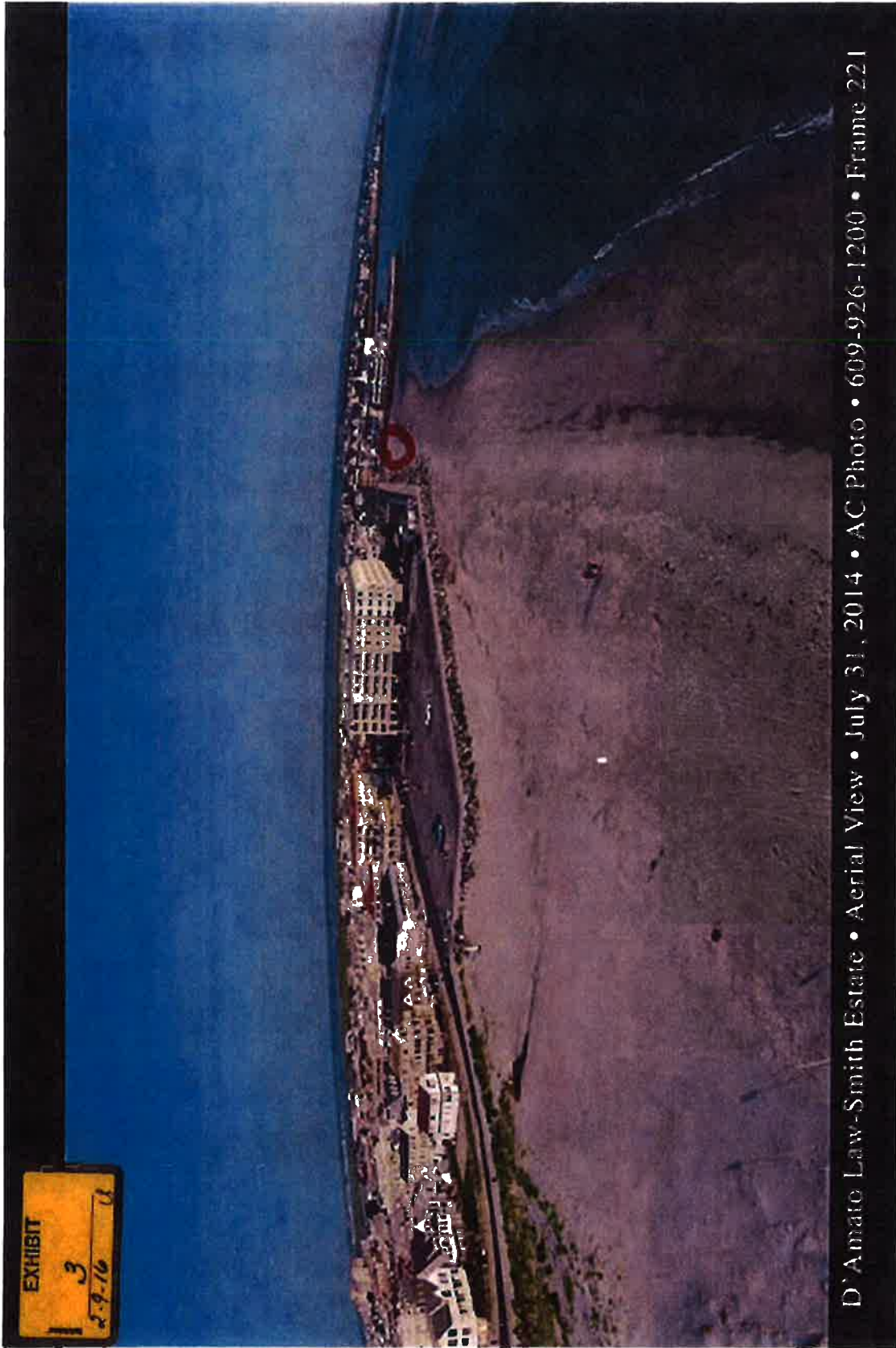


EXHIBIT
3
5-9-16

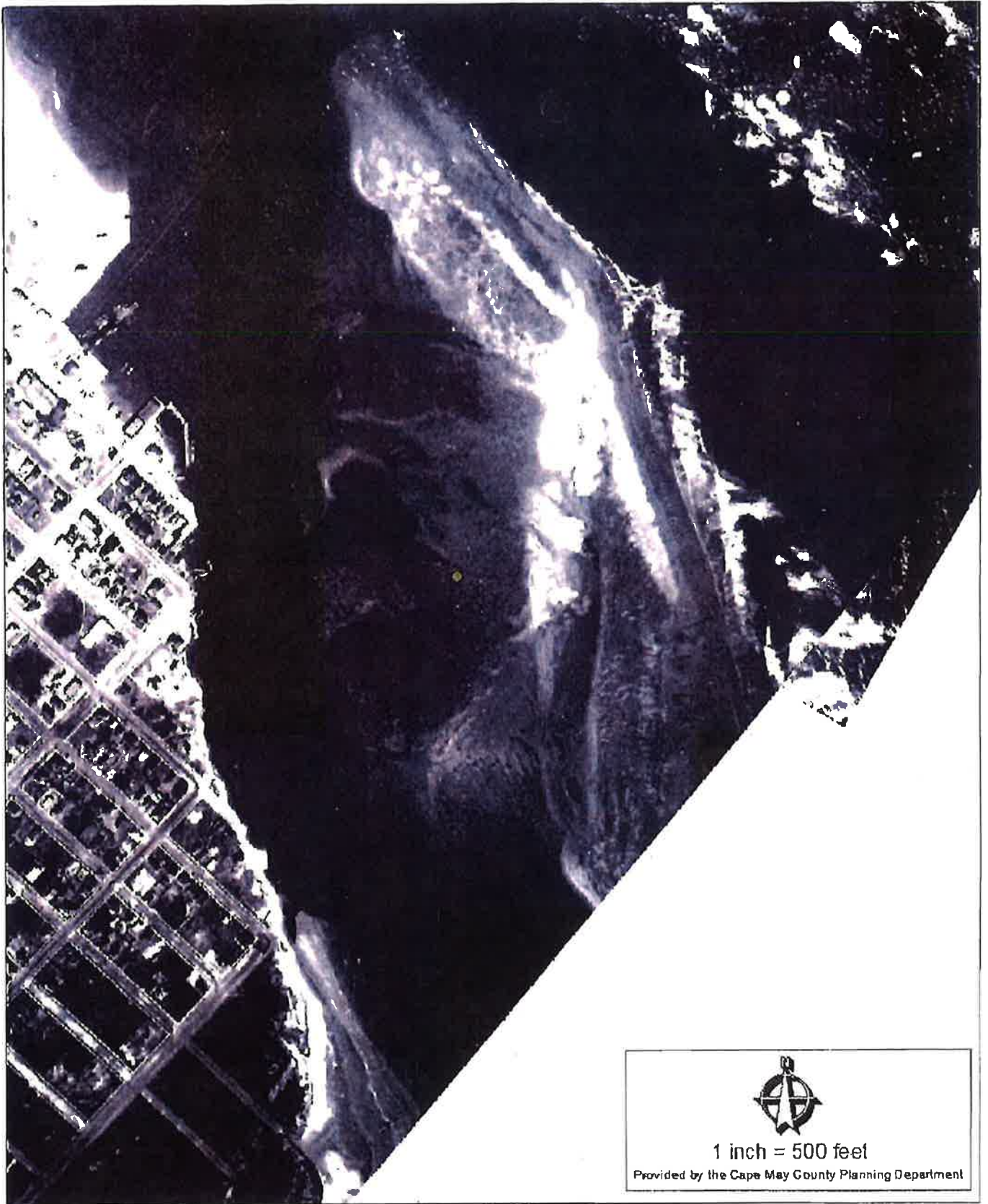
D'Amato Law-Smith Estate • Aerial View • July 31, 2014 • AC Photo • 609-926-1200 • Frame 221



1920



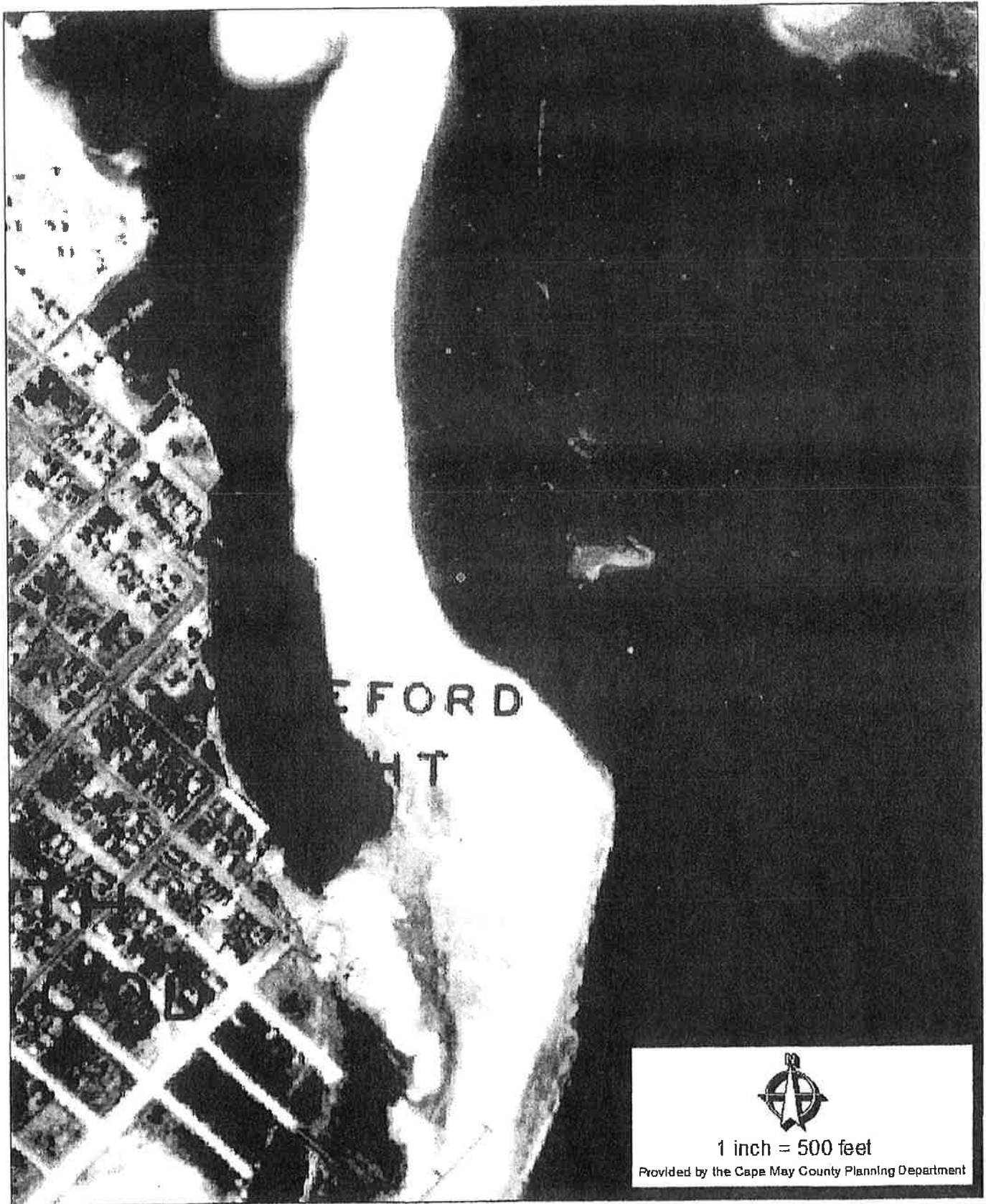
2



1 inch = 500 feet

Provided by the Cape May County Planning Department

1930



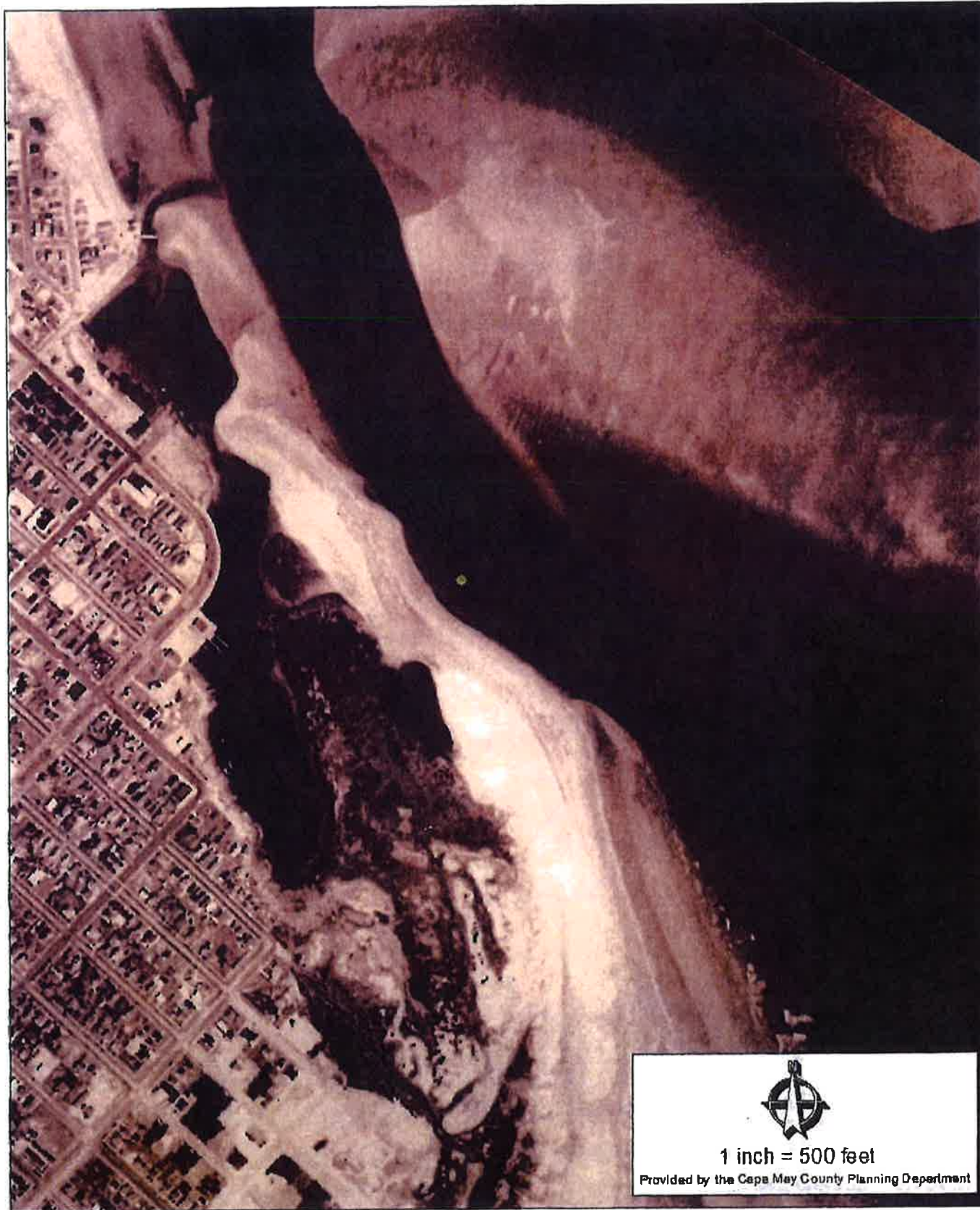
1 inch = 500 feet

Provided by the Cape May County Planning Department

1941



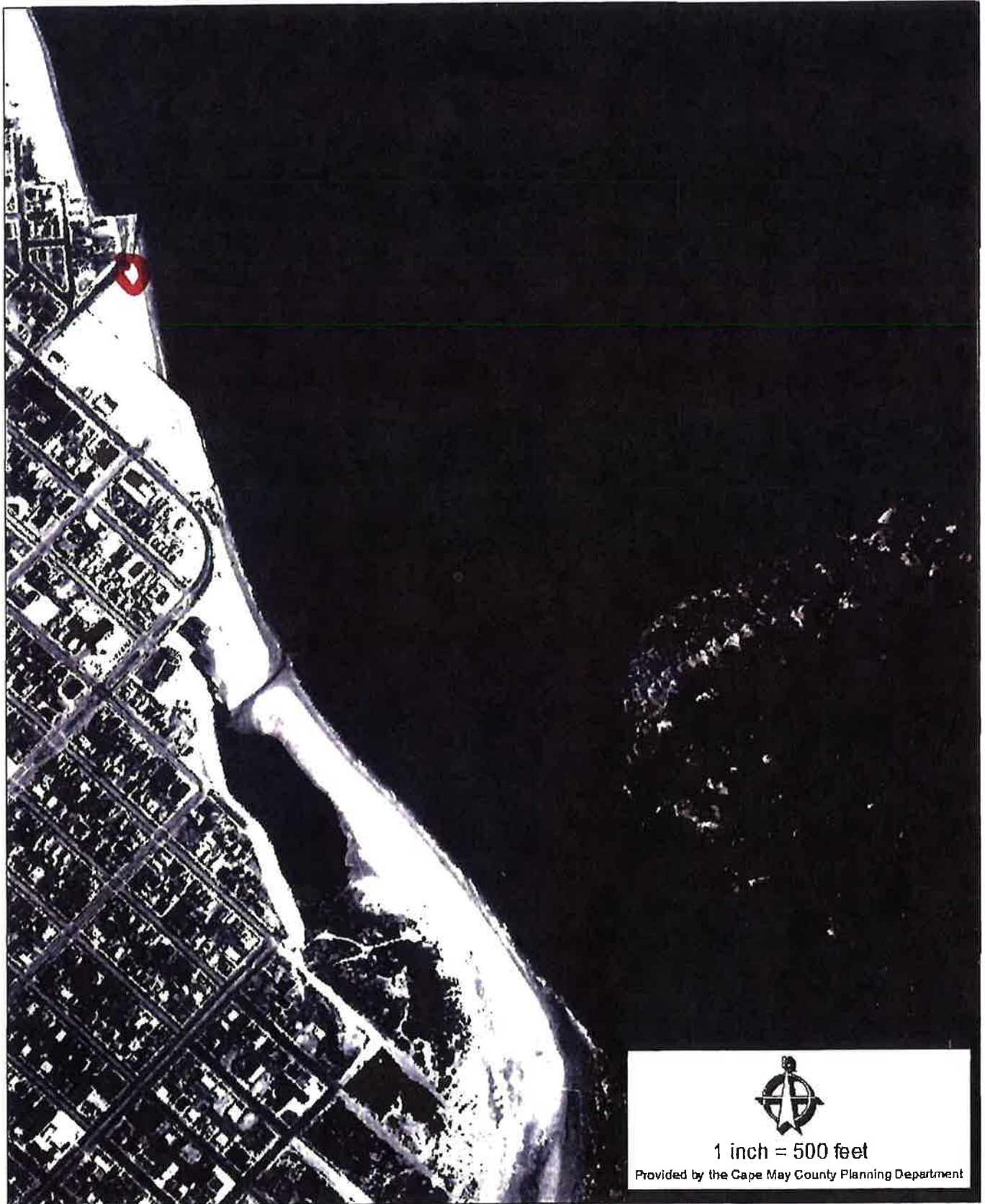
1956



1 inch = 500 feet

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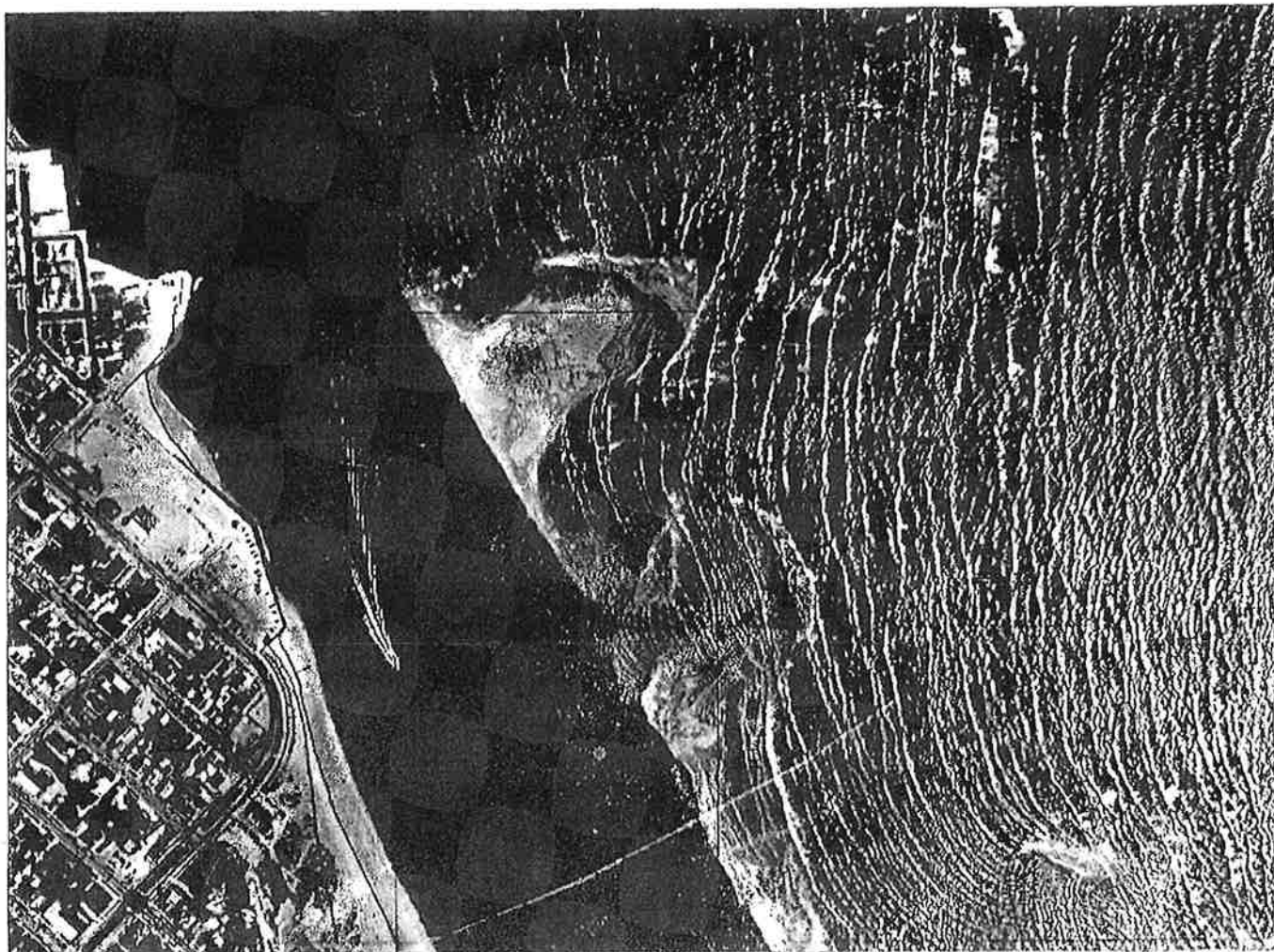
1963



1 inch = 500 feet

Provided by the Cape May County Planning Department

1970



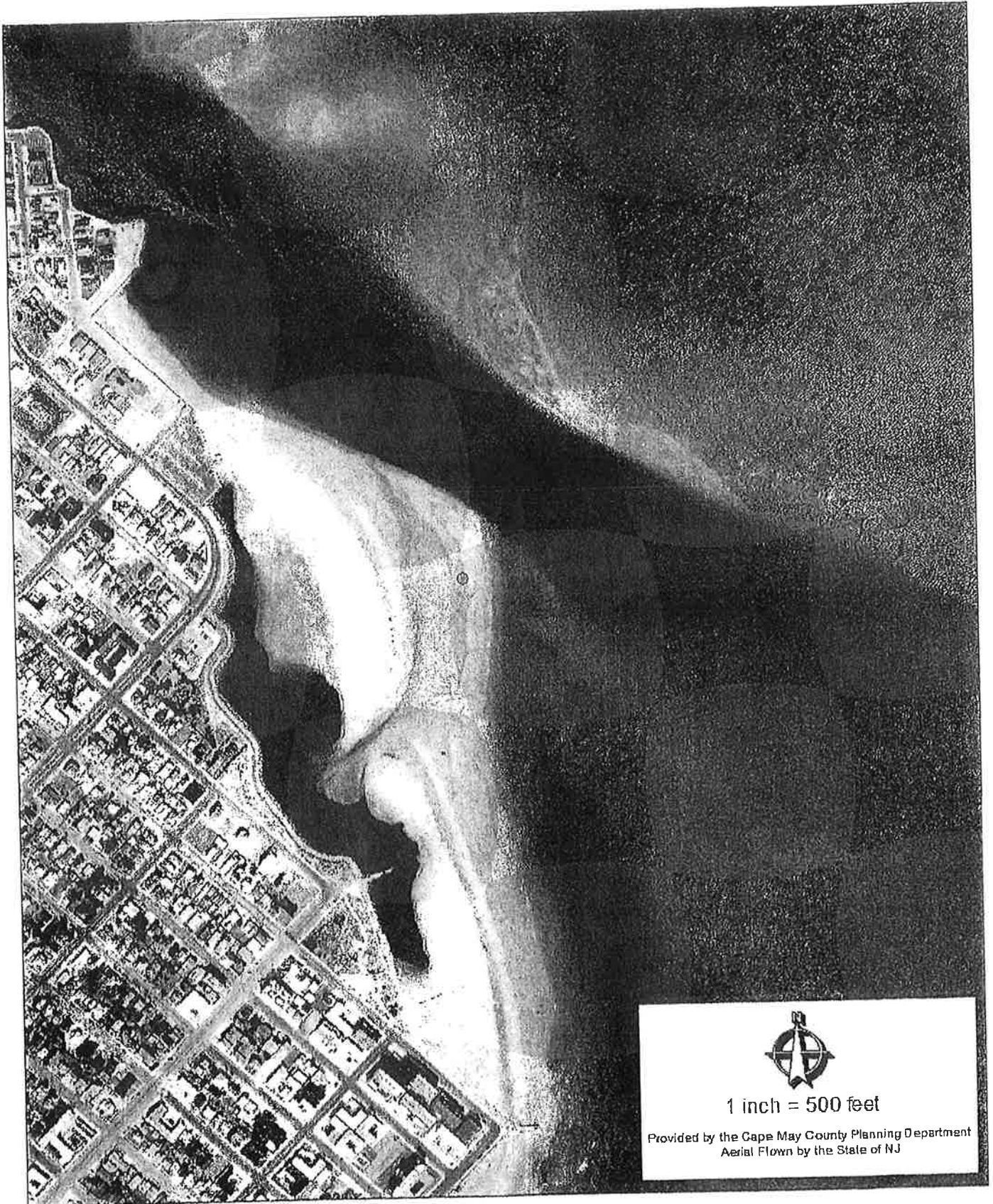
1 inch = 500 feet

Provided by the Cape May County Planning Department
Aerial - NJDEP 1970 Wetlands Basemap

1995



2000



1 inch = 500 feet

Provided by the Cape May County Planning Department
Aerial Flown by the State of NJ

2002



April 1, 2003



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Provided by the Cape May County Planning Department
Aerial Provided by Pldometry

April 6, 2005



1 inch = 500 feet

Provided by the Cape May County Planning Department
Aerial Provided by Pictometry

March 19, 2007



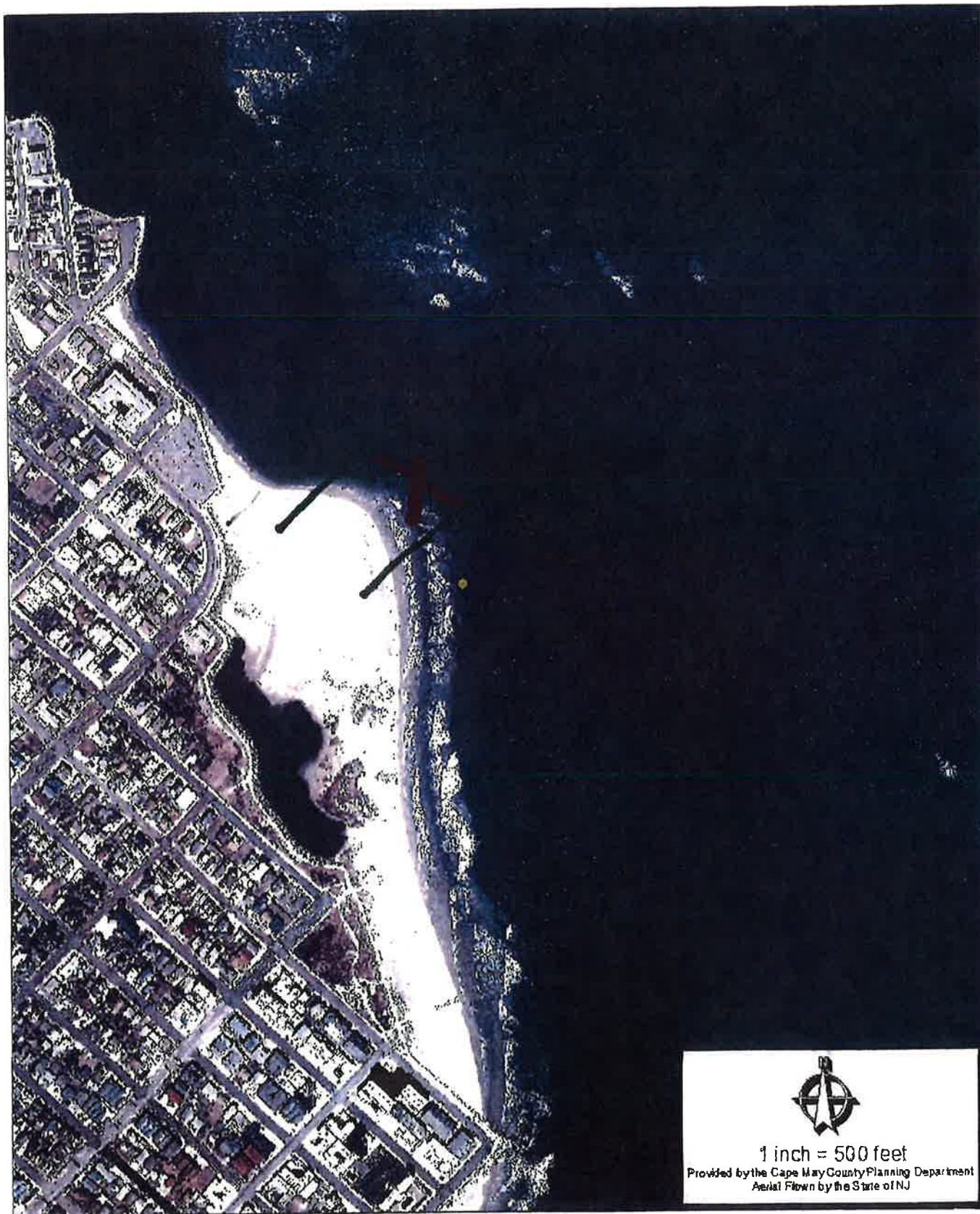
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November 17, 2009



March 14, 2012



February 22, 2013



1 inch = 500 feet

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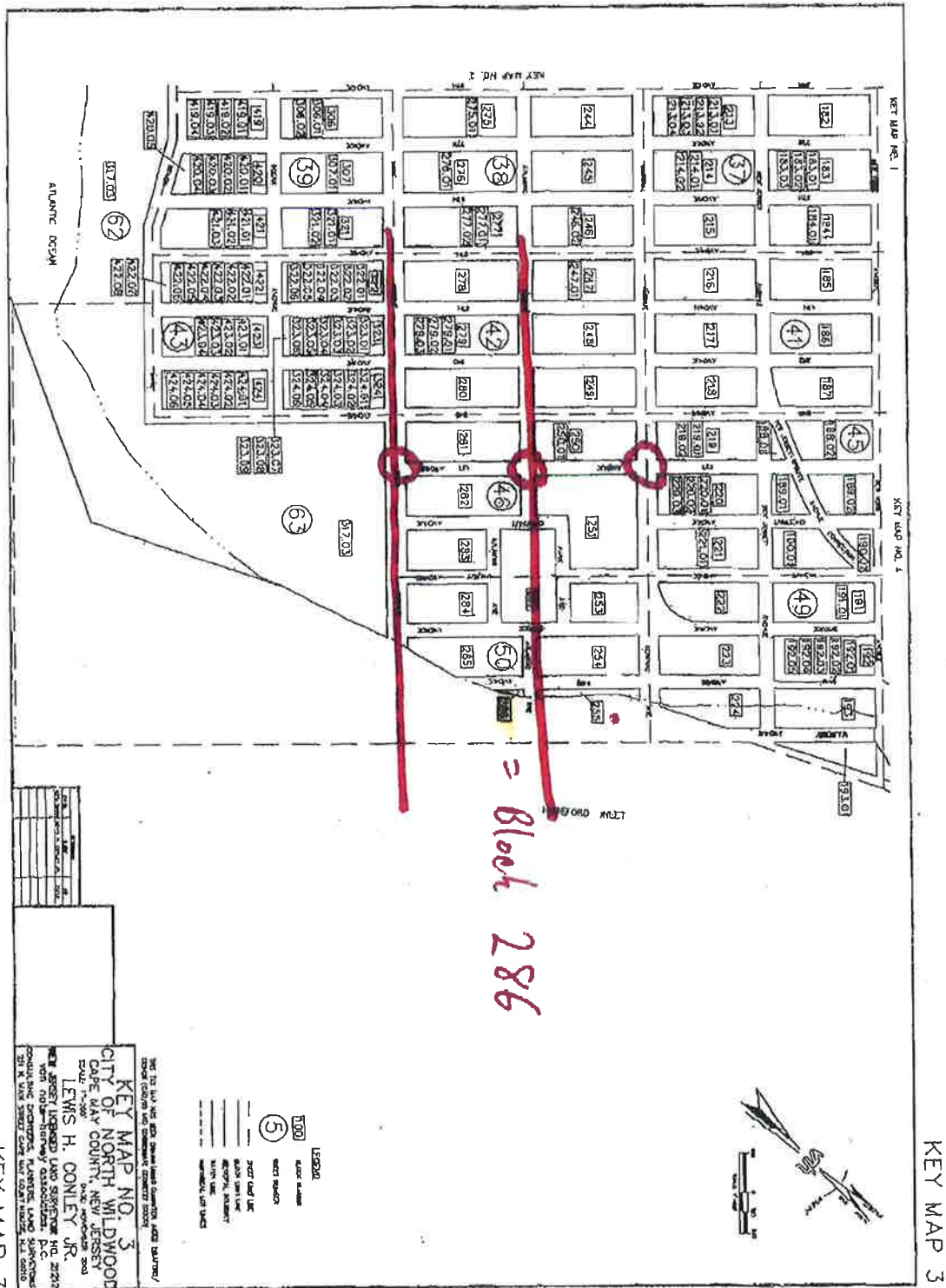
EXHIBIT
COUNTY
DESIGNEE
7-23-15

800 ft



Accident

Rec 5-21-14



7/16/2015

Transparency in Government: NJ Property Tax

GOVERNOR CHRIS CHRISTIE • LT. GOVERNOR KIM GUADAGNOLI



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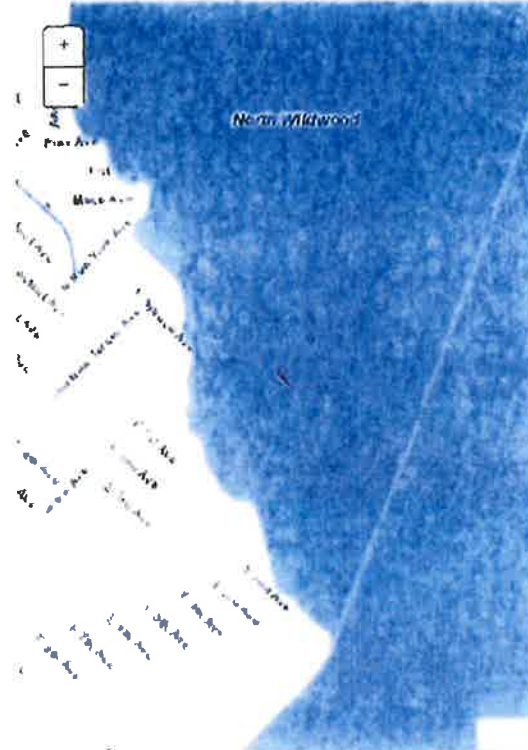
OWNER INFORMATION

Owner Name **CITY OF NORTH WILDWOOD**
Owner Address **901 ATLANTIC AVE
NORTH WILDWOOD, N J 08260**

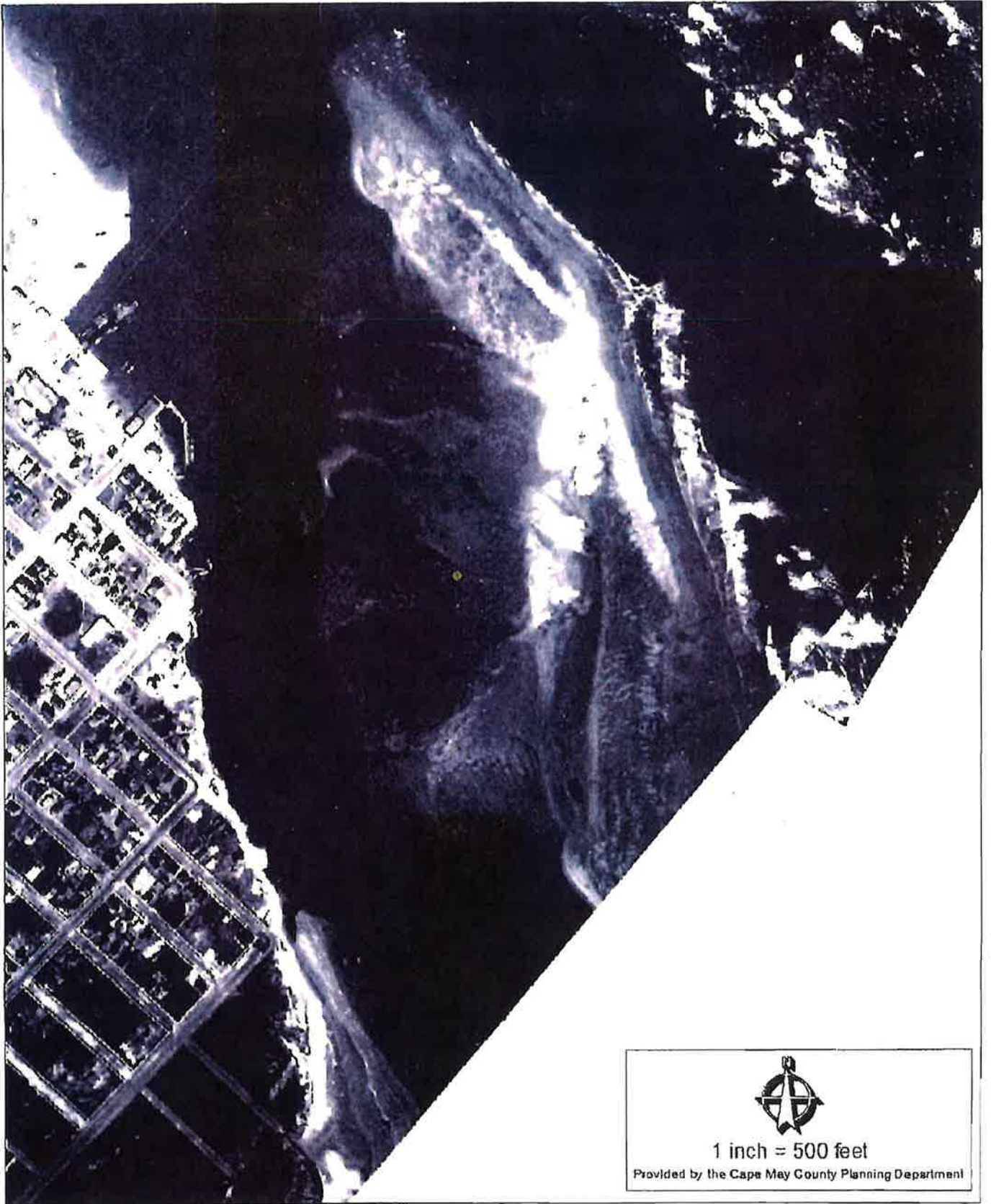
PROPERTY INFORMATION

Street Address **ATLANTIC & PINE AVES**
County **CAPE MAY**
NORTH WILDWOOD CITY
Block Number **286**
Lot Number **1**
Qualifier
Property Class **EXEMPT PUBLIC PROPERTY**
Land Description **2.5AC**
Building Description
Acreage **2.5**
Land Value **\$800.00**
Building Value **\$0.00**
Net Value **\$800.00**
Prior Year Tax Amount **\$0.00**

Property Map



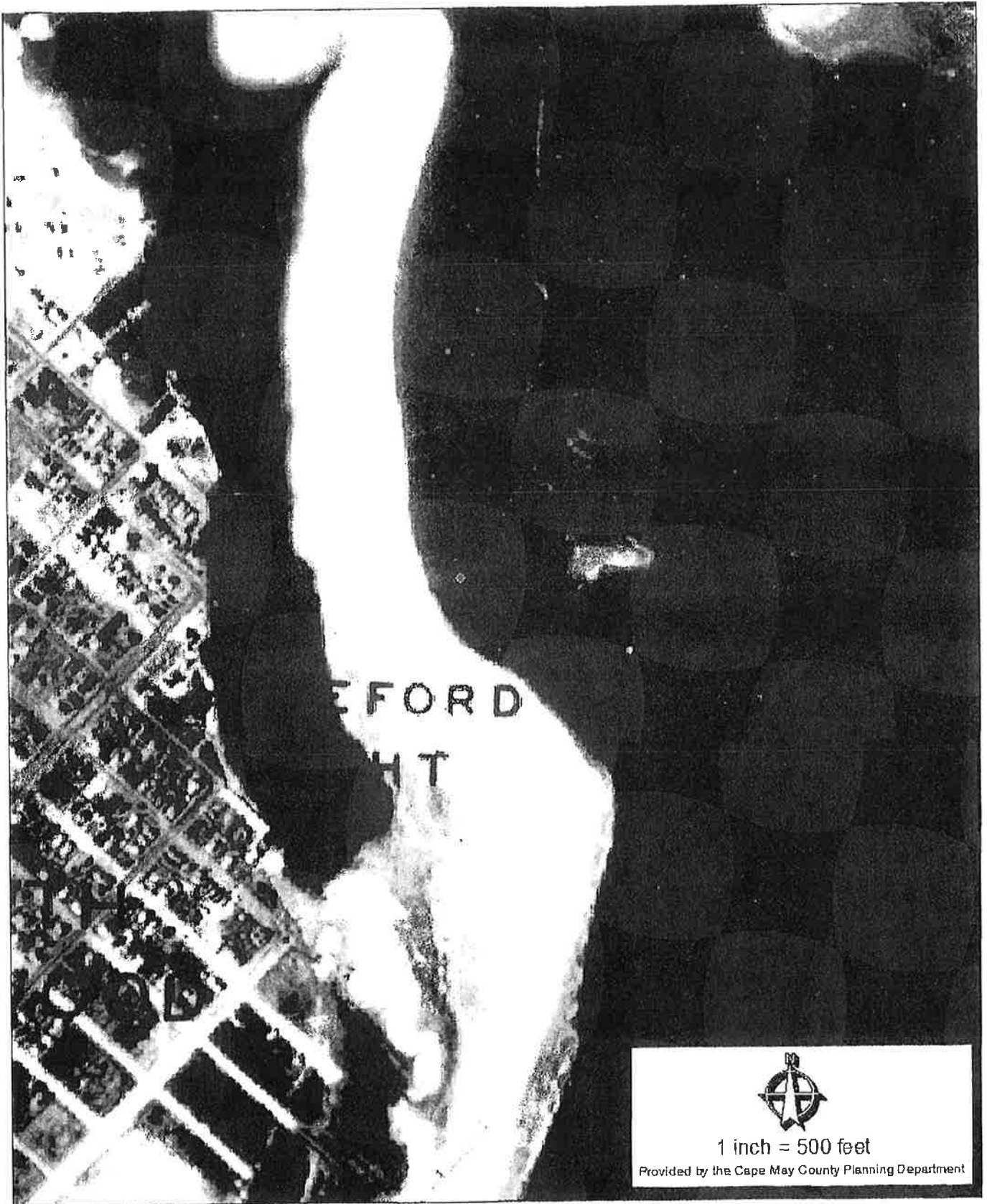
1920



1 inch = 500 feet

Provided by the Cape May County Planning Department

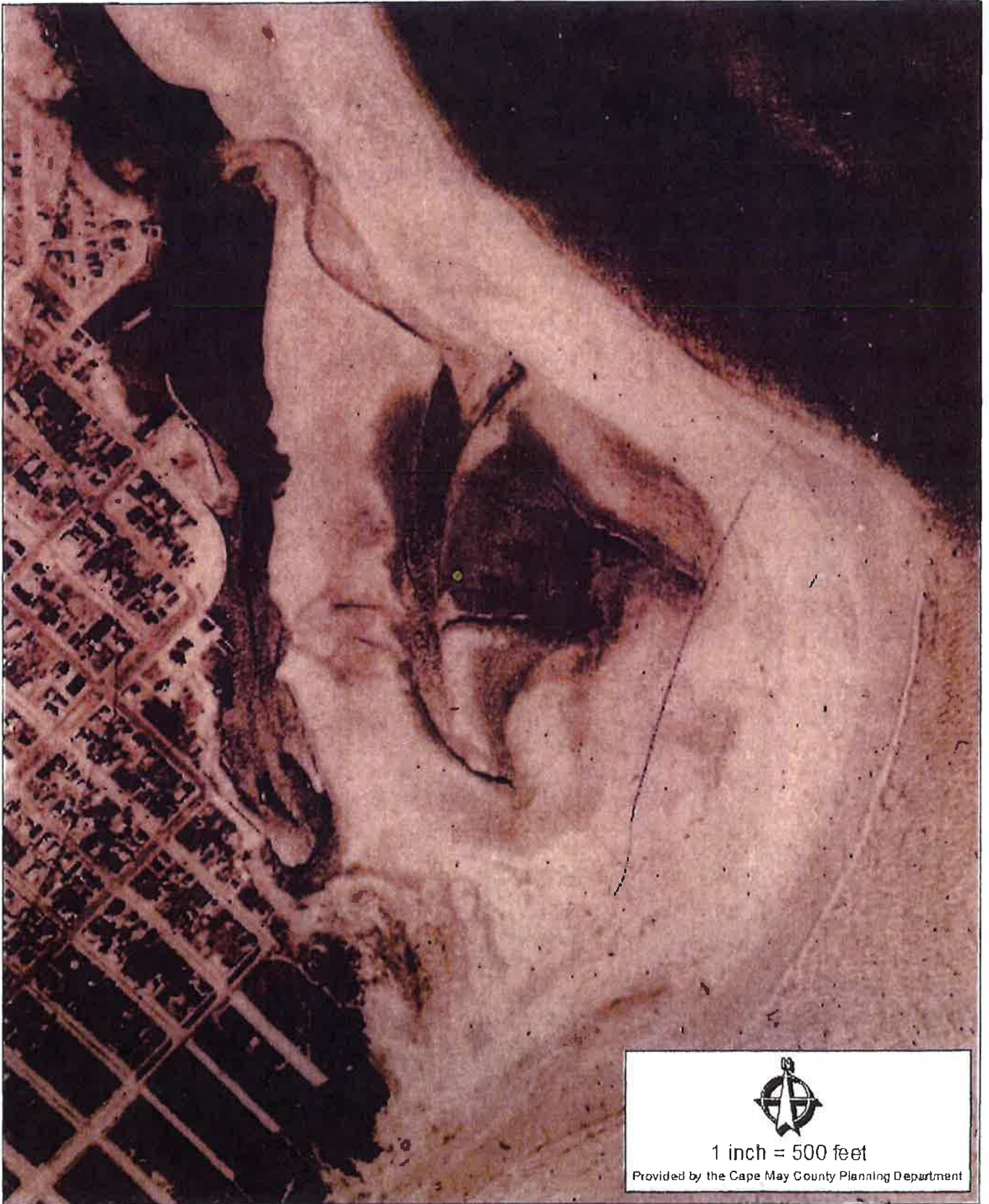
1930



1 inch = 500 feet

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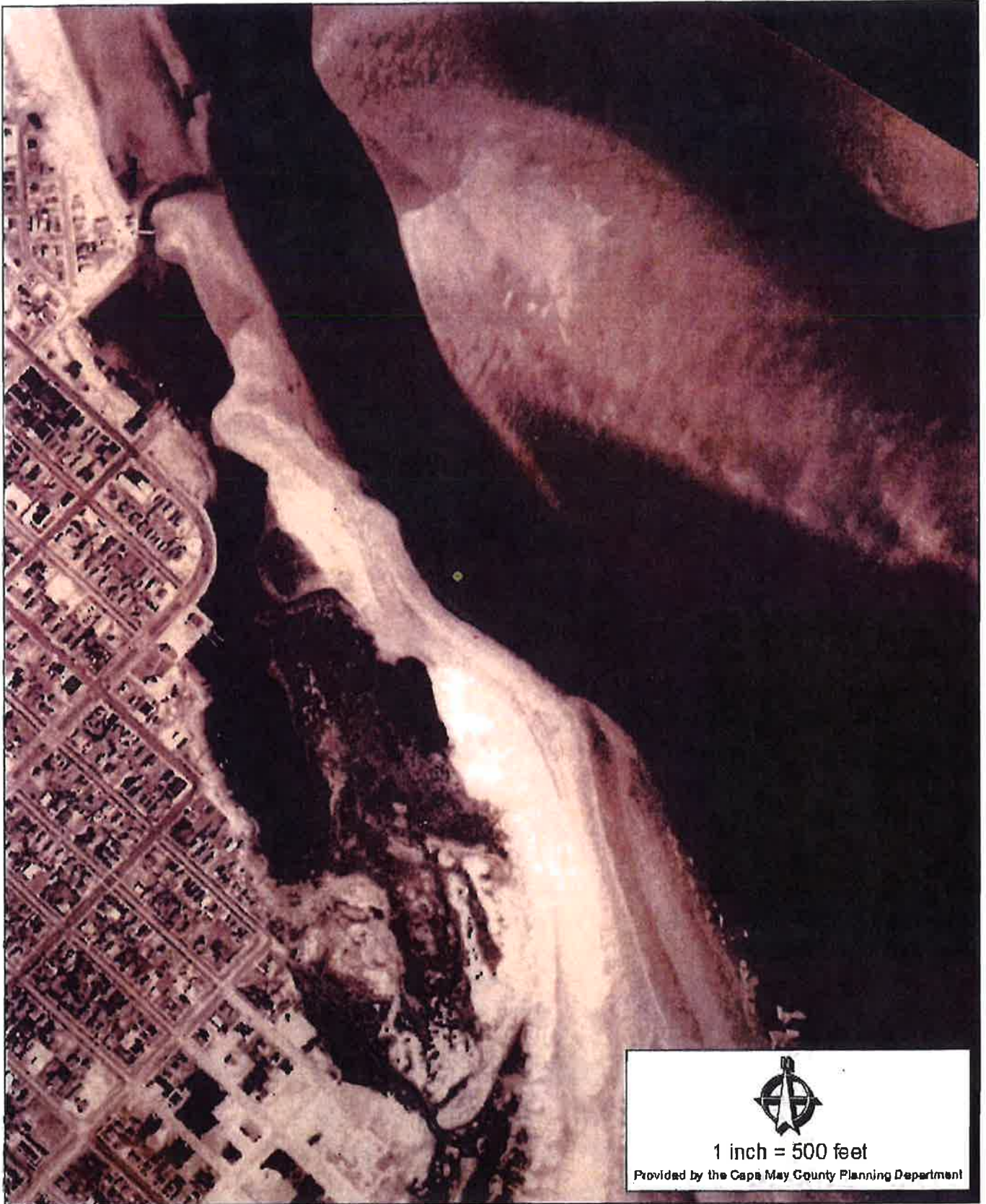
1941



1 inch = 500 feet

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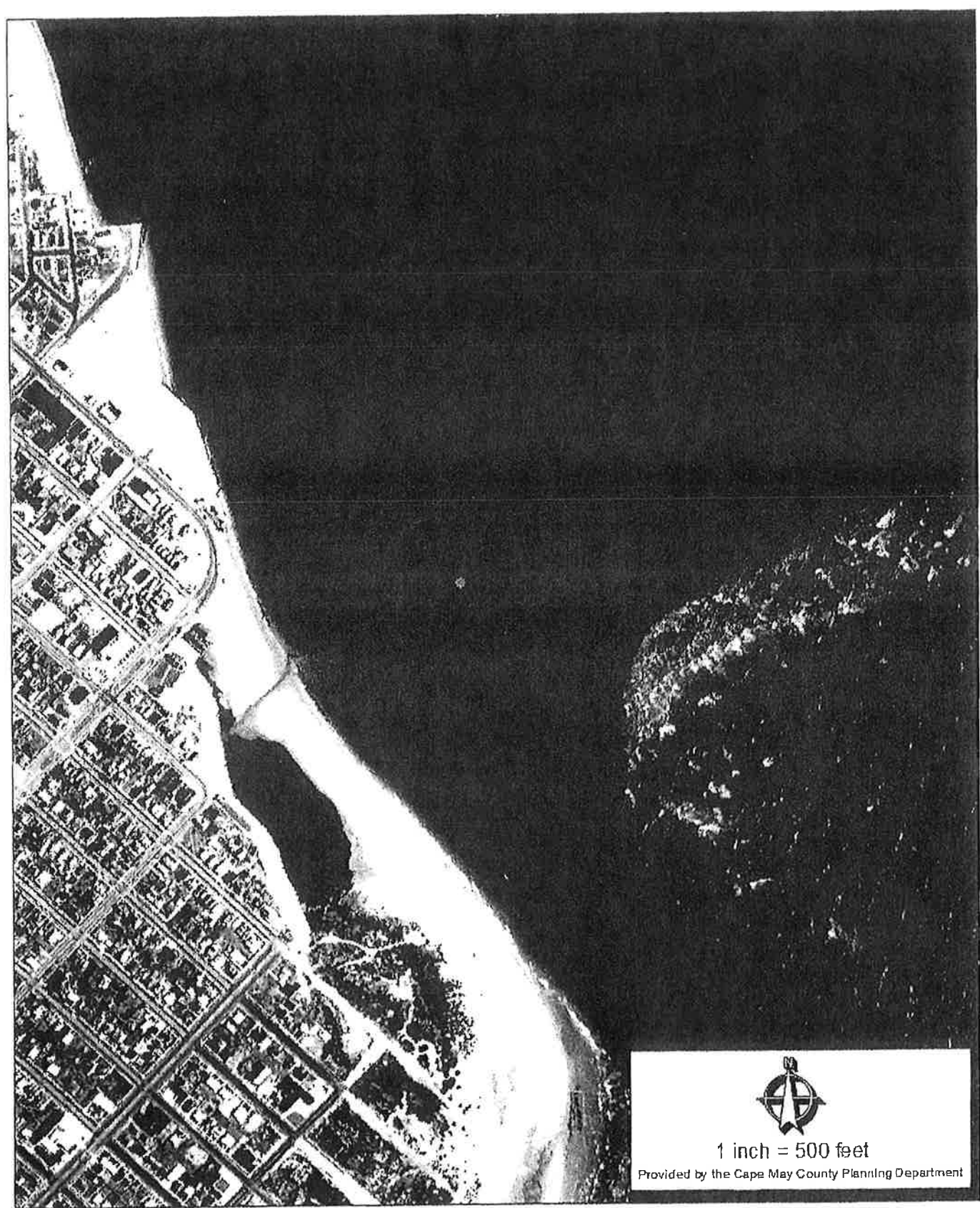
1956



1 inch = 500 feet

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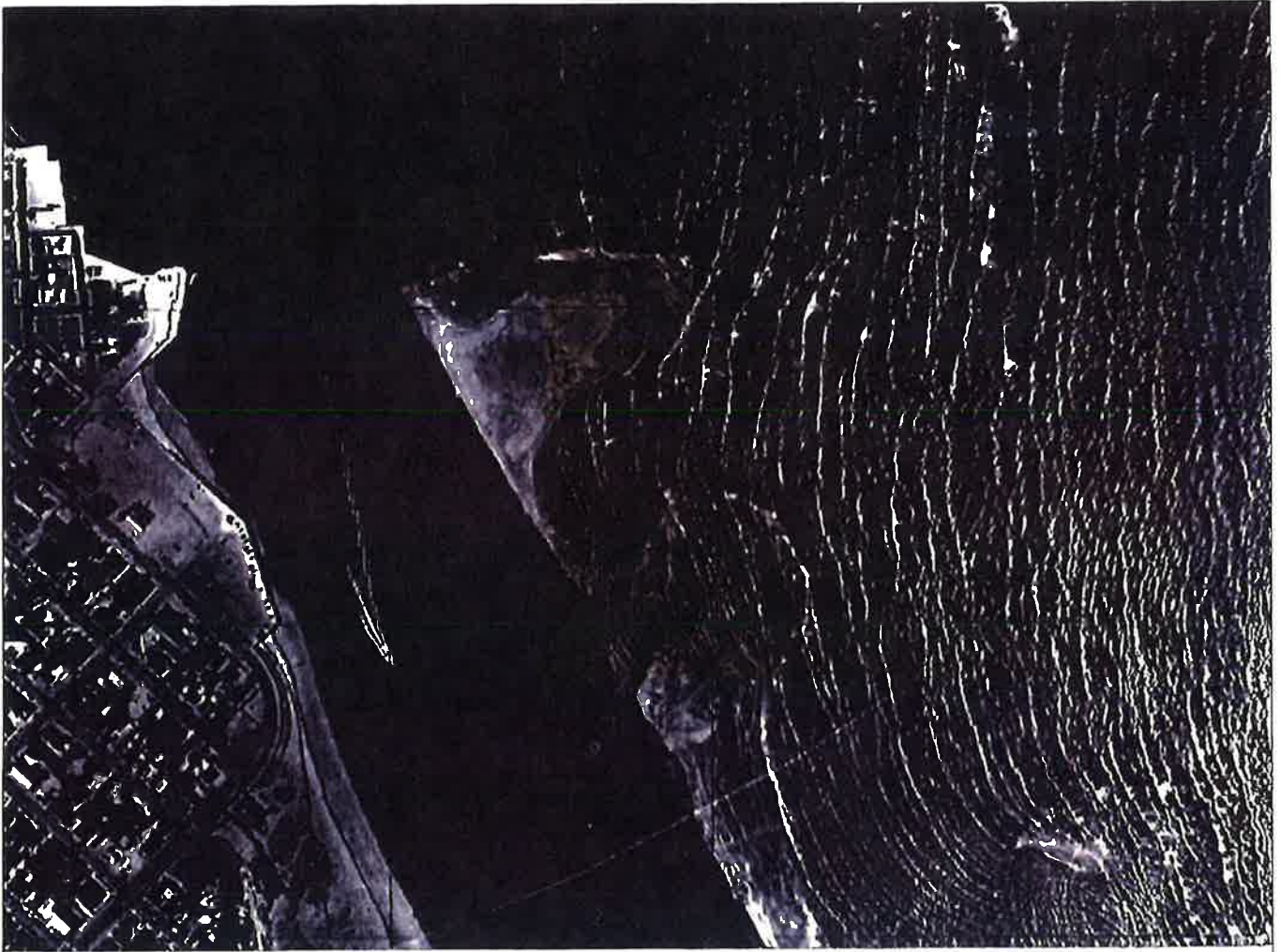
1963



1 inch = 500 feet

Provided by the Cape May County Planning Department

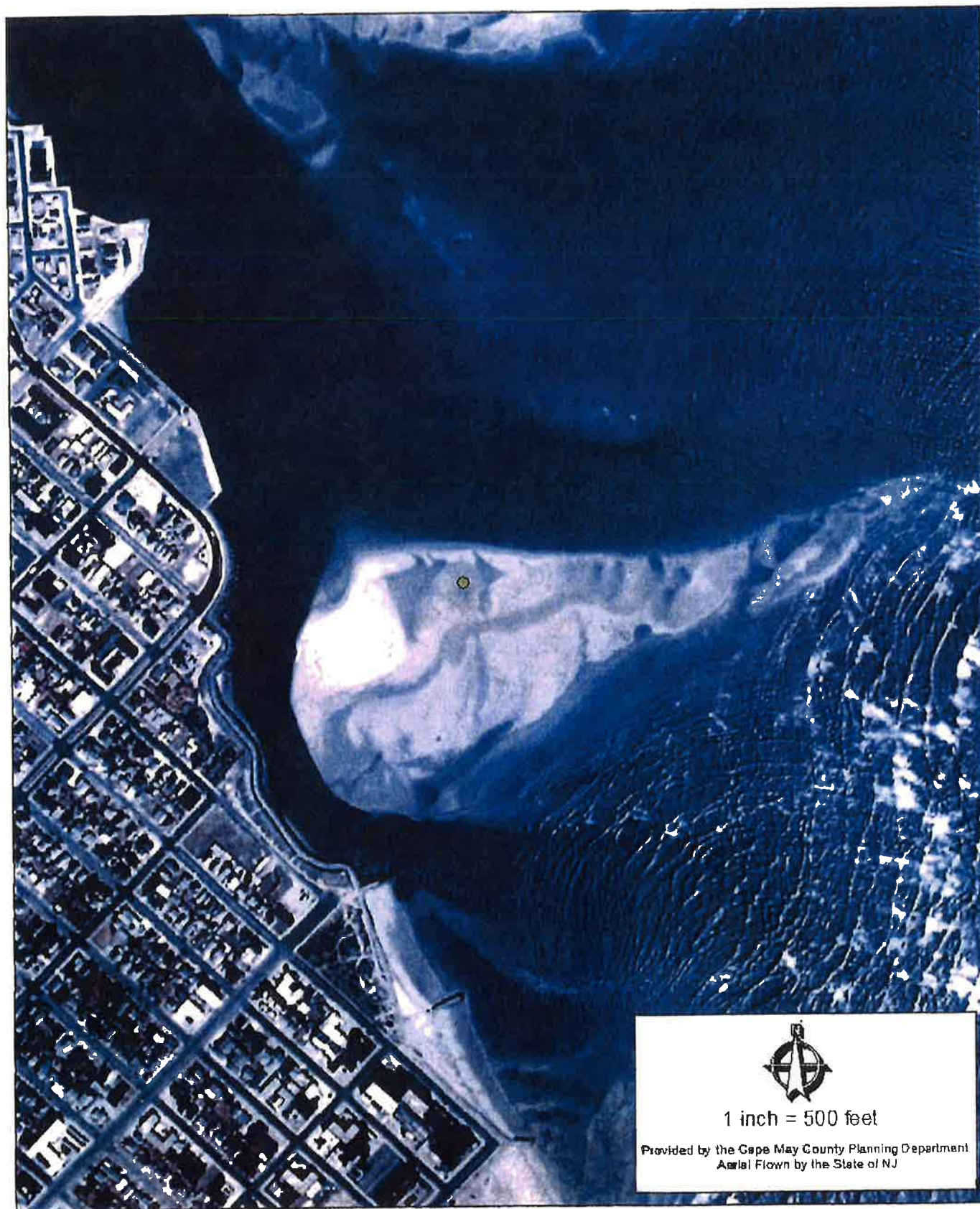
1970



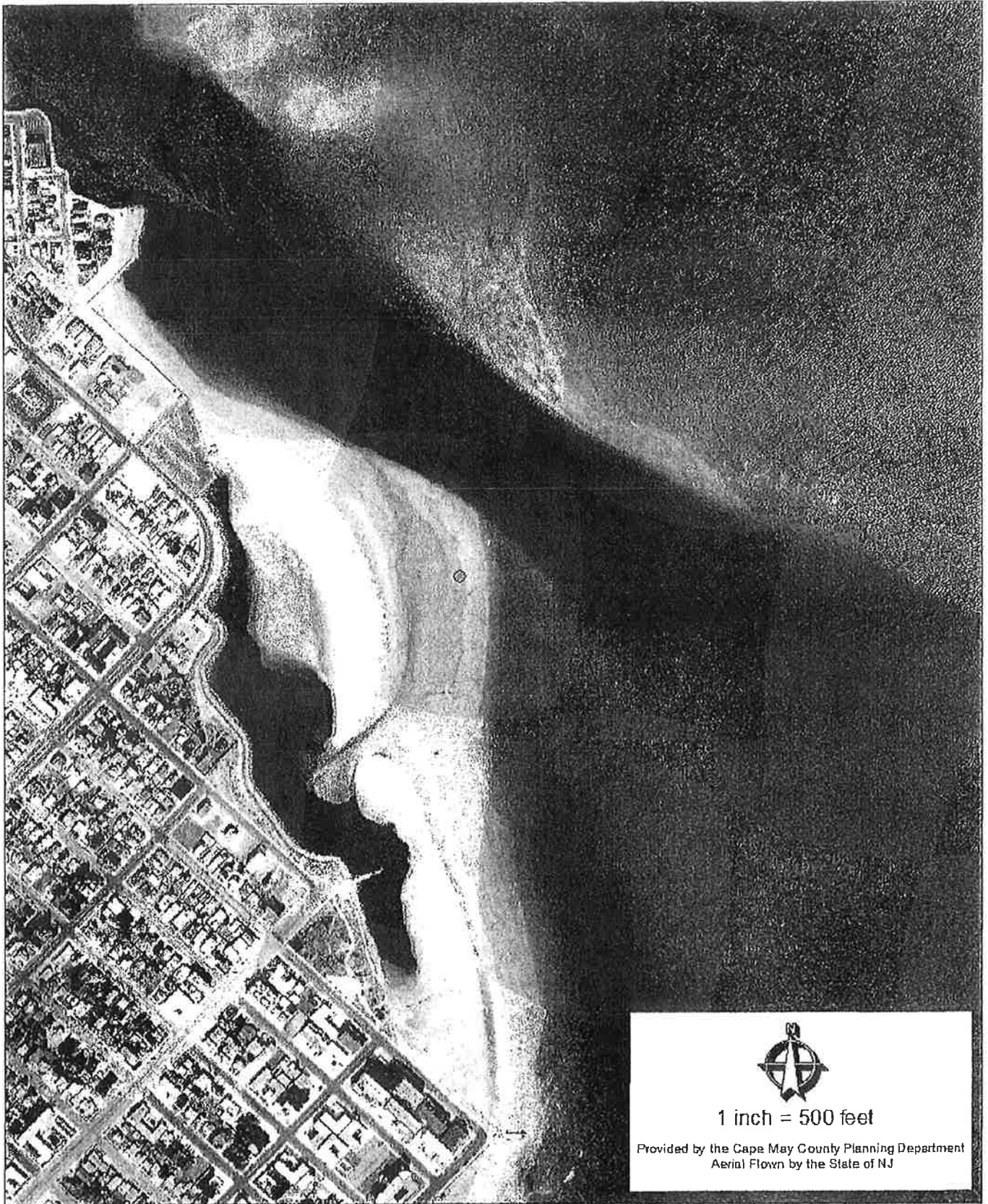
1 inch = 500 feet

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1995



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Aerial Flown by the State of NJ

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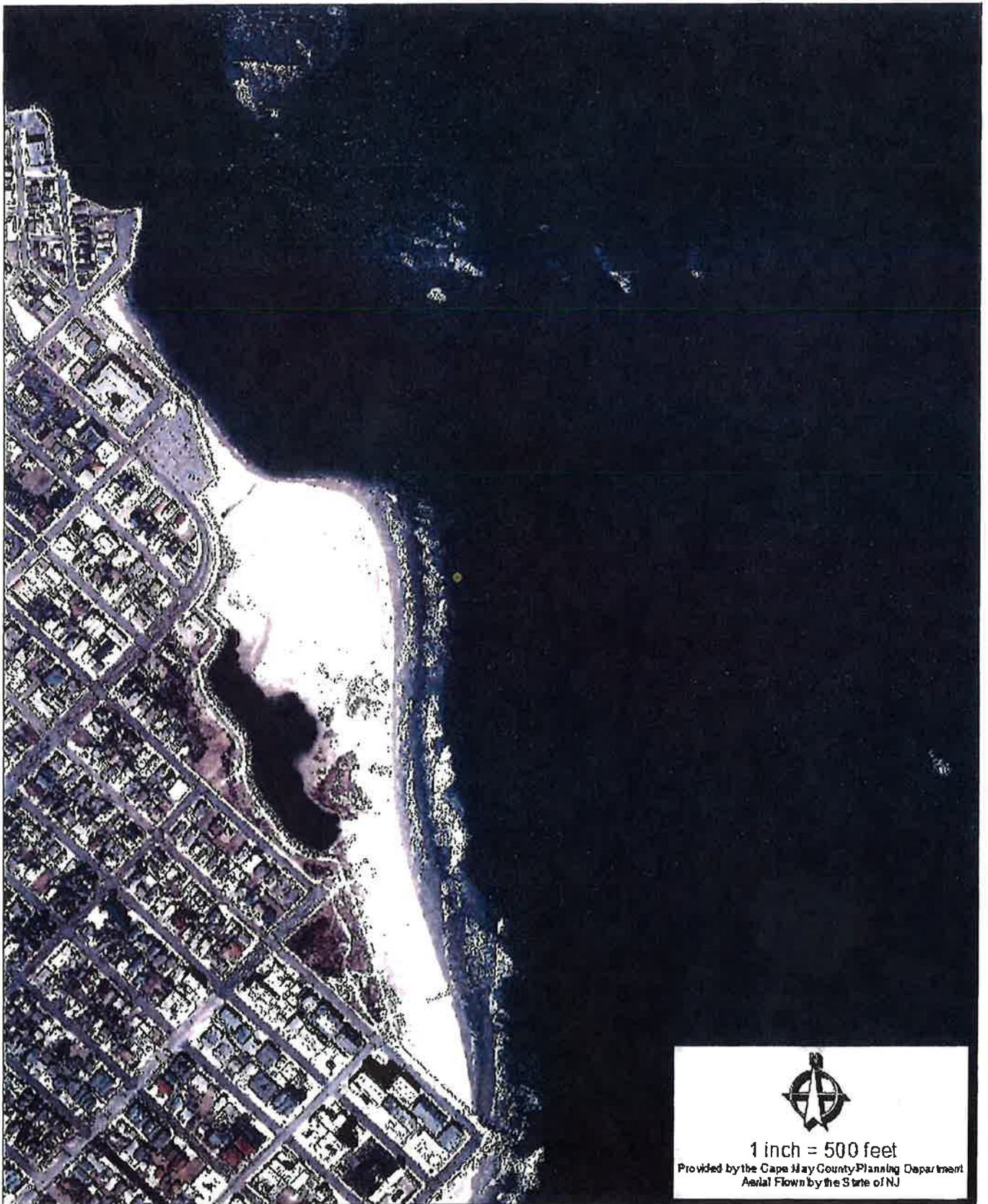
November 17, 2009



1 inch = 500 feet

Provided by the Cape May County Planning Department
Aerial Provided by Pixomtry

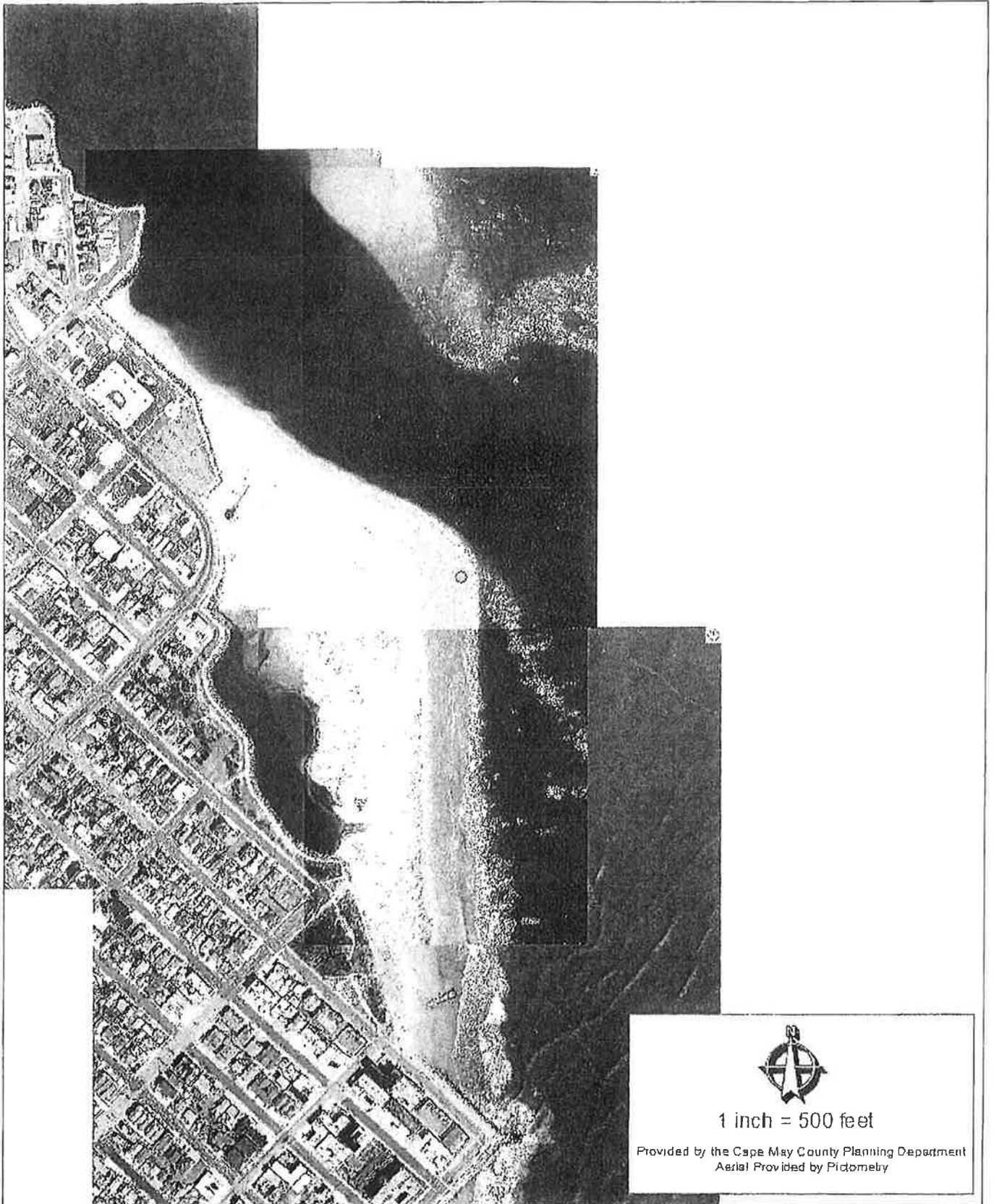
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Aerial Flown by the State of NJ

February 22, 2013



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Provided by the Cape May County Planning Department
Aerial Provided by Picometry



Google Earth

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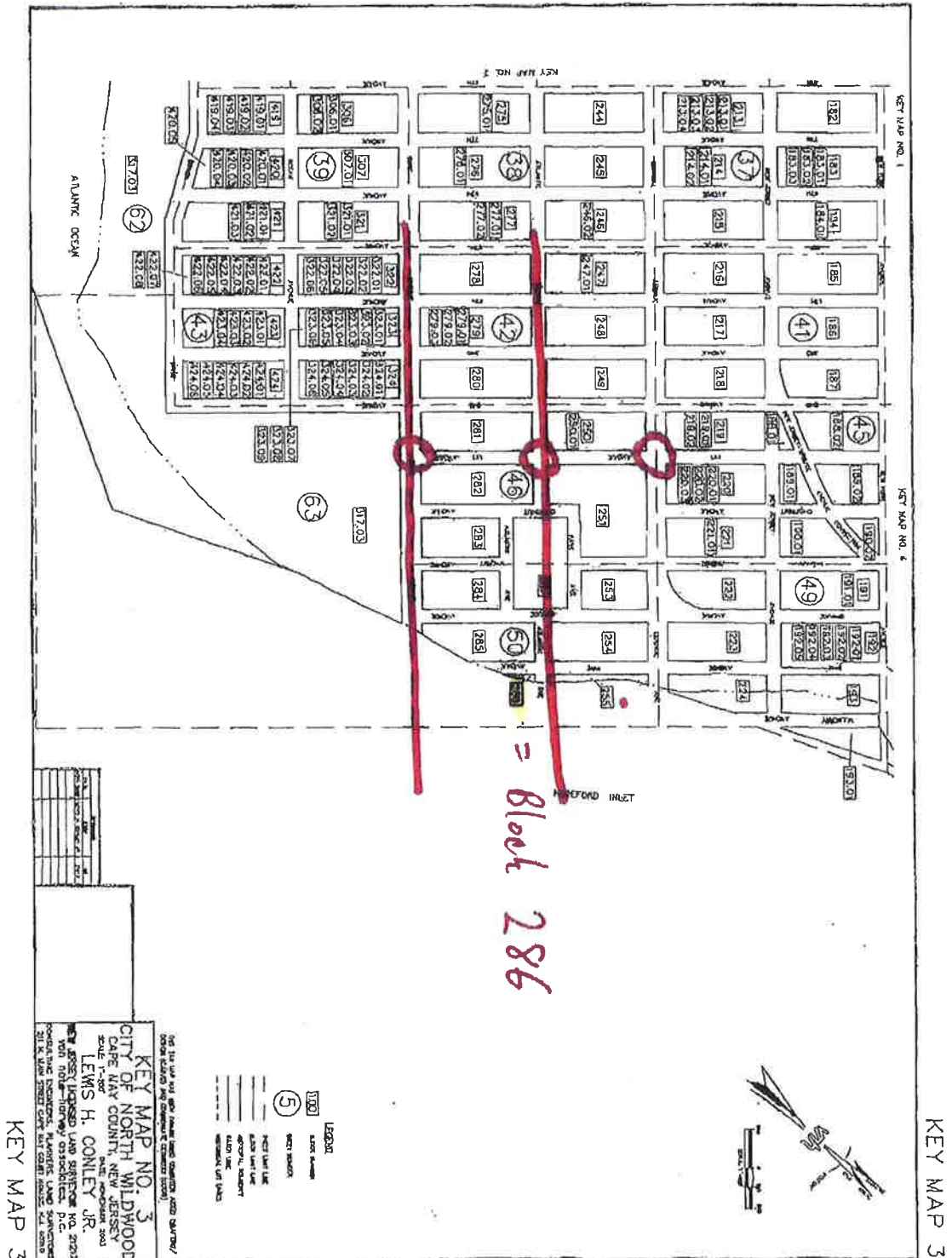
EXHIBIT
COUNTY
Designee
7-23-15

800 ft

N

Accident

Rec 5-21-14



7/16/2015

Transparency in Government: NJ Property Tax

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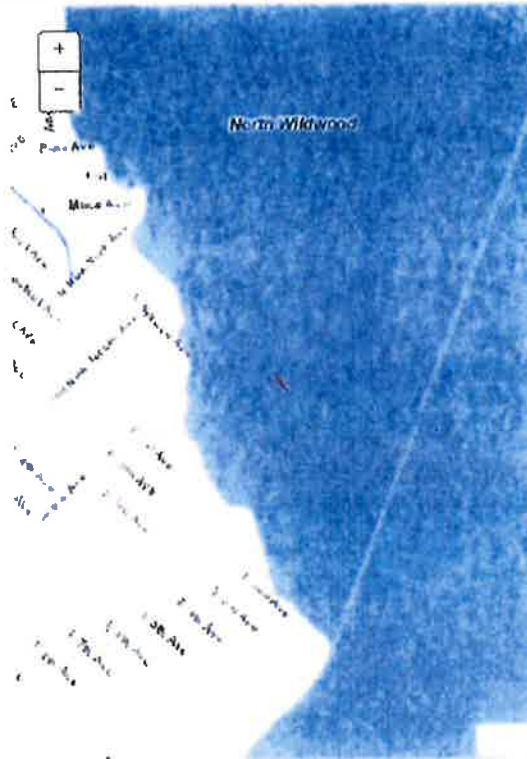
OWNER INFORMATION

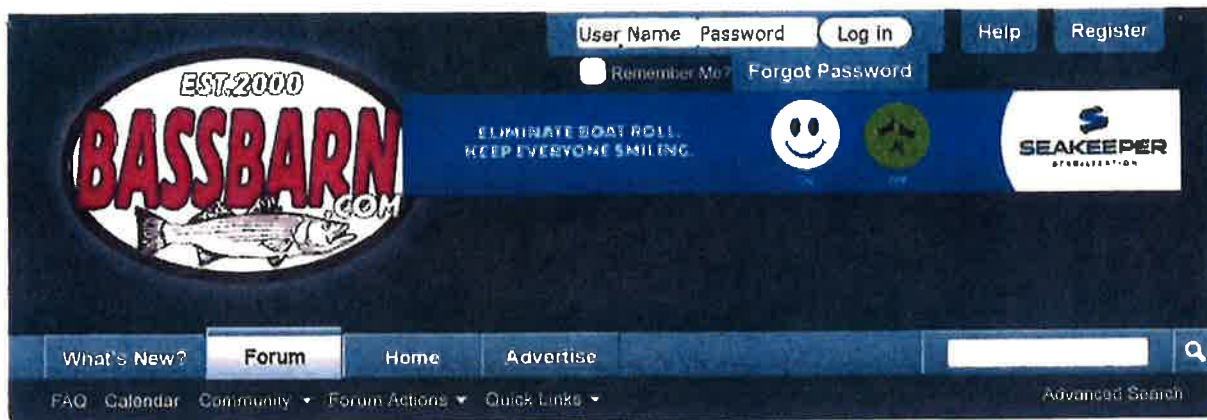
Owner Name **CITY OF NORTH WILDWOOD**
Owner Address **901 ATLANTIC AVE
NORTH WILDWOOD, N J 08260**

PROPERTY INFORMATION

Street Address **ATLANTIC & PINE AVES**
County **CAPE MAY**
NORTH WILDWOOD CITY
Block Number **286**
Lot Number **1**
Qualifier
Property Class **EXEMPT PUBLIC PROPERTY**
Land Description **2.5AC**
Building Description
Acreage **2.5**
Land Value **\$800.00**
Building Value **\$0.00**
Net Value **\$800.00**
Prior Year Tax Amount **\$0.00**

Property Map





Forum ▾ Community Forums ▾ Dry Dock ▾ My best friend drowned in Hereford Inlet



If this is your first visit, be sure to check out the **FAQ** by clicking the link above. You may have to **register** before you can post: click the register link above to proceed. To start viewing messages, select the forum that you want to visit from the selection below.

+ Reply to Thread

Results 1 to 15 of 45 ▾ Page 1 of 3 **1** 2 3 ▸ Last ▹

Thread: My best friend drowned in Hereford Inlet

LinkBack ▾ Thread Tools ▾ Display ▾

08-01-2012, 05:53 PM

#1

She gave in

Senior Member

Join Date: Oct 2011

Location: SRI

Posts: 174



My best friend drowned in Hereford Inlet

I will try to make this as short as I can , this is the true story that happened last friday at 6:30 pm.

My best friend an I were walking along Moores beach on the Inlet side where it meets the ocean with our seven year old daughters and my nine year old son. As we were coming up to the ocean side in less than knee-deep water, my friend , myself, and both our daughters fell in off of a ledge in the sand. My daughter grabbed me around my neck as the current pulled us from shore. I struggled to get to the beach, in which I barely did before being overtaken by the undertow. Once I got to shore, my friend and daughter (Brandy) had separated and were about 100 feet from shore. He yelled to me to get Brandy in which I went back into the water, quickly relalizing that she was way to far out.

I tried to signal someone to help but they were either to far or out of site. As I frantically signaled I saw a state trooper in a boat approaching me. I yelled at my friend " your good, your good stay up " What I didn't realize was that there was a call made of a disabled jet skier in the ocean. He must have thought I was pointing to him. He passed them both by less than 50 feet.

I again signaled and managed to get the attention of two jet skiers about a 100 yards away. They raced to me where I signaled Brandys location, and I yelled Brads. They reached Brandy in time but Brad went under.

I can't even express how lucky we were to all get out. I have been

over this so many times in my mind and even that I lost him that I was able to get my daughter to shore, and get Brandy rescuers I am thankful.

Where ever you are Bud , I love you. I have never laughed so much in all those years than with you. Im sorry, I did everything I can possibly think of in those short moments to save you, but I wish I could hear you say we are good.


Brad was found on monday morning around 1:30 am on 21st street. I got to spend the last week of his life with him doing what we would always do, laugh.

I am asking for the authorities to finally do something about this spot. **The detectives said if you are not from around here, you don't know the history at that point. This is a public beach, no swimming, we weren't we were walking.**

Please pass this info on so no others have to feel the loss that we are.


 Reply

 Reply With Quote

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TheBassBarn.com
Advertisements

 08-01-2012, 05:58 PM

2

missingtwo 

Senior Member

Join Date: Mar 2008

Location: Williamstown NJ

Posts: 9,923




I'm so sorry for the loss of your friend. I will pray for him and your familys.

That was very hard for me to read and I'm glad all of the children are safe.

 Reply

 Reply With Quote

 08-01-2012, 06:09 PM

3

Rageboat 

Senior Member

Join Date: Oct 2000

Location: Pottstown, Pa. and
Stone Harbor, NJ

Posts: 10,028



I can't even imagine how you must feel right now. I am very sorry.

Rageboat (Kevin Hoffman)
boat name: "Outrage-Us"
docked in Stone Harbor, NJ
proud member of the Ancient Mariners

EXHIBIT
6
2-9-16 13



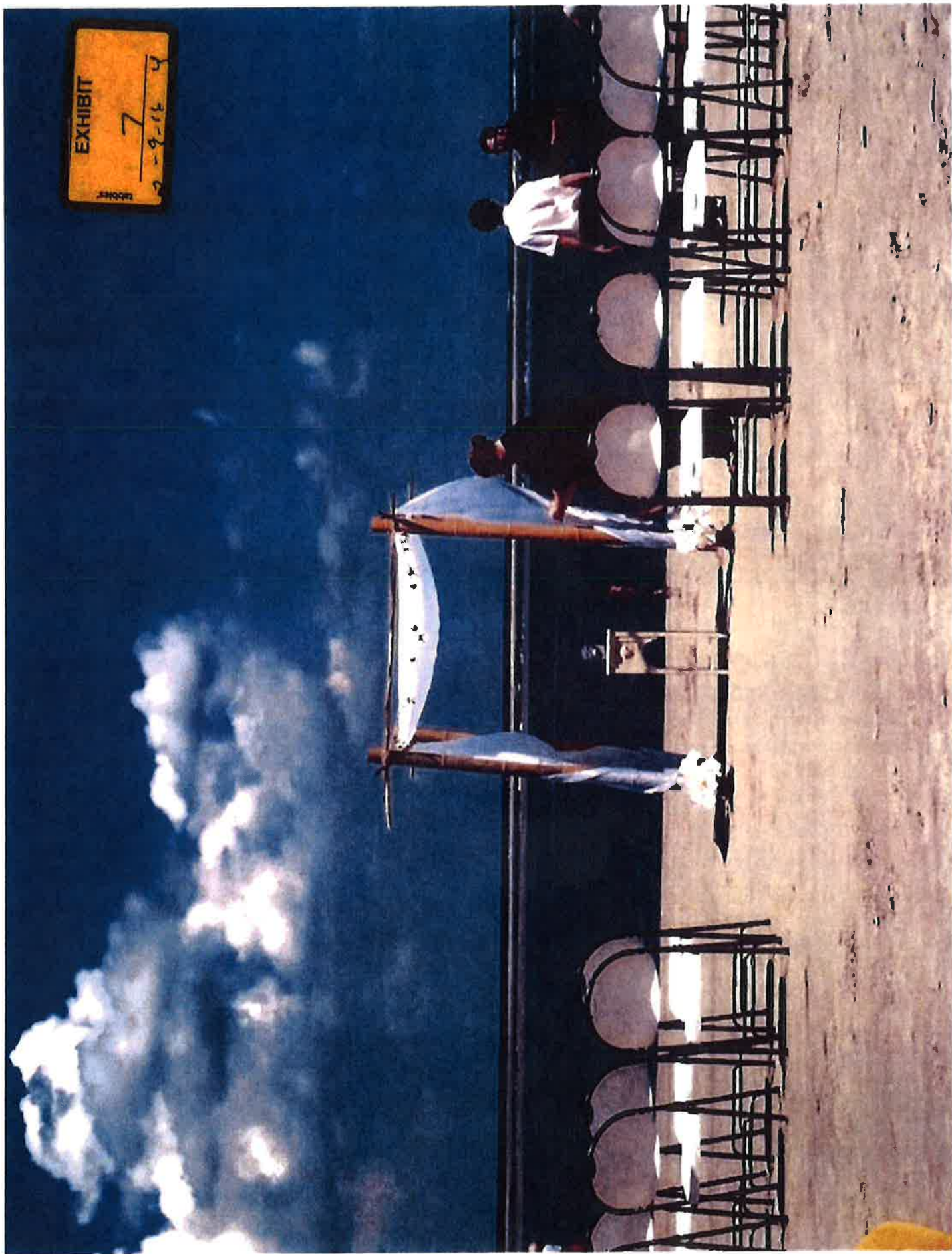
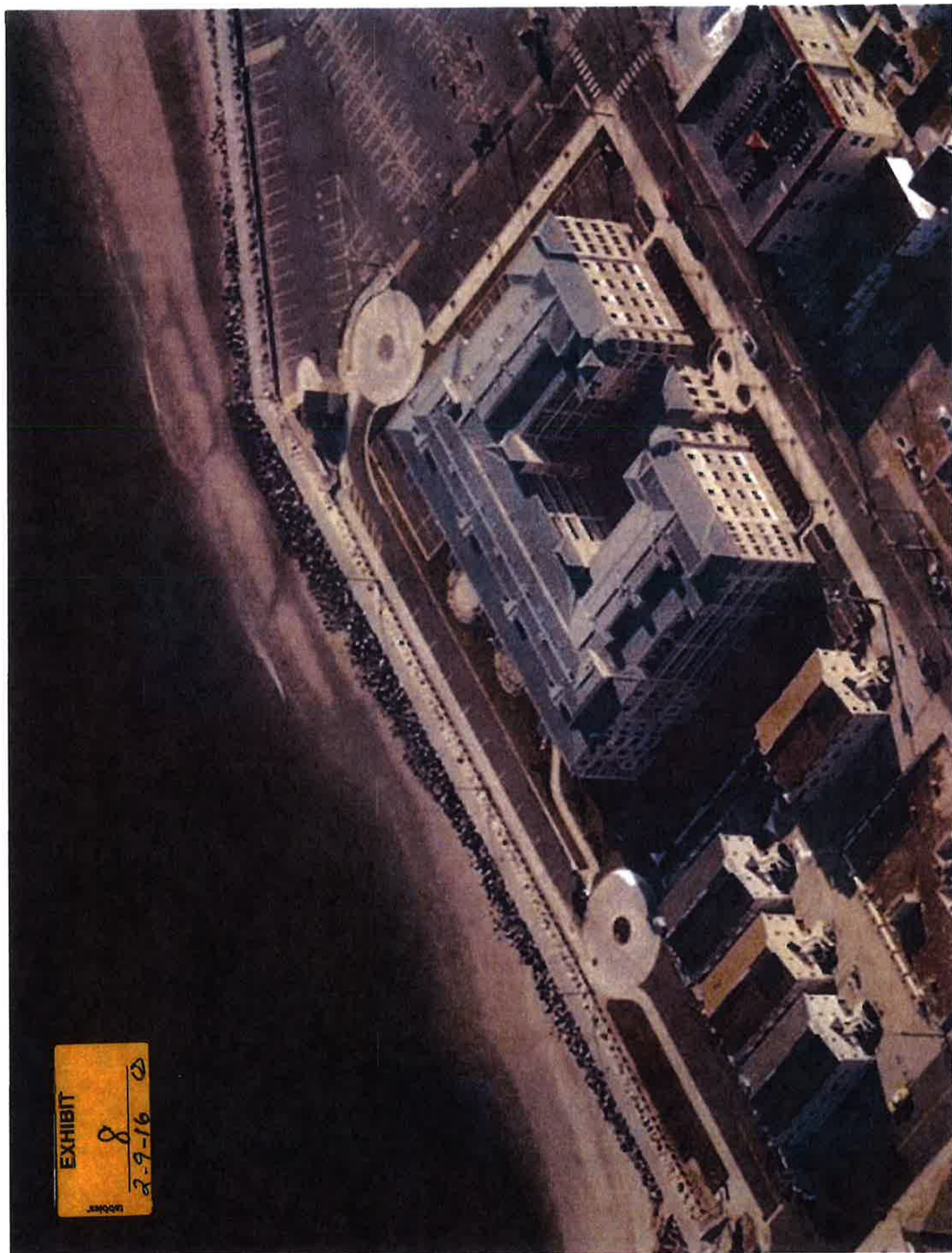


EXHIBIT
7
2-9-16 y

EXHIBIT
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2-9-16 Q



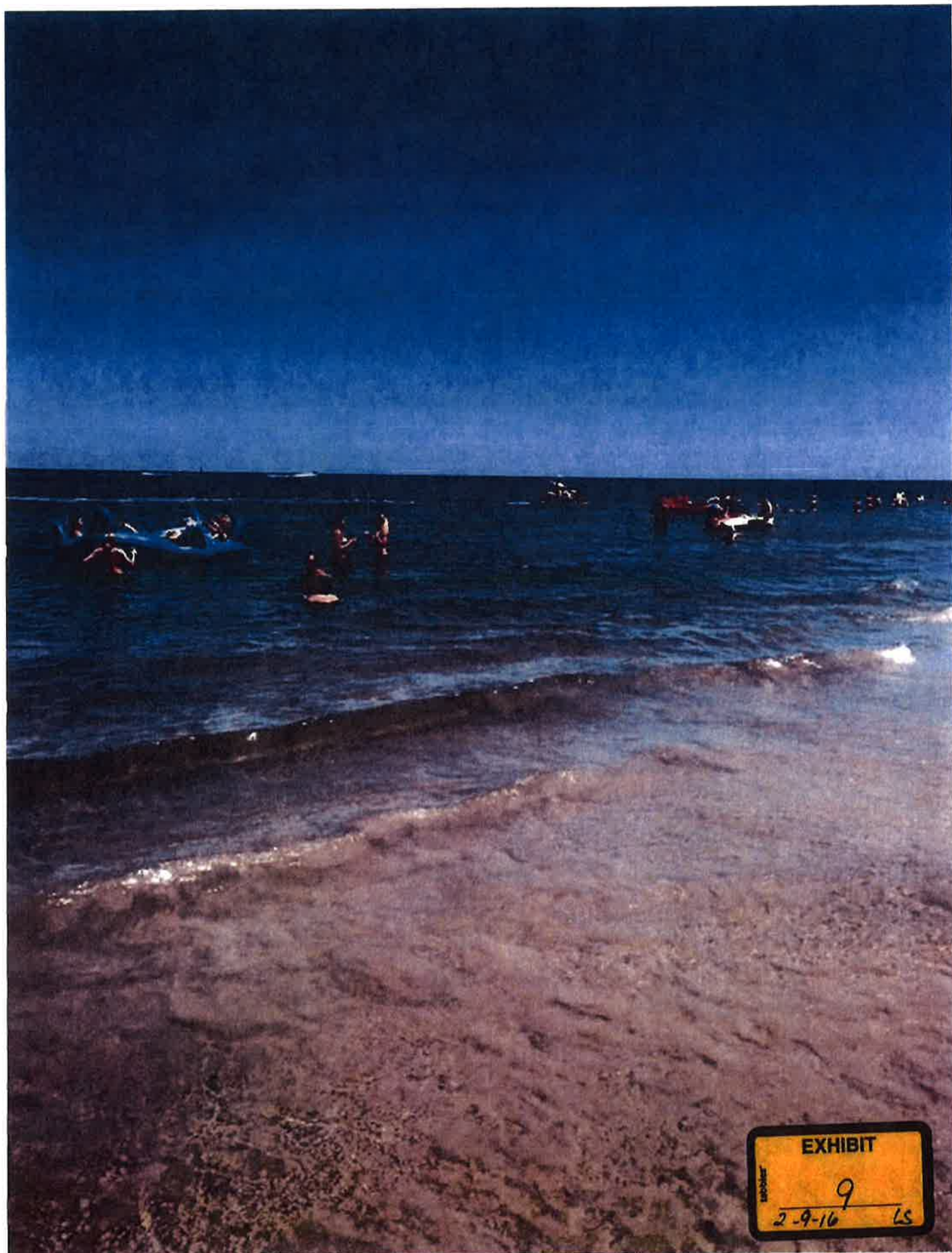


EXHIBIT
9
2-9-16 LS



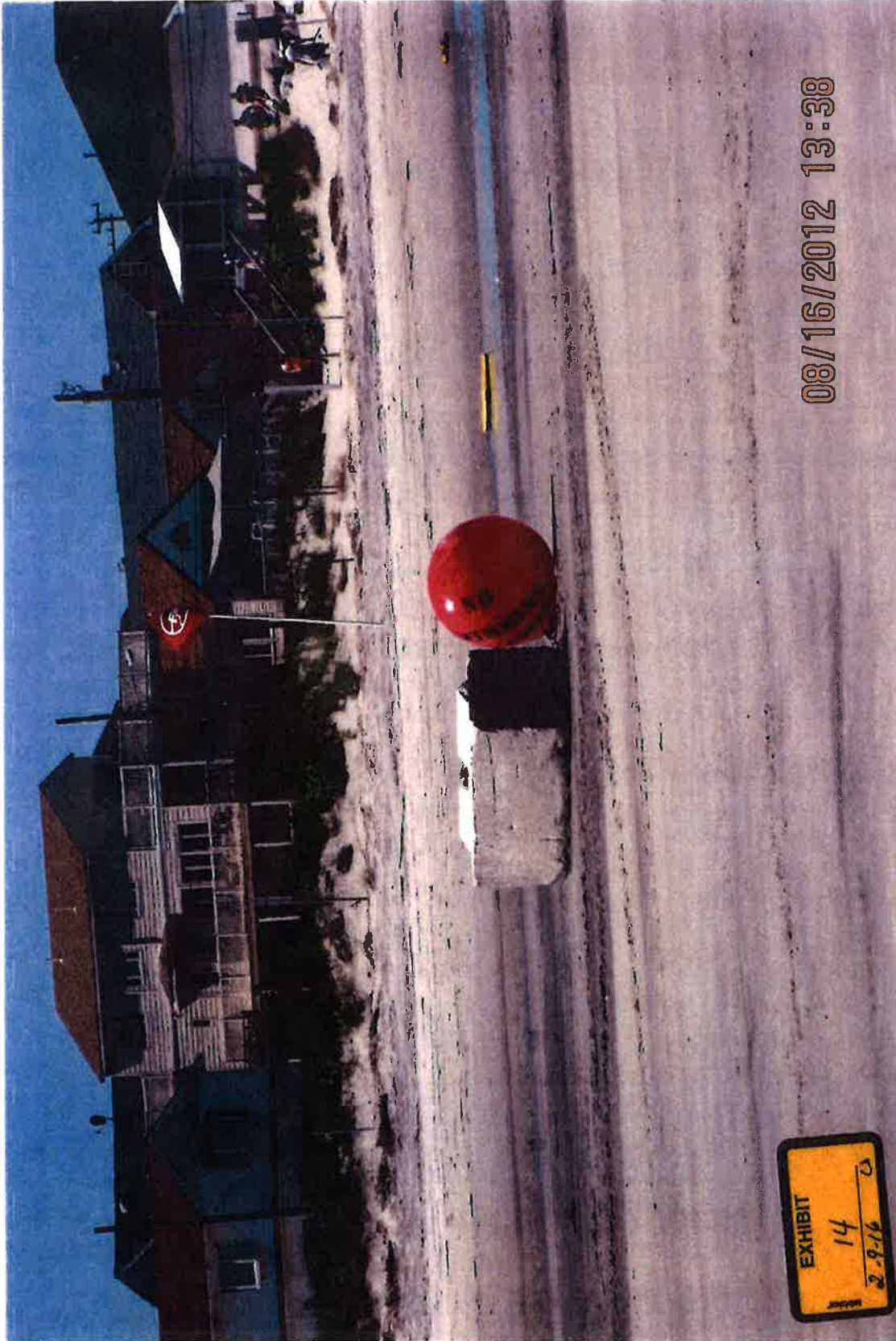


EXHIBIT
11
2-9-16 US

081012





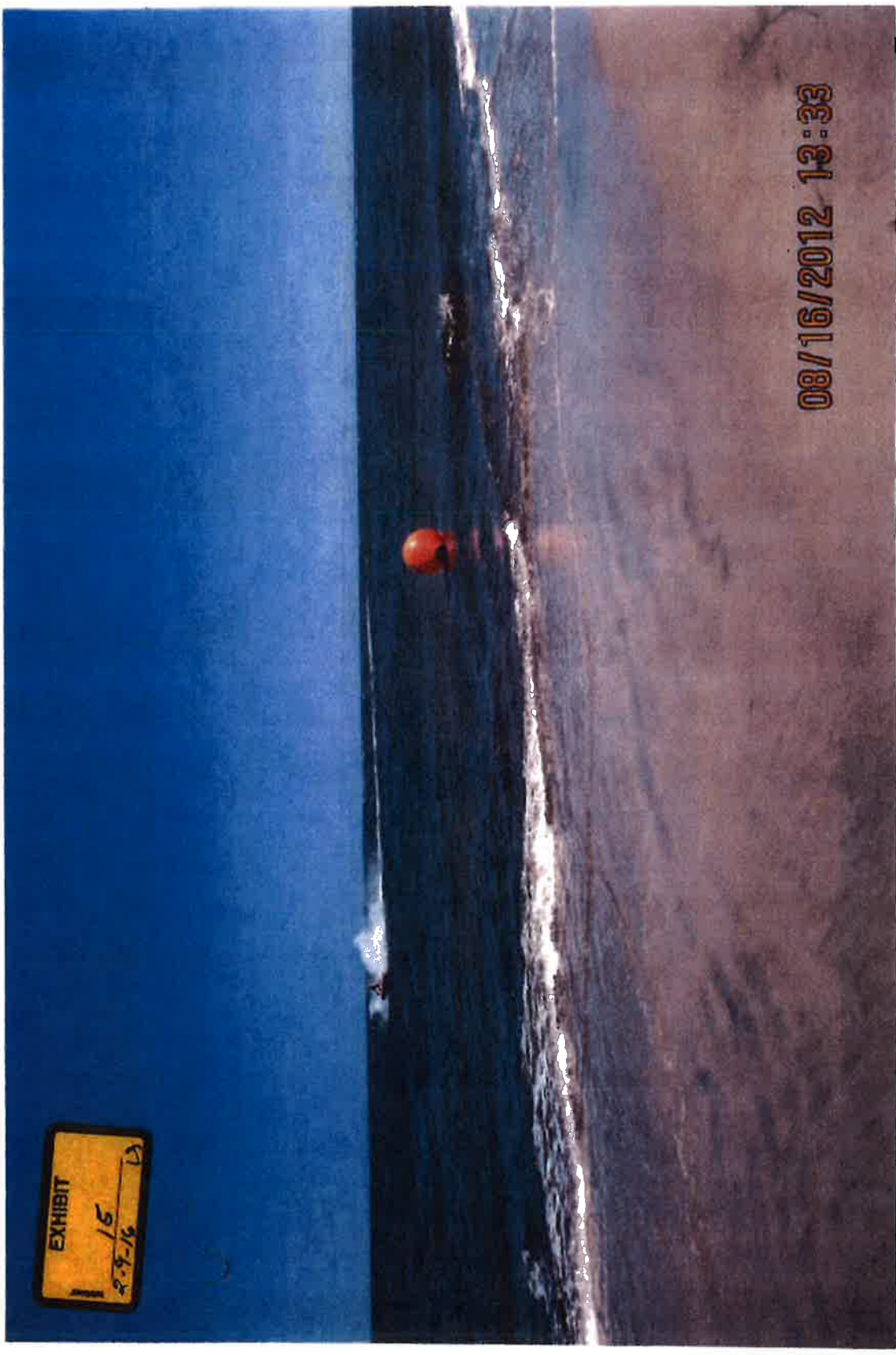


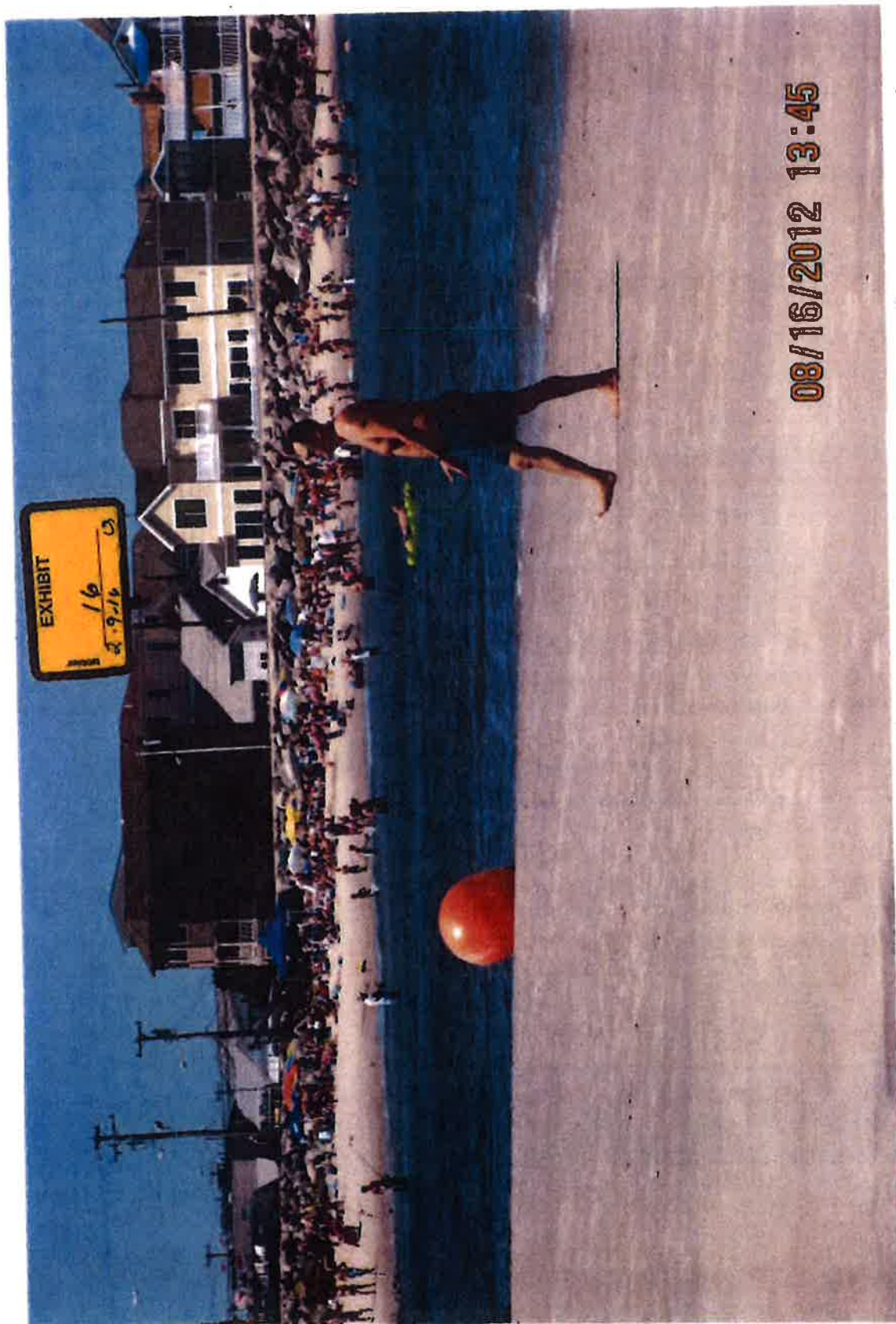
08/16/2012 13:38

EXHIBIT
14
2-9-16

EXHIBIT
9-9-16 15 D

08/16/2012 13:33





08/16/2012 13:45

EXHIBIT
17
3-9-16



08/16/2012 13:45

EXHIBIT
18
2-9-16

01/28/2013 10:47



073114

NO DOGS, CATS
OR ANY OTHER
DOMESTIC ANIMALS
ON BEACH
MAY 10 OCT 1 0800 AM
NO ANIMALS
ON BOARDWALK



EXHIBIT
19
2-9-16
LS

AREA CLOSED

ENDANGERED BIRDS NESTING

BLACK SKIMMER



LEAST TERN



PIPING PLOVER



IF BIRDS ARE DISTURBED, PARENTS MAY
LEAVE THE NEST, SUBJECTING EGGS AND YOUNG
TO EXPOSURE AND POSSIBLE DEATH.

ENTERING AREA VIOLATION OF STATE AND FEDERAL LAW.



NO DOGS



NO VEHICLES



NO ENTRY

FINES UP TO \$5,000.00
N.J.S.A. 22-2A-4

State of New Jersey

Department of Environmental Protection

Division of Parks and Wildlife

Wildlife Conservation Fund

Wildlife Conservation Fund

Wildlife Conservation Fund



073114



WELCOME TO NORTH WILDWOOD INLET
SWIMMING PROHIBITED
THE BEACH IS UNPROTECTED AT ALL TIMES
WHEN UNPROTECTED SWIMMING IS PROHIBITED
CITY ORDINANCE 135.1 BY SAK PROHIBITS
ALCOHOLIC BEVERAGES
OBSCENE LANGUAGE
VEHICLES
LITTERING
ANIMALS
TIMES OR FEEDING SEAGULLS
BEACH CLOSED DUSK TO DAWN
MORE INFORMATION AT WWW.NORTHWILDWOOD.COM

**HIGH-RISK
RIP CURRENT
AREA**

EXHIBIT
21
29-16 18

062014

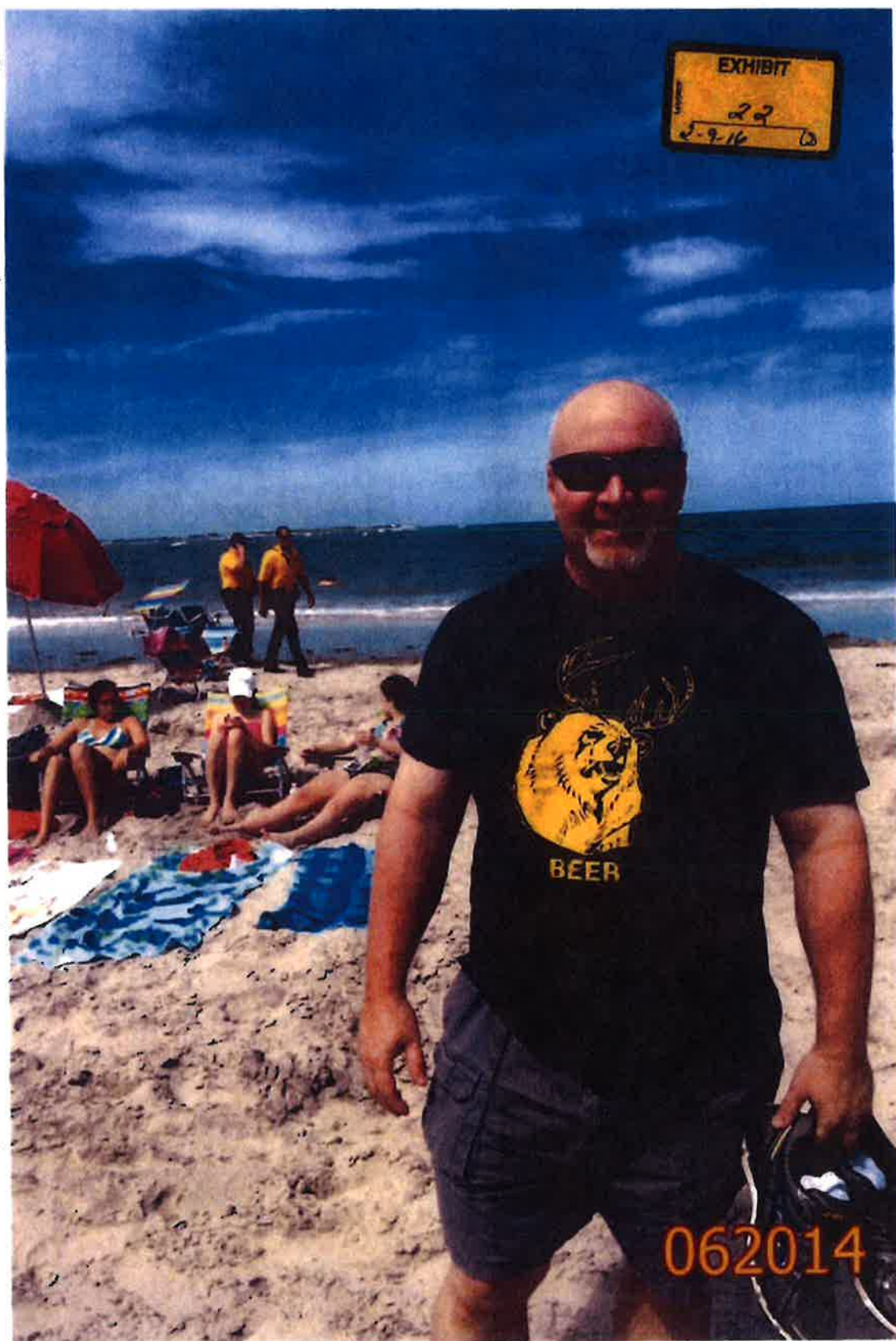






EXHIBIT
24
2-9-16

062014



EXHIBIT
26
3-9-16

05/21/2014 11:52



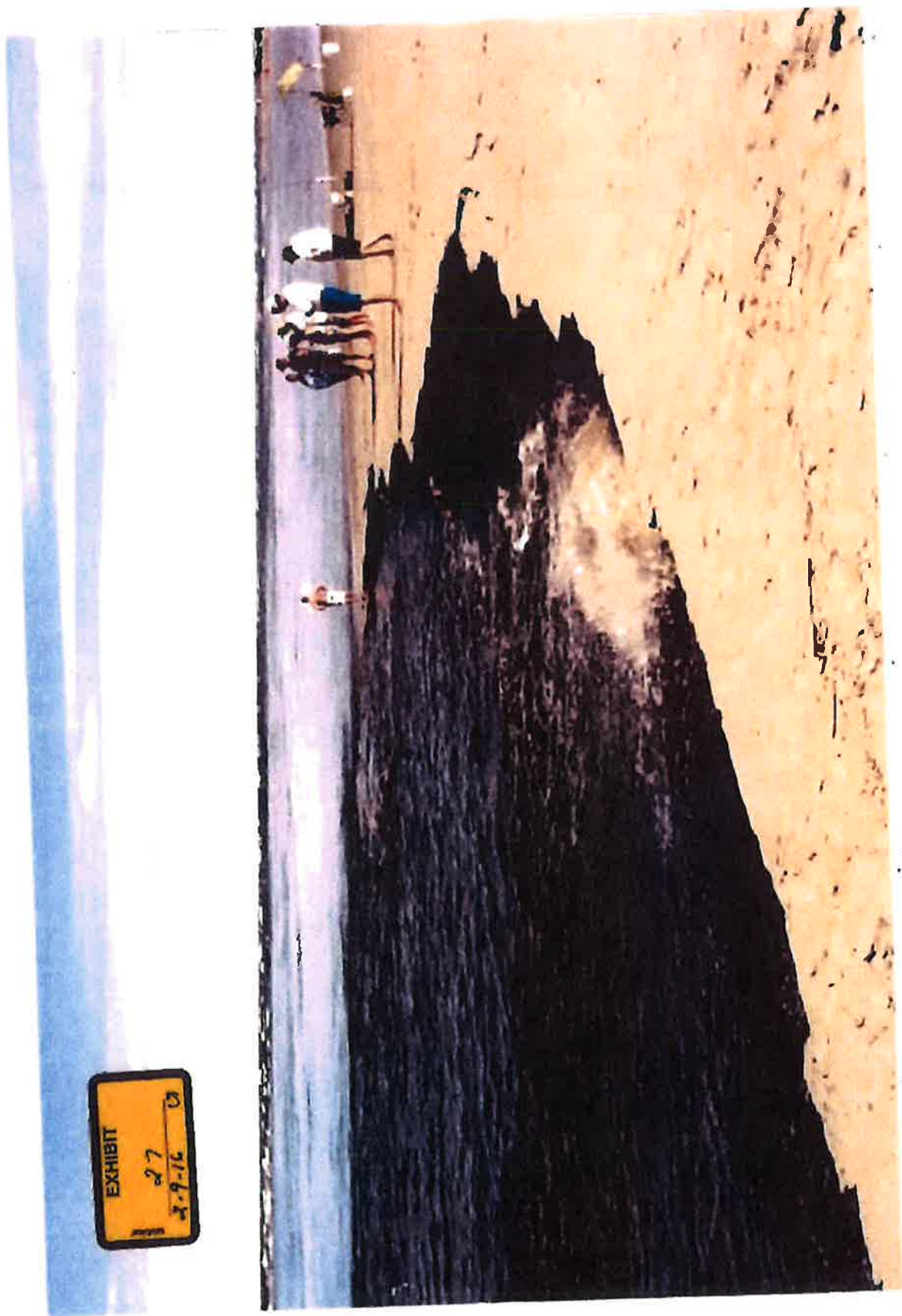


EXHIBIT
27
2-9-16



A & K Investigations of New Jersey

Charles Atkinson
609-636-0213

NJ State Private Investigators
License 8890

Robert Kirvay
609-412-6190

| | | | |
|---------|---|---------------------------------------|----------------------|
| To | : | Paul D'Amato, Esq. | |
| | | D'Amato Law Firm, Egg Harbor Twp., NJ | |
| Subject | : | Estate of Brad Smith | <u>File # 3900-P</u> |
| Re | : | Interview - Patricia Posey | |
| Date | : | August 4, 2014 | |

August 3, 2014

Investigators were tasked with identifying and interviewing Pat Posey, who provided a video to NBC 10 News in September 2012 illustrating Wildwood Beach erosion. On August 3, 2014 Investigators identified Ms. Posey and conducted a telephonic interview with her. Ms. Posey advised the following:

- Pat Posey resides in Barrington, NJ and spends most of the summer months in North Wildwood. Posey has been renting an upstairs apartment located at the intersection of Wayne and New Jersey Avenues in North Wildwood from the same person for the past twenty years.
- On the date that Posey recorded the beach video footage, Posey was sitting on the beach when she observed the beach erosion that is depicted in the video. Posey identified the beach area as being "Moore's Beach." Note: Moore's Beach is located a few hundred yards north of the Smith Drowning Site.
- Moore's Beach is within a short walking distance of Posey's summer residence. Posey visits Moore's Beach on a regular basis and is familiar with Moore's Beach and Ocean conditions. Posey advised that the Moore's Beach area has always been heavily utilized by beachgoers since Posey has been spending her summers in North Wildwood.
- Posey explained that she enters the NWW Beach utilizing the stairs nearest the "condos" which can be seen in the background of Photograph #1, which was posted on the internet on May 27, 2012. Posey explained that on the day she recorded the beach video footage, the beach was "breaking apart and falling into the ocean." "I said this is newsworthy and I sent it to Channel 10 news."



Photograph #1 illustrates Moore's Beach in NWW. The condominiums located in the left center of the picture is where Posey gain access to the NWW Beach via a beach stairway.



- Posey considers the NWW Beach area as being dangerous, and estimated that someone drowns in the area almost every summer. Posey could not provide any specifics about the drowning incidents and stated, "Usually some teenagers think they can swim to the island (Champagne Island) and the current gets them and they don't make it." She stated that the area is not protected by life guards.
- Posey advised that she has been in the water in that area many times and that you have to be careful because there is a sharp drop off to the ocean floor. Posey estimated that the seawall and steps were built sometime in the last ten years.

- Posey stated that there are “a lot of jet skis in the area” and that the NJ State Police Marine Bureau are often interacting with the people utilizing the jet skis. Posey stated, “There are always people fishing, swimming, and jet skiing in the area. There is no surf to speak of, so there are no surfers in the area.”
- Posey advised that the North Wildwood Police Department are active in the beach area and enforce the “no drinking alcoholic beverages” on the beach laws.
- Posey video recorded additional beach video footage on the date of the video utilized by Channel 10 News and forwarded same to Investigator Atkinson on August 4, 2014.

Witness

Patricia J. Posey
73 Beaver Drive
Barrington, NJ 08007-1407
Date of Birth: June 23, 1947
Telephone: (856) 546-6076
Email: poseypat2@verizon.net

Charles Atkinson

Robert Kirvay

A & K Investigations of New Jersey

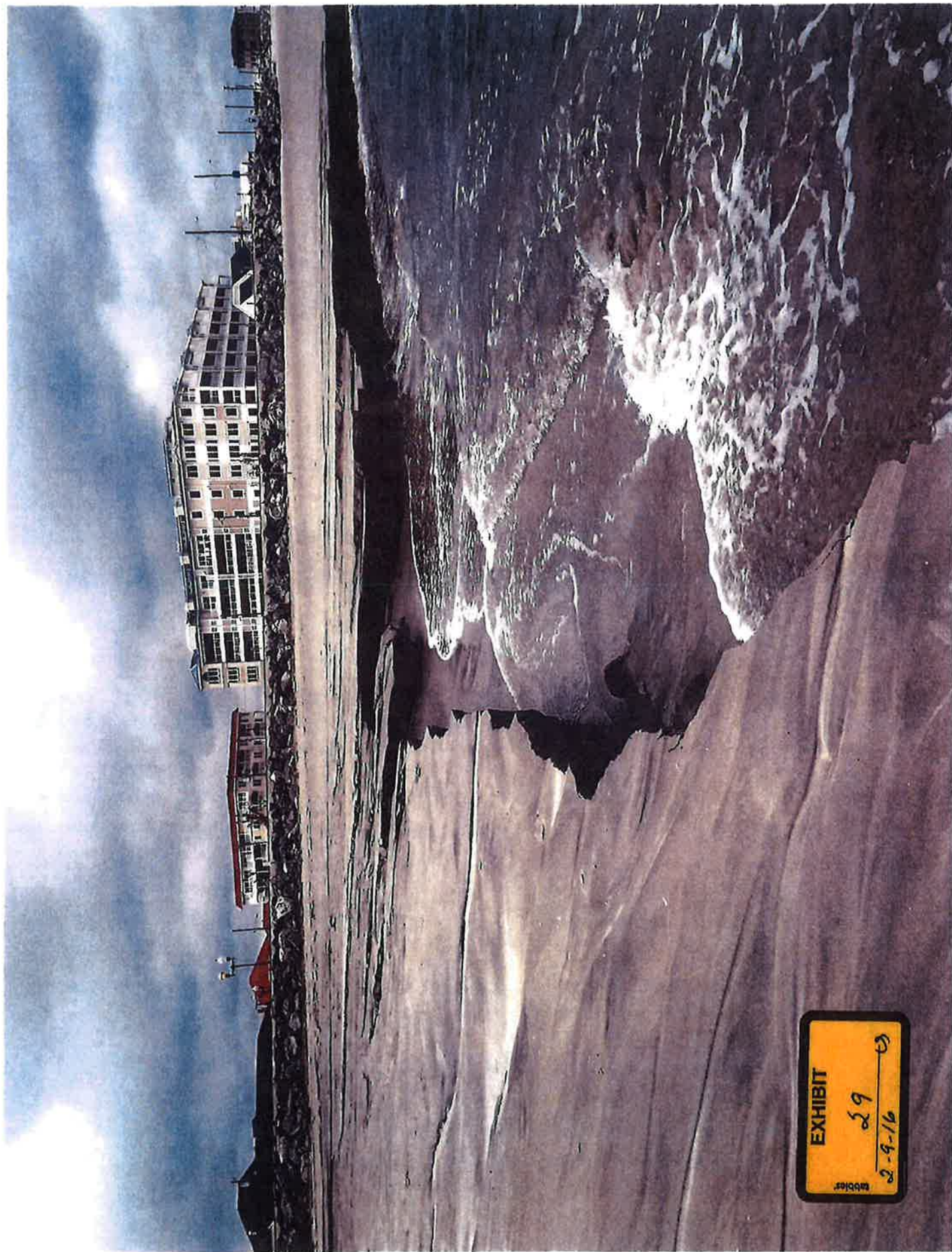


EXHIBIT
29
2-9-16
Bobbler



CITY OF NORTH WILDWOOD

901 Atlantic Avenue
North Wildwood, NJ 08260-5778
(609) 522-2030

Patrick T. Rosenello
Mayor

Kevin Yecco
City Administrator

RECEIVED
SEP 11 2015

MEMO

TO: William Kaufmann, Esq.
FROM: Ronald Simone, Admin. Assistant
DATE: Thursday, August 27, 2015
RE: Smith Lawsuit

Message:

Per your request and by request from North Wildwood Administration, please find enclosed hereto rescue/drowning reports for the years 2010 – 2015, comprised of data compliments of North Wildwood Police Department, North Wildwood Beach Patrol and North Wildwood Fire Department.

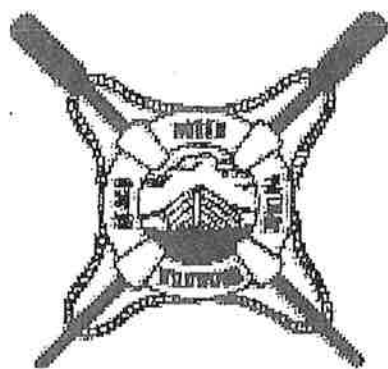
Should you need any further assistance in this regard, please do not hesitate to call me at City Hall (609) 522-2030 EXT 1260.

CC: Patrick T. Rosenello, Mayor
Kevin M. Yecco, Administrator
Barker, Gelfand & James, Esq.

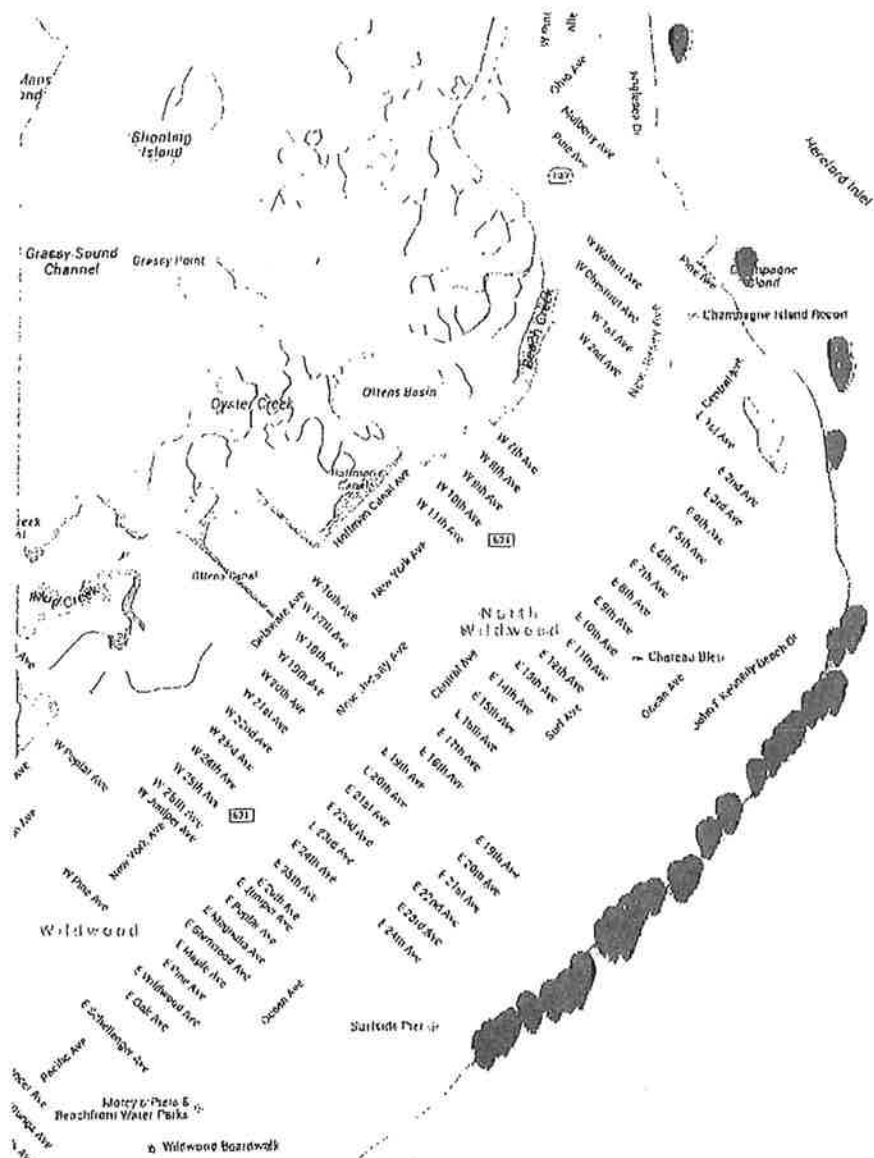


Enveloped in 9/1
(5)

NORTH WILDWOOD BEACH PATROL RESCUE REPORT



2010 – 2014



2010 - 2015 Rescues and Drownings
As Reported
By:
North Wildwood Beach Patrol



Rescue Plots

- : No Fatality
- : Fatality

*See attached for more details on
2010-2014 drownings.*

2010 Rescues

5/30/10 – Assist in the water at 3rd Avenue

- Location: 3rd Avenue
- Assisting an elderly woman in the water
- No fatalities, victims were secured.

5/30/10 – 21st Avenue Pipe Rescue

- Location: 21st Avenue
- There were two rescues at the same location that day. (12:35 p.m. and 12:40 p.m.)
- No fatalities, victims were secured.

6/5/10 – Four single victim rescues at 15th and one at 18th Avenues

- Location: 15th and 18th Avenues
- No fatalities, victims were secured.

6/6/10 – 4 victim rescue

- Location: 15th Avenue
- No fatalities, victims were secured.

6/17/10 – 2 victim rescue

- Location: 19th Avenue
- No fatalities, victims were secured.

6/24/10 – 1 victim rescue

- Location: 25th Avenue
- No fatalities, victims were secured.

6/26/10 – 3 separate rescues

- Location: 19th, 18th, and 18th Avenues.
- No fatalities, victims were secured.

7/4/10 – 1 victim rescue

- Location: 19th Avenue
- No fatalities, victims were secured.

7/6/10 – 2 victim rescue

- Location: 21st Avenue
- No fatalities, victims were secured.

7/6/10 – 2 victim rescue

- Location: 17th Avenue
- No fatalities, victims were secured.

7/7/10 – 3 (1 victim) rescues at the same location

- Location: 6th Avenue
- No fatalities, victims were secured.

7/8/10 – 4 victim rescue

- Location: Surf Avenue
- No fatalities, victims were secured.

7/8/10 – 1 victim rescue

- Location: 5th/6th Street
- No fatalities, victims were secured.

7/9/10 – 1 victim rescue

- Location: 12th Avenue
- No fatalities, victims were secured.

7/9/10 – 2 victim rescue

- Location: 17th Avenue
- No fatalities, victims were secured.

7/9/10 – 1 victim rescue

- Location: 10th Avenue
- No fatalities, victims were secured.

7/10/10 – 2 victim rescue

- Location: 22nd Avenue
- No fatalities, victims were secured.

7/11/10 – 10 victim rescue

- Location: 20th Avenue
- No fatalities, victims were secured – guards did excellent job.
- 4 more rescues at 25th Avenue and 2 rescues at 24th Avenue.

7/11/10 – Rescues at various streets

- Locations: 12th, 18th (3 at 18th) and 15th Avenues.

- No fatalities, victims were secured, horrendous water.

7/12/10 – 1 victim rescue

- Location: 20th Avenue
- No fatalities, victims were secured.

7/12/10 – Rescues at various streets

- Location: 15th Avenue, 17th Avenue (Two rescues at this location).
- No fatalities, victims were secured.

NO OTHER RESCUES WERE REPORTED FOR 2010

2011 Rescues

5/11/11 – 1 victim rescue

- Location: 7th Avenue
- No fatalities, victims were secured.

5/29/11 – 2 victim rescue

- Location: 21st Avenue
- No fatalities, victims were secured.

5/30/11 – 2 victim rescue

- Location: 25th Avenue
- No fatalities, victims were secured.

6/11/11 – 2 victim rescue

- Location: 22nd Avenue
- No fatalities, victims were secured.

6/14/11 – 1 victim rescue

- Location: 18th Avenue
- No fatalities, victims were secured.

6/18/11 – 2-3 victim rescues at various streets

- Locations: 14th (2), 16th, 21st Avenue (2), 24th and 25th Avenue

- No fatalities, victims were secured.

6/22/11 – Various 1-2 victim rescues

- Location: 14th (2), 16th, 25th Avenues
- No fatalities, victims were secured.

6/25/11 – Various 2-3 victim rescues

- Location: 14th, 15th, 16th, 17th, 21st Avenue
- No fatalities, victims were secured.

6/26/11 – Two 1 victim rescues

- Location: 25th Avenue
- No fatalities, victims were secured.

6/27/11 – 1 victim rescue

- Location: 14th-15th Avenue
- No fatalities, victims were secured.

6/30/11 – 2 victim rescue

- Location: 14th Avenue
- No fatalities, victims were secured.

7/1/11 – Several rescues at various locations

- Locations: 24th Avenue (2), 21st Avenue and 19th Avenue (2).
- No fatalities, victims were secured.

7/3/11 – 1 victim rescue

- Location: 3rd Avenue
- No fatalities, victims were secured.

7/4/11 – Several rescues at various street locations

- Locations: 3rd Avenue, 14th (2), 15th, 16th, 19th, 20th, 22nd, 23rd Avenues.
- No fatalities, victims were secured.

7/9/11 – 1 victim rescue

- Location: 19th Avenue
- No fatalities, victims were secured.

7/12/11 – 1 victim rescue

- Location: 3rd Avenue
- No fatalities, victims were secured.

7/15/11 – 2 victim rescue and 1 victim rescue at 3rd Ave Pipe

- Location: 24th Avenue and 3rd Avenue
- No fatalities, victims were secured.

7/16/11 – 3 rescues at same location

- Location: 25th Avenue
- No fatalities, victims were secured.

7/17/11 – 2 victims rescue

- Location: 21st Avenue
- No fatalities, victims were secured.

7/21/11 – 1 victim rescue

- Location: 22nd Avenue
- No fatalities, victims were secured.

7/23/11 – Rescues at various locations

- Location: 21st Avenue (2), 22nd Avenue (2)
- No fatalities, victims were secured.

7/24/11 – Multi-victim rescue

- Location: 14th Avenue
- No fatalities, victims were secured.

7/25/11 – 2 victim rescue

- Location: 22nd Avenue
- No fatalities, victims were secured.

7/26/11 – 2 victim rescue

- Location: 5th Avenue
- No fatalities, victims were secured.

7/27/11 – 2 victim rescue

- Location: 22nd Avenue
- No fatalities, victims were secured.

7/27/11 – 1 major rescue and 1 smaller rescue

- Location: 4th Avenue (smaller), 15th Avenue (major)
- No fatalities, victims were secured.

8/5/11 – Several rescues at different locations

- Location: 3rd Avenue, 25th Avenue (2)
- No fatalities, victims were secured.

8/6/11 – 1 major rescue and 2 small rescues at same location

- Location: 15th Avenue
- No fatalities, victims were secured.

8/7/11 – 1 victim rescue

- Location: 8th Avenue
- No fatalities, victims were secured.

8/10/11 – 1 victim rescue

- Location: 25th Avenue
- No fatalities, victims were secured.

8/11/11 – Two 1 victim rescues

- Locations: 4th and 21st Avenue
- No fatalities, victims were secured.

8/20/11 – 2 victim rescue

- Location: 22nd Avenue
- No fatalities, victims were secured.

8/21/11 – 1 victim rescue

- Location: 22nd – 23rd Avenue
- No fatalities, victims were secured.

8/22/11 – 1 victim rescue

- Location: 22nd Avenue
- No fatalities, victims were secured.

8/24/11 – 1 victim pipe rescue

- Location: 21st Avenue
- No fatalities, victims were secured.

9/3/11 – 2 rescues at same location

- Location: 21st Avenue Pipe
- No fatalities, victims were secured.

9/5/11 – 2 victim rescue

- Location: 15th Avenue
- No fatalities, victims were secured.

NO OTHER RESCUES WERE REPORTED FOR 2011

2012 Rescues

6/3/12 – 1 victim rescue

- Location: 25th Avenue
- No fatalities, victims were secured.

6/20/12 – 1 victim rescue

- Location: 25th Avenue
- No fatalities, victims were secured.

6/21/12 – 1 victim rescue

- Location: 25th Avenue
- No fatalities, victims were secured.

6/22/12 – 1 victim rescue

- Location: 3rd Avenue
- No fatalities, victims were secured.

6/29/12 – 1 victim rescue

- Location: 24th Avenue
- No fatalities, victims were secured.

7/1/12 – 1 victim rescue

- Location: 22nd Avenue
- No fatalities, victims were secured.

7/2/12 – 1 victim rescue

- Location: 8th Avenue
- No fatalities, victims were secured.

7/4/12 – 2 victim rescue

- Location: 23rd Avenue
- No fatalities, victims were secured.

7/6/12 – 1 victim rescue

- Location: 23rd Avenue
- No fatalities, victims were secured.

7/9/12 – 1 victim rescue

- Location: 23rd Avenue
- No fatalities, victims were secured.

7/10/12 – 1 victim rescue

- Location: 22nd Avenue
- No fatalities, victims were secured.

7/11/12 – 3 victim rescue

- Location: 4th Avenue
- No fatalities, victims were secured.

7/12/12 – 3 victim rescue and 1 victim rescue

- Location: 25th Avenue (3 victims), and 7th Avenue (1 victim)
- No fatalities, victims were secured.

7/14/12 – 1 victim rescue

- Location: 7th Avenue
- No fatalities, victims were secured.

7/15/12 – 3 victim rescue and 1 victim rescue

- Location: 21st Avenue (3), 7th Avenue (1)
- No fatalities, victims were secured.

7/16/12 – 2 and 4 victim rescues

- Location: 23rd (2) and 24th (4) Avenues
- No fatalities, victims were secured.

7/17/12 – Two 1 victim rescues at the same location

- Location: 7th Avenue
- No fatalities, victims were secured.

7/21/12 – 2 victim rescue

- Location: 19th Avenue
- No fatalities, victims were secured.

7/24/12 – 2 victim rescue

- Location: 22nd Avenue
- No fatalities, victims were secured.

7/25/12 – 2 victim rescue

- Location: 19th Avenue
- No fatalities, victims were secured.

7/26/12 – 1 victim pipe rescue

- Location: 21st Avenue
- No fatalities, victims were secured.

7/27/12 – 1 victim rescue

- Location: 23rd Avenue
- No fatalities, victims were secured.

7/28/12 – Rescues at various locations

- Locations: 19th, 21st, 24/25th Avenues (3 in total)
- No fatalities, victims were secured.

7/29/12 – Two rescues at the same location

- Location: 7th Avenue
- No fatalities, victims were secured.

7/30/12 – One rescue at 6th Avenue

- Location: 6th Avenue
- No fatalities, victims were secured.

8/2/12 – Two 1 victim rescues

- Locations: 7th and 19th Avenues
- No fatalities, victims were secured.

8/3/12 – 1 victim rescue

- Location: 23rd Avenue
- No fatalities, victims were secured.

8/4/12 – Jetski rescue

- Location: Sandbar at 2nd Avenue
- No fatalities, victims were secured.

8/5/12 – 1 victim rescue and 3 victim rescue

- Location: 24th Avenue (1 victim), 6th Avenue (3 victim)
- No fatalities, victims were secured.

8/12/12 – 1 victim rescue

- Location: 25th Avenue
- No fatalities, victims were secured.

8/21/12 – 1 victim rescue

- Location: 23rd Avenue
- No fatalities, victims were secured.

8/23/12 – Rescues at various locations

- Locations: 21st, 22nd, 23rd, 24th Avenues (4 in total)
- No fatalities, victims were secured.

8/24/12 – Rescues at various locations

- Locations: 21st, 22nd, 23rd, 24th Avenues (4 in total)

- No fatalities, victims were secured.

8/28/12 – 2 victim rescue

- Locations: 24th Avenue
- No fatalities, victims were secured.

8/30/12 – 1 victim rescue

- Location: 19th Avenue
- No fatalities, victims were secured.

8/31/12 – Rescues at various locations

- Locations: 19th (2), 25th/26th (2) Avenues
- No fatalities, victims were secured.

9/1/12 – Rescues at various locations

- Locations: 21st (2), and 25th Avenues
- No fatalities, victims were secured.

9/2/12 – 1 victim rescue

- Location: 25th Avenue
- No fatalities, victims were secured.

NO OTHER RESCUES WERE REPORTED FOR 2012

2013 Rescues

6/9/13 – Three 1 victim rescues

- Locations: 22nd and 23rd (2) Avenues
- No fatalities, victims were secured.

6/15/13 – 1 victim rescue

- Location: 20th Avenue
- No fatalities, victims were secured.

6/19/13 – 1 victim rescue

- Location: 22nd Avenue
- No fatalities, victims were secured.

6/24/13 – 1 victim rescue

- Location: 22nd Avenue
- No fatalities, victims were secured.

7/4/13 – 4 separate rescues

- Locations: 21st Avenue (1), 22nd Avenue (3)
- No fatalities, victims were secured.

7/5/13 – 2 victim rescue

- Location: 22nd Avenue
- No fatalities, victims were secured.

7/6/13 – Two 2 victim rescues

- Location: 5th Avenue and 21st Avenue
- No fatalities, victims were secured.

7/7/13 – 2 victim rescue

- Location: 9th Avenue
- No fatalities, victims were secured.

7/13/13 – Two rescues at the same location

- Location: 9th-10th Avenue
- No fatalities, victims were secured.

7/17/13 – Two 1 victim rescues

- Location: 7th and 15th Avenue
- No fatalities, victims were secured.

7/20/13 – 1 victim rescue

- Location: 7th Avenue
- No fatalities, victims were secured.

7/21/13 – 1 victim rescue

- Location: 25th Avenue
- No fatalities, victims were secured.

7/22/13 – Multi-victim rescue

- Location: 16th Avenue
- No fatalities, victims were secured.

7/24/13 – 1 victim rescue

- Location: 10th Avenue
- No fatalities, victims were secured.

7/26/13 – 1 victim rescue

- Location: 7th Avenue
- No fatalities, victims were secured.

7/27/13 – Several rescues at multiple locations

- Locations: 7th, 8th, 22nd, 25th Avenues
- No fatalities, victims were secured.

7/28/13 – Multi-victim rescues

- Locations: 16th, 21st and 22nd Avenues
- No fatalities, victims were secured.

7/29/13 – 1 victim rescue

- Location: 3rd Avenue
- No fatalities, victims were secured.

7/31/13 – 1 victim rescue

- Location: 21st Avenue
- No fatalities, victims were secured.

8/2/13 – Two 2 victim rescues

- Locations: 25th and 16th Avenues
- No fatalities, victims were secured.

8/4/13 – Two rescues at same location, one at different location

- Location: 20th Avenue and 22nd Avenue (Two rescues here)
- No fatalities, victims were secured.

8/9/13 – 2 victim rescue

- Location: 16th/17th Avenue
- No fatalities, victims were secured.

8/12/13 – 1 victim rescue

- Location: 18th Avenue
- No fatalities, victims were secured.

8/14/13 – 2 victim rescue

- Location: 14th/15th Avenue
- No fatalities, victims were secured.

8/25/13 – Jetski (PWC – Personal Watercraft) rescue

- Location: 2nd Avenue sandbar
- No fatalities, victims were secured.

NO OTHER RESCUES WERE REPORTED FOR 2013

2014 Rescues

5/25/14 – Two 1 victim rescues

- Locations: 22nd & 25th Avenues
- No fatalities, victims were secured.

6/14/14 – 1 victim rescue

- Location: 22nd Avenue
- No fatalities, victims were secured.

6/20/14 – 2 victim rescue and 1 victim rescue

- Locations: 19th Avenue (2) and 17th avenue (1)
- No fatalities, victims were secured.

6/25/14 – 1 victim rescue

- Location: 7th Avenue
- No fatalities, victims were secured.

6/27/14 – 1 victim rescue

- Location: 19th Avenue
- No fatalities, victims were secured.

7/3/14 – 3 victim rescue

- Location: 23rd Avenue
- No fatalities, victims were secured.

7/9/14 – 1 victim and 2 victim rescues

- Locations: 15th Avenue (1 victim) and 18th Avenue (2 victim)
- No fatalities, victims were secured.

7/14/14 – 1 victim rescue

- Location: 16th Avenue
- No fatalities, victims were secured.

7/15/14 – 2 multi-victim rescues

- Locations: 24th and 25th Avenues
- No fatalities, victims were secured.

7/17/14 – Three 1 victim rescues

- Location: 24th (2), and 21st Avenues
- No fatalities, victims were secured.

7/18/14 – Three 1 victim rescues

- Location: 22nd Avenue and 24th Avenue (2)
- No fatalities, victims were secured.

7/19/14 – 1 victim rescue

- Location: 16th Avenue
- No fatalities, victims were secured.

7/22/14 – 1 victim rescue

- Location: 22nd Avenue
- No fatalities, victims were secured.

7/25/14 – 1 victim rescue

- Location: 7th Avenue
- No fatalities, victims were secured.

7/28/14 – 1 victim rescue

- Location: 21st Avenue
- No fatalities, victims were secured.

8/4/14 – 1 victim rescue

- Location: 21st Avenue
- No fatalities, victims were secured.

8/5/14 – Multiple 1 victim rescues

- Locations: 4th, 8th, 20th and 24th Avenues
- No fatalities, victims were secured.

8/6/14 – Multiple (3) rescues at various locations

- Location: 22nd, 23rd and 24th Avenues
- No fatalities, victims were secured.

8/9/14 – Two rescues at same location

- Location: 24th Avenue
- No fatalities, victims were secured.

8/10/14 – 1 victim rescue

- Location: 16th Avenue
- No fatalities, victims were secured.

8/11/14 – Multiple 1 victim rescues

- Locations: 9th, 10th and 18th/19th Avenues
- No fatalities, victims were secured.

8/13/14 – 1 victim rescue

- Location: 10th Avenue
- No fatalities, victims were secured.

8/14/14 – 2 multi-victim rescues

- Locations: 19th and 21st Avenues
- No fatalities, victims were secured.

8/15/14 – 3 victim rescue

- Location: 17th Avenue
- No fatalities, victims were secured.

8/20/14 – 2 victim rescue and 1 victim rescue

- Locations: 19th Avenue (2) and 10th Avenue (1)
- No fatalities, victims were secured.

8/29/14 – Three multi-victim rescues

- Locations: 17th, 18th, and 22nd Avenue
- No fatalities, victims were secured.

8/31/14 – Two 1 victim rescues

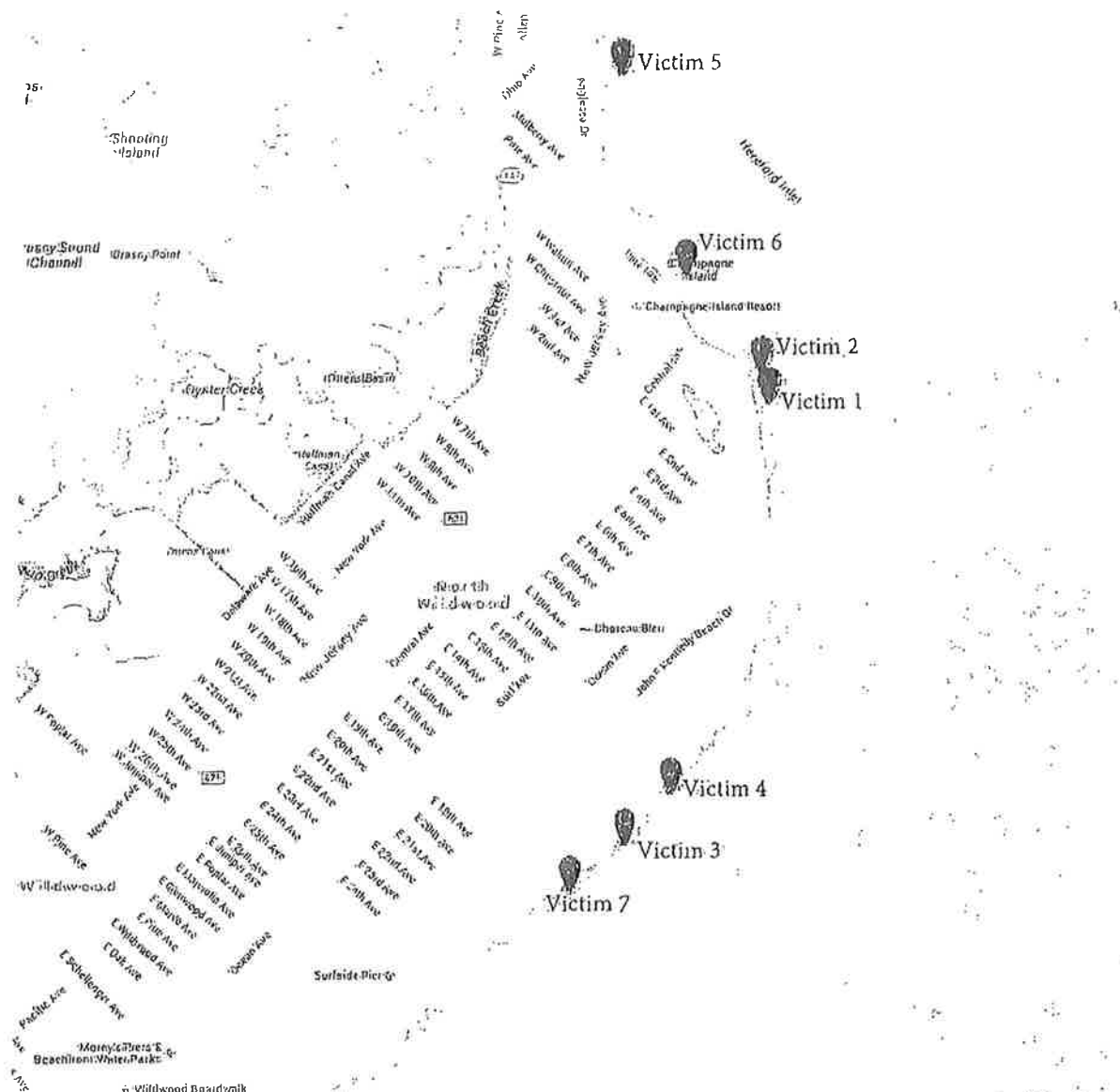
- Locations: 23rd and 25th Avenues
- No fatalities, victims were secured.

9/1/14 – 1 victim rescue


- Location: 22nd Avenue
- No fatalities, victims were secured.


NO OTHER RESCUES WERE REPORTED FOR 2014

2015 Rescues and Record are Still Ongoing



Rescue Plots

 : Fatality

 : No Fatality

2010 - 2015 Drownings and Rescues - As reported by NWPD



See attached for details.

AS REPORTED BY NRPD

Drowning Fatalities

Christina Tsotsias – Victim 1

- **Location:** North Beach
- **Incident:** Reported missing by her friends after she did not arrive to a meeting. Victim was found 2-3 miles offshore by State Police.
- **Date/Time:** 7-22-2011, 2100 hrs. (9:00 p.m.)

Bradley Smith – Victim 2

- **Location:** 1 Hereford Ave. -Hereford Inlet (Initial Report); (Supp. Report) 1st Avenue @ Central
- **Incident:** It was reported that Brad Smith including several other victims were walking along the shoreline when they (the victims) tripped and fell into the water. All other victims were rescued, but Brad Smith was unaccounted for.
- **Date/Time:** 7/27/2012, 1736 hrs. (5:36 p.m.)

JUVENILE – Victim 5

- **Location:** 51 Anglesea Dr. At the Jetty
- **Incident:** Drowning victim was reported at the location addressed above. Dispatcher received information that a victim was screaming for help in the inlet/Anglesea section of North Wildwood.
- **Date/Time:** 06/30/2015, 0652 hrs. (6:52 a.m.)

Drowning Rescues – No Fatalities

Lila Brown – Victim 3

- **Location:** 15th Avenue & The Beach
- **Incident:** Neck injury from boogie boarding, had to be rescued. Transported to Cape Regional with full feeling of extremities.
- **Date/Time:** 8/5/2014, 1325 hrs. (1:25 p.m.)

Keith Woodbury – Victim 4

- **Location:** 12th Avenue & The Beach
- **Incident:** Victim 1-Kevin Henderson and Victim 2-Keith Woodbury were swimming at the location of 12th Avenue and the beach when Victim 1 lost sight of Victim 2. Victim 2 later never came out of the water. Victim 2 was later rescued by 2 officers, signed a

refusal for treatment and both Victim 1 and 2 were released after receiving summonses for Beach Curfew. A strong odor of alcohol was reported on scene.

- **Date/Time:** 06/28/15, 0128 hrs. (1:28 a.m.)

Regina and Timothy Foley – Victim 6

- **Location:** Middle of the Channel (Started from Moores Inlet Beach)
- **Incident:** Victims 1 and 2 were attempting to swim to Champagne Island. Victims were dropped off back at the beach and advised not to attempt again.
- **Date/Time:** 08/16/15, 14:32 hrs. (2:32 p.m.)

Sayed Abdalla – Victim 7

- **Location:** 18th Avenue & The Beach
- **Incident:**
- **Date/Time:** 08/15/15, 1934 hrs. (7:34 p.m.)

North Wildwood Fire Department Water Rescue Reports 2010 – 2015

2010

January – April: NO INCIDENTS

May:

#351 and #353 – Were the only incidents, non-water related: 351 was a cracked rib and 353 was a sprained ankle, both occurred back beach.

June:

6/25/10, 18:38 – 18th Avenue

- Crew dispatched to 18th Avenue, victims were already ashore but acknowledged they had trouble fighting a rip current.

July:

7/6/10, 14:00 – 2nd Avenue

- C-Spine and needed to be assisted out of the water. Victim was secured and released after medical assistance.

7/08/10, 20:57 – 18th Avenue

- Drowning victim was rescued and secured. Transported by ambulance to hospital.

7/08/10, 21:45 – 15th Avenue

- Drowning victim was rescued and secured. Patient denied medical assistance.

7/11/10, 16:37 – 15th Avenue

- Received oxygen after water rescue and was transported to ER at Cape Regional Medical Center.

August:

08/07/10, 17:59 – 25th Avenue

- Drowning occurred. Victims were rescued by NWBP, conditions reported, "Fine, just a little worked up."

08/07/10, 18:20 – 15th Avenue

- 24 y.o. male assisted out of the water by NWBP. Was caught in rip tide and had to be rescued by NWBP.

2011

January – May: NO INCIDENTS

June:

6/19/11, 2:20 – Maryland & Chestnut Avenues

- Rescue was requested for a man swimming in the bay. Man had already gotten out of the water and left the scene before dispatch arrived.

ALL OTHER INCIDENTS REPORTED BY NWFD WERE NON-WATER RELATED
MEDICAL EMERGENCY

2012

January – April: NO INCIDENTS

May:

5/04/12, 9:31 – 3rd Avenue

- Prepared for water rescue, victim was able to get ashore without any assistance.

June: NO INCIDENTS

July:

7/16/12, 16:25 – 5th Avenue

- Boogie boarder rescued after swallowing a lot of water. Due to difficulty breathing the patient was transported to CRMC ER.

7/27/12, 18:19 – 100 Block of E Spruce Avenue

- Juvenile and adult rescued, ambulance on scene. 1 fatality: Bradley Smith

August:

8/12/12, 19:15 – 1st Avenue

- Woman rescued from the water after swimming incident. Transported to CRMC to be monitored by ER staff.

8/19/12, 19:22 – 15th Avenue

- Highly intoxicated man rescued from the waters. He stated that he believed he was in Atlantic City.

September:

9/16/12, 14:30 – 26th Avenue

- 10 year old was rescued along with two other siblings. The youngest (10 y.o.) was transported to Cape Regional and later transported to CHOP. Made full recovery.

NO OTHER INCIDENTS WERE REPORTED FOR 2012

2013

January – April: NO INCIDENTS

May – July: Only non-water related emergencies were responded to.

August:

8/25/13, 14:22 – Moore Inlet

- Rescued a man at Moore's inlet beach. Refused further evaluation.

2014

Start of EMS Charts for records. EMS Charts only show 4 additions to the date. No water related emergencies reported for 2014.

2015

January – April: NO INCIDENTS

June:

6/28/15, 1:36 – 12th Avenue

- Victim was rescued by 2 police officers. Alcohol was involved. Both refused treatment.

August:

8/3/15, 18:16 – 2nd Avenue

- Victim was rescued from the water. Denied ever being in distress and refused treatment.

8/5/15, 18:16 – 2nd Avenue

- Victim was rescued by NWBP. Refused treatment and stated that he was touching the bottom the whole time.

NO OTHER WATER RESCUES REPORTED FOR 2015



RECORDED CONVERSATIONS

**NORTH WILDWOOD BEACH
NORTH WILDWOOD, NJ**

(JULY 1, 2013)

In The Matter Of:

Smith v. City of North Wildwood

Transcript Prepared For:

**D'AMATO LAW FIRM, P.C.
2900 FIRE ROAD, SUITE 200
EGG HARBOR TOWNSHIP, NJ 08234
609-926-3300**

Certified Transcript By:

**CHERYL A. BRYSON, C.E.T #00129., NJ AOC #202
AGENT FOR
CB TRIALSCRIPT SERVICE
1606 ADAMS AVENUE
LINWOOD, NJ 08221
PHONE/FAX: 609-653-1971
CABRYSON1427@AOL.COM**

1 (In-person recorded conversation occurring on
2 July 1, 2013 at the North Wildwood Beach as
3 follows:)

4 * * * * *

5 LIEUTENANT LINDSAY: - and the boating,
6 boating, and the, the jet skis, it's anything but safe
7 to swim. So that's why I put my car there.

8 MRS. SIMPSON: But yet there's still people
9 there.

10 LIEUTENANT LINDSAY: Well, yeah. Yeah.

11 MRS. SIMPSON: That's the crazy part.

12 LIEUTENANT LINDSAY: And the thing is if
13 you close it down, the bars are going to complain. The
14 condos, the people - The condos at Moores, they're
15 going to complain because they lost beach access.
16 So, -

17 MRS. SIMPSON: Oh.

18 LIEUTENANT LINDSAY: - you know, it's -

19 MRS. SIMPSON: Give or take.

20 LIEUTENANT LINDSAY: - a fine line. Hey,
21 buddy. Hi there.

22 MRS. SIMPSON: Now is it safe for him to be
23 swimming?

24 LIEUTENANT LINDSAY: Well, these dogs are
25 great swimmers. Hi, there. Hello, there. Yeah.

1 Yeah.

2 MRS. SIMPSON: All right. Yeah. You want to
3 show off now. Go ahead.

4 LIEUTENANT LINDSAY: What do you got? What
5 do you got?

6 MRS. SIMPSON: Because I know a couple times
7 we went there, and then the police would come down on
8 their quads.

9 LIEUTENANT LINDSAY: Yeah. But like I said,
10 there's - This Surf Avenue, there's things and those -
11 We all got emails that no vehicles are allowed to
12 patrol. If there's an emergency -

13 MRS. SIMPSON: They'll come down.

14 LIEUTENANT LINDSAY: - of course we're
15 allowed to go down. So -

16 MRS. SIMPSON: But there's no patrolling?

17 LIEUTENANT LINDSAY: But they're not - Yeah.

18 MRS. SIMPSON: Is that all because of, from
19 Sandy? Or is it just naturally changing or ...

20 LIEUTENANT LINDSAY: What? The bad - I got a
21 great thing for you. See, let me (inaudible, moving
22 away) ... We got this at the marina. You know, there's
23 been seven drownings in nine years.

24 MRS. SIMPSON: Really?

25 LIEUTENANT LINDSAY: Right out there. This

1 is a great reason to show you why. We're right here.

2 MRS. SIMPSON: Okay.

3 LIEUTENANT LINDSAY: Okay? Now the — You go
4 down here, the beach goes here.

5 MRS. SIMPSON: Right.

6 LIEUTENANT LINDSAY: That's the Point.

7 MRS. SIMPSON: Right.

8 LIEUTENANT LINDSAY: That's Moore's parking
9 lot.

10 MRS. SIMPSON: Okay.

11 LIEUTENANT LINDSAY: Well, if you look at the
12 chart, this tells you the depth of the water.

13 MRS. SIMPSON: Holy crap.

14 LIEUTENANT LINDSAY: The blue is 30 foot.

15 MRS. SIMPSON: Look how close that is.

16 LIEUTENANT LINDSAY: Yeah. At low tide —
17 Between mid- and low tide the gentleman that drowned
18 last year, when — We called him out of the water here.
19 So they said, "Okay. We can't go in the water. Let's
20 go for a walk." They're walking, him and his friend
21 and their two daughters, and they're in ankle deep
22 water, and they're right there, and they fell into the
23 30-foot deep. And the thing is, is when from mid-tide
24 to low-tide all that water in the back bay is rushing
25 out, and it doesn't, the only place — All sandbars

1 here. From -

2 MRS. SIMPSON: Oh.

3 LIEUTENANT LINDSAY: - here to Stone Harbor,
4 all that water comes right through here.

5 MRS. SIMPSON: It's causing like a canal.

6 LIEUTENANT LINDSAY: It's like a river. So
7 you - They fell in here, and before they knew it they
8 were getting sucked out, and he - The one little girl
9 got on the dad's back. They managed to swim - He
10 managed to make it to shore. The other little girl got
11 picked up by a jet ski, brought in. The jet ski went
12 back out to get the father, and by the time he got back
13 out the father must have panicked, and once you panic
14 you're, you're done.

15 MRS. SIMPSON: Right.

16 LIEUTENANT LINDSAY: And he - Yeah. He
17 drowned. It was so sad.

18 MRS. SIMPSON: Oh, my God. I've got goose
19 bumps. That's scarey.

20 LIEUTENANT LINDSAY: Yeah. I know. It was
21 sad - because I was on, I was on scene. I had two jet
22 skis. I had a jet ski and two -

23 MRS. SIMPSON: Jake.

24 LIEUTENANT LINDSAY: I had a jet ski and two
25 surfboards in the water, and the guy said, "The last

1 time I saw him he was right out there," and he points
2 like a 100 yards out, and I was like, oh, that's not
3 good because my guys were not doing anything, --

4 MRS. SIMPSON: Right.

5 LIEUTENANT LINDSAY: -- and just then, --

6 MRS. SIMPSON: Come here, Jake.

7 LIEUTENANT LINDSAY: -- just then the guys
8 ten-year-old son comes up, and says, "What's going on?"
9 And they're like, "They're looking for your dad." And
10 he just -- It was horrible, man.

11 MRS. SIMPSON: Oh, my God.

12 LIEUTENANT LINDSAY: And the worse thing
13 about is as the beach patrol we know it's going to
14 happen again, this summer maybe, so -- just because it's
15 such a dangerous --

16 MRS. SIMPSON: Well, what can they do to
17 prevent people -- I mean there's --

18 LIEUTENANT LINDSAY: Well, --

19 MRS. SIMPSON: -- some signs, but, --

20 LIEUTENANT LINDSAY: No. That's -- There's --

21 MRS. SIMPSON: -- people, that's people's
22 human nature.

23 LIEUTENANT LINDSAY: There's more than some
24 signs. There's signs everywhere, but you could put up
25 a neon billboard with the pictures of the people, and

1 they would just say, "Hey, look at the pretty lights,"
2 and go in. I mean it's just, it's just the way people
3 are. But the, the thing to do would be to tell -
4 because I talked to those people at the state that do
5 the piping plover and said, "How - The day after this
6 drowning," I'm like, "how hard would it be just to shut
7 this," - "I know. No problem." We could get the State
8 and have this whole - from there to the Greek church,
9 the rocks, shut down, but then you run, -

10 MRS. SIMPSON: Because of the bars.

11 LIEUTENANT LINDSAY: - then you run into the
12 people with the, you know, the bars and the condo
13 owners who want to walk over the bulkhead and be on the
14 beach, and for the local people they know, you know,
15 they, they know how dangerous it is, but a guy comes
16 down from Philly with his family, and they're like -
17 because a lot of people, when we go down, and say,
18 "Hey, you can't be - They're like, "Oh, we didn't know.
19 Thanks for telling us," -

20 MRS. SIMPSON: Right.

21 LIEUTENANT LINDSAY: - but this picture is
22 just incredible. I mean it, that right there tells you
23 it's just so - I mean - And as the tide goes lower it
24 gets closer to that channel.

25 MRS. SIMPSON: Right.

1 LIEUTENANT LINDSAY: So you're really -

2 MRS. SIMPSON: Because I know a couple times
3 I walked, and you can, you can -

4 LIEUTENANT LINDSAY: You can see.

5 MRS. SIMPSON: - see the drop.

6 LIEUTENANT LINDSAY: Yeah. And when you're
7 walking you can see the water rushing out. It's - And
8 like I said, for us it's frustrating because like we
9 know it's going to happen, but there's no - we don't
10 know what the answer is. We put those big orange balls
11 out there, but that doesn't -

12 MRS. SIMPSON: They think it's to swim to.

13 LIEUTENANT LINDSAY: They do. They say,
14 "Oh," and they'll say -

15 MRS. SIMPSON: Or they bet each other.

16 LIEUTENANT LINDSAY: - "Oh, we thought it," -
17 Yeah.

18 MRS. SIMPSON: "Bet you can swim to that."

19 LIEUTENANT LINDSAY: Right. So it's just
20 crazy.

21 MRS. SIMPSON: That's right. But he'll be -
22 he would be fine swimming in there? I thought - Now
23 I'm like, "Oh."

24 LIEUTENANT LINDSAY: Yeah. But, here's the
25 thing. I wouldn't, I wouldn't take him -

1 MRS. SIMPSON: Like we've been back here.
2 Here it's green.

3 LIEUTENANT LINDSAY: See here - You see that
4 right here?

5 MRS. SIMPSON: Yeah.

6 LIEUTENANT LINDSAY: That you don't really
7 have to worry. The current's not real bad because the
8 rock part, the rock pile is kind of cutting that so,
9 and it's not that deep.

10 MRS. SIMPSON: Right.

11 LIEUTENANT LINDSAY: So there right where the
12 municipal lot is, there is not a problem.

13 MRS. SIMPSON: Oh.

14 LIEUTENANT LINDSAY: It's that point right
15 there and especially from mid- to low-tide because,
16 like I said, all the water is rushing out.

17 MRS. SIMPSON: Right.

18 LIEUTENANT LINDSAY: So ...

19 MRS. SIMPSON: All right. Well, thank you.

20 LIEUTENANT LINDSAY: Yeah. No problem.

21 MRS. SIMPSON: Say thanks, Jake.

22 LIEUTENANT LINDSAY: See you later.

23 MRS. SIMPSON: All right. Have a good day.

24 (Off the record)

25 * * * * *

1 (Recording concludes at Time Index 00:06:11:28)

2 * * * * *

3 (Beach Conversation No. 2 on July 1, 2013 at the
4 North Wildwood Beach as follows:)

5 * * * * *

6 MRS. SIMPSON: Hi, how are you? I wanted to
7 give this to you. It's called Rescue Me. It's for
8 golden retrievers in Jersey, and -

9 LIEUTENANT LINDSAY: Oh, okay.

10 MRS. SIMPSON: - I know you were looking for
11 a rescue dog.

12 LIEUTENANT LINDSAY: Yeah. I'm doing it
13 right now.

14 MRS. SIMPSON: I called my friend and asked
15 her, but - Well, what's your name so I can let her
16 know?

17 LIEUTENANT LINDSAY: Dave Lindsay.

18 MRS. SIMPSON: Dave Lindsay?

19 LIEUTENANT LINDSAY: Yeah.

20 MRS. SIMPSON: My name is GG -

21 LIEUTENANT LINDSAY: GG?

22 MRS. SIMPSON: -- Simpson. So -

23 LIEUTENANT LINDSAY: Great.

24 MRS. SIMPSON: - hopefully you can find
25 somebody there you can take home.

1 LIEUTENANT LINDSAY: I'm going to go on the
2 website right now.

3 MRS. SIMPSON: Oh, okay.

4 LIEUTENANT LINDSAY: Yeah.

5 MRS. SIMPSON: All right.

6 LIEUTENANT LINDSAY: Great.

7 MRS. SIMPSON: All right. Well, good luck.

8 LIEUTENANT LINDSAY: Thank you so much.

9 MRS. SIMPSON: Thanks again.

10 LIEUTENANT LINDSAY: Nice meeting you, GG.

11 MRS. SIMPSON: All right. You too. Bye-bye.

12 (Off the record)

13 (Recording concludes at Time Index 00:01:08)

14 * * * * *

15 I, Cheryl A. Bryson, agent for CB Trialscript
16 Service, do certify that the foregoing is a true and
17 correct transcript of the recorded conversation in the
18 above-captioned matter for D'Amato Law Firm of Egg
19 Harbor Township, New Jersey.

Cheryl A. Bryson

Cheryl A. Bryson, C.E.T., AD/T
AAERT No. 00129; NJ AOC No. 202
Agent For: CB Trialscript Service
1606 Adams Avenue - Linwood, NJ 08221
Phone/Fax: 609-653-1971
Email cabryson1427@aol.com

May 28, 2014
(Date)

| | | | | |
|--|---|--|---|--|
| <p>A</p> <p>access (1) 2:15</p> <p>ahead (1) 3:3</p> <p>allowed (2) 3:11,15</p> <p>ankle (1) 4:21</p> <p>Avenue (1) 3:10</p> <p>away (1) 3:22</p> | <p>3:19</p> <p>channel (1) 7:24</p> <p>chart (1) 4:12</p> <p>church (1) 7:8</p> <p>close (2) 2:13;4:15</p> <p>closer (1) 7:24</p> <p>complain (2) 2:13,15</p> <p>concludes (2) 10:1;11:13</p> <p>condo (1) 7:12</p> <p>condos (2) 2:14,14</p> <p>conversation (2) 2:1;10:3</p> <p>couple (2) 3:6;8:2</p> <p>course (1) 3:14</p> <p>crap (1) 4:13</p> <p>crazy (2) 2:11;8:20</p> <p>current's (1) 9:7</p> <p>cutting (1) 9:8</p> | <p>drowned (2) 4:17;5:17</p> <p>drowningf'm (1) 7:6</p> <p>drownings (1) 3:23</p> <p>E</p> <p>emails (1) 3:11</p> <p>emergency (1) 3:12</p> <p>especially (1) 9:15</p> <p>everywhere (1) 6:24</p> | <p>7:8</p> <p>green (1) 9:2</p> <p>guy (2) 5:25;7:15</p> <p>guys (2) 6:3,7</p> <p>H</p> <p>happen (2) 6:14;8:9</p> <p>Harbor (1) 5:3</p> <p>hard (1) 7:6</p> <p>Hello (1) 2:25</p> <p>here's (1) 8:24</p> <p>Hey (3) 2:20;7:1,18</p> <p>Hi (3) 2:21,25;10:6</p> <p>Holy (1) 4:13</p> <p>home (1) 10:25</p> <p>hopefully (1) 10:24</p> <p>horrible (1) 6:10</p> <p>human (1) 6:22</p> | <p>L</p> <p>last (2) 4:18;5:25</p> <p>later (1) 9:22</p> <p>LIEUTENANT (56) 2:5,10,12,18,20,24; 3:4,9,14,17,20,25;4:3, 6,8,11,14,16;5:3,6,16, 20,24;6:5,7,12,18,20, 23;7:11,21;8:1,4,6,13, 16,19,24;9:3,6,11,14, 18,20,22;10:9,12,17, 19,21,23;11:1,4,6,8,10</p> <p>lights (1) 7:1</p> <p>LINDSAY (58) 2:5,10,12,18,20,24; 3:4,9,14,17,20,25;4:3, 6,8,11,14,16;5:3,6,16, 20,24;6:5,7,12,18,20, 23;7:11,21;8:1,4,6,13, 16,19,24;9:3,6,11,14, 18,20,22;10:9,12,17, 17,18,19,21,23;11:1,4, 6,8,10</p> <p>line (1) 2:20</p> <p>little (2) 5:8,10</p> <p>local (1) 7:14</p> <p>look (3) 4:11,15;7:1</p> <p>looking (2) 6:9;10:10</p> <p>lost (1) 2:15</p> <p>lot (3) 4:9;7:17;9:12</p> <p>low (2) 4:16,17</p> <p>lower (1) 7:23</p> <p>low-tide (2) 4:24;9:15</p> <p>luck (1) 11:7</p> |
| <p>B</p> <p>back (5) 4:24;5:9,12,12;9:1</p> <p>bad (2) 3:20;9:7</p> <p>balls (1) 8:10</p> <p>bars (3) 2:13;7:10,12</p> <p>bay (1) 4:24</p> <p>Beach (7) 2:2,15;4:4;6:13; 7:14;10:3,4</p> <p>bet (2) 8:15,18</p> <p>big (1) 8:10</p> <p>billboard (1) 6:25</p> <p>blue (1) 4:14</p> <p>boating (2) 2:5,6</p> <p>brought (1) 5:11</p> <p>buddy (1) 2:21</p> <p>bulkhead (1) 7:13</p> <p>bumps (1) 5:19</p> <p>Bye-bye (1) 11:11</p> | <p>D</p> <p>dad (1) 6:9</p> <p>dad's (1) 5:9</p> <p>dangerous (2) 6:15;7:15</p> <p>daughters (1) 4:21</p> <p>Dave (2) 10:17,18</p> <p>day (2) 7:5;9:23</p> <p>deep (3) 4:21,23;9:9</p> <p>depth (1) 4:12</p> <p>dog (1) 10:11</p> <p>dogs (1) 2:24</p> <p>done (1) 5:14</p> <p>down (8) 2:13;3:7,13,15;4:4; 7:9,16,17</p> <p>drop (1) 8:5</p> | <p>F</p> <p>family (1) 7:16</p> <p>father (2) 5:12,13</p> <p>fell (2) 4:22;5:7</p> <p>find (1) 10:24</p> <p>fine (2) 2:20;8:22</p> <p>follows (2) 2:3;10:4</p> <p>foot (1) 4:14</p> <p>friend (2) 4:20;10:14</p> <p>frustrating (1) 8:8</p> <p>G</p> <p>gentleman (1) 4:17</p> <p>gets (1) 7:24</p> <p>GG (3) 10:20,21;11:10</p> <p>girl (2) 5:8,10</p> <p>God (2) 5:18;6:11</p> <p>goes (2) 4:4;7:23</p> <p>golden (1) 10:8</p> <p>good (3) 6:3;9:23;11:7</p> <p>goose (1) 5:18</p> <p>great (5) 2:25;3:21;4:1;10:23; 11:6</p> <p>Greek (1)</p> | <p>I</p> <p>incredible (1) 7:22</p> <p>Index (2) 10:1;11:13</p> <p>In-person (1) 2:1</p> <p>into (2) 4:22;7:11</p> <p>J</p> <p>Jake (3) 5:23;6:6;9:21</p> <p>Jersey (1) 10:8</p> <p>jet (6) 2:6;5:11,11,21,22,24</p> <p>July (2) 2:2;10:3</p> <p>K</p> <p>kind (1) 9:8</p> <p>knew (1) 5:7</p> | <p>line (1) 2:20</p> <p>little (2) 5:8,10</p> <p>local (1) 7:14</p> <p>look (3) 4:11,15;7:1</p> <p>looking (2) 6:9;10:10</p> <p>lost (1) 2:15</p> <p>lot (3) 4:9;7:17;9:12</p> <p>low (2) 4:16,17</p> <p>lower (1) 7:23</p> <p>low-tide (2) 4:24;9:15</p> <p>luck (1) 11:7</p> |
| <p>C</p> <p>called (3) 4:18;10:7,14</p> <p>caual (1) 5:5</p> <p>car (1) 2:7</p> <p>causing (1) 5:5</p> <p>changing (1)</p> | | | | <p>M</p> <p>man (1) 6:10</p> <p>managed (2) 5:9,10</p> <p>marina (1) 3:22</p> <p>maybe (1) 6:14</p> <p>meau (4) 6:17;7:2,22,23</p> |

| | | | | |
|---|---|---|--|---|
| meeting (1) 11:10 | 3:25;4:18,25;5:8,12, 13;6:1,2;8:7,11;9:16 | 9:7 | 7:10,20,25;8:2,5,12,15, 18,21;9:1,5,10,13,17, 19,21,23;10:6,10,14, 18,20,22,22,24;11:3,5, 7,9,11 | |
| mid- (2) 4:17;9:15 | over (1) 7:13 | Really (3) 3:24;8:1;9:6 | | W |
| mid-tide (1) 4:23 | owners (1) 7:13 | reason (1) 4:1 | ski (4) 5:11,11,22,24 | walk (2) 4:20;7:13 |
| Moore's (1) 4:8 | P | record (2) 9:24;11:12 | skis (2) 2:6;5:22 | walked (1) 8:3 |
| Moore's (1) 2:14 | panic (1) 5:13 | recorded (1) 2:1 | son (1) 6:8 | walking (2) 4:20;8:7 |
| more (1) 6:23 | panicked (1) 5:13 | Recording (2) 10:1;11:13 | state (2) 7:4,7 | water (9) 4:12,18,19,22,24;5:4, 25;8:7;9:16 |
| moving (1) 3:21 | parking (1) 4:8 | Rescue (2) 10:7,11 | still (1) 2:8 | way (1) 7:2 |
| MRS (57) 2:8,11,17,19,22;3:2, 6,13,16,18,24;4:2,5,7, 10,13,15;5:2,5,15,18, 23;6:4,6,11,16,19,21; 7:10,20,25;8:2,5,12,15, 18,21;9:1,5,10,13,17, 19,21,23;10:6,10,14, 18,20,22,24;11:3,5,7,9, 11 | part (2) 2:11;9:8 | retrievers (1) 10:8 | Stone (1) 5:3 | website (1) 11:2 |
| | patrol (2) 3:12;6:13 | right (27) 3:2,25;4:1,5,7,22; 5:4,15;6:1,4;7:20,22, 25;8:19,21;9:4,10,11, 14,17,19,23;10:13; 11:2,5,7,11 | sucked (1) 5:8 | What's (2) 6:8;10:15 |
| | patrolling (1) 3:16 | river (1) 5:6 | summer (1) 6:14 | whole (1) 7:8 |
| | people (10) 2:8,14;6:17,21,25; 7:2,4,12,14,17 | rock (2) 9:8,8 | Surf (1) 3:10 | Wildwood (2) 2:2;10:4 |
| | people's (1) 6:21 | rocks (1) 7:9 | surfboards (1) 5:25 | worry (1) 9:7 |
| | Philly (1) 7:16 | run (2) 7:9,11 | swim (4) 2:7;5:9;8:12,18 | worse (1) 6:12 |
| | picked (1) 5:11 | rushing (3) 4:24;8:7;9:16 | swimmers (1) 2:25 | Y |
| | picture (1) 7:21 | | swimming (2) 2:23;8:22 | yards (1) 6:2 |
| N | pictures (1) 6:25 | S | T | year (1) 4:18 |
| name (2) 10:15,20 | pile (1) 9:8 | sad (2) 5:17,21 | talked (1) 7:4 | years (1) 3:23 |
| naturally (1) 3:19 | piping (1) 7:5 | safe (2) 2:6,22 | telling (1) 7:19 | 0 |
| nature (1) 6:22 | place (1) 4:25 | sandbars (1) 4:25 | tells (2) 4:12;7:22 | 00:01:08 (1) 11:13 |
| neon (1) 6:25 | plover (1) 7:5 | Sandy (1) 3:19 | ten-year-old (1) 6:8 | 00:06:11:28 (1) 10:1 |
| Nice (1) 11:10 | Point (2) 4:6;9:14 | saw (1) 6:1 | Thanks (3) 7:19;9:21;11:9 | 1 |
| nine (1) 3:23 | points (1) 6:1 | scarey (1) 5:19 | thought (2) 8:16,22 | 1 (2) 2:2;10:3 |
| North (2) 2:2;10:4 | police (1) 3:7 | scene (1) 5:21 | tide (3) 4:16,17;7:23 | 100 (1) 6:2 |
| O | pretty (1) 7:1 | seven (1) 3:23 | times (2) 3:6;8:2 | 2 |
| occurring (1) 2:1 | prevent (1) 6:17 | shore (1) 5:10 | two (4) 4:21;5:21,22,24 | 2 (1) 10:3 |
| off (3) 3:3;9:24;11:12 | problem (3) 7:7;9:12,20 | show (2) 3:3;4:1 | U | 2013 (2) 2:2;10:3 |
| once (1) 5:13 | Q | shut (2) 7:6,9 | up (3) 5:11;6:8,24 | 3 |
| one (1) 5:8 | quads (1) 3:8 | signs (3) 6:19,24,24 | V | 30 (1) 4:14 |
| only (1) 4:25 | R | SIMPSON (58) 2:8,11,17,19,22;3:2, 6,13,16,18,24;4:2,5,7, 10,13,15;5:2,5,15,18, 23;6:4,6,11,16,19,21; | vehicles (1) 3:11 | 30-foot (1) 4:23 |
| orange (1) 8:10 | real (1) | | | |
| out (11) | | | | |

NORTH WILDWOOD BEACH PATROL

DAILY REPORT

DATE: 6/19/10 DAY: SUN. MON. TUES. WED. THURS. FRI. SAT.JEEP: Lt. Taylor Lindsey Dr. _____WEATHER 88 TEMP.
☒ SUNNY _____ FOG
 _____ CLOUDY _____ WINDY
 _____ RAIN _____ LIGHTING

WATER _____ TEMP.

☒ CALM
☒ CHOPPY
 _____ ROUGH
SUGGESTIONSLOST CHILDREN

| NAME | M | F | AGE | TIME LOST | TIME FOUND |
|------|---|---|-----|-----------|------------|
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MEDICALS HANDLED AT TRUCK 2INCIDENTS:

Rescued drunk woman off of Surf Ave.
 Beach w/ lifeguard Lyden. Rescued
 two boogie boarding adults from the inlet
 w/ Guard Lyden. No other incidents on
 a busy day.

SIGNATURE J. V. Ayler

**NORTH WILDWOOD BEACH PATROL
DAILY REPORT**DATE: 7/25/10 DAY: SUN. MON. TUES. WED. THURS. FRI. SAT.JEEP: Lt. Taylor Dr. AutyWEATHER 75 TEMP.☒ SUNNY ☐ FOG
☐ CLOUDY ☒ WINDY (Late)
☒ RAIN (Late) ☐ LIGHTINGWATER 65 TEMP.☒ CALM
☐ CHOPPY
☐ ROUGH**SUGGESTIONS****LOST CHILDREN**

| NAME | M | F | AGE | TIME LOST | TIME FOUND |
|------|---|---|-----|-----------|------------|
|------|---|---|-----|-----------|------------|

MEDICALS HANDLED AT TRUCK 1
INCIDENTS:

- 1 Medical Refusal
- 1 Inlet Rescue. Kayak in distress
was swam back to the beach.

SIGNATURE [Signature]

**NORTH WILDWOOD BEACH PATROL
DAILY REPORT**DATE: 7/28/10 DAY: SUN. MON. TUES. WED. THURS. FRI. SAT.JEEP: Lt. LINDSAY Dr. _____

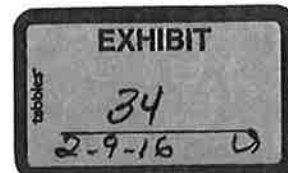
| | | | |
|----------------|----------------|-----------------|-------------|
| WEATHER _____ | TEMP. _____ | WATER _____ | TEMP. _____ |
| <u>X</u> SUNNY | _____ FOG | _____ CALM | |
| _____ CLOUDY | <u>X</u> WINDY | <u>X</u> CHOPPY | |
| _____ RAIN | _____ LIGHTING | _____ ROUGH | |

SUGGESTIONS**LOST CHILDREN**

| NAME | M | F | AGE | TIME LOST | TIME FOUND |
|---------------|----------|---|----------|------------------|------------------|
| <u>Bobbie</u> | <u>X</u> | | <u>5</u> | <u>1:17 p.m.</u> | <u>1:34 p.m.</u> |
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MEDICALS HANDLED AT TRUCK 2
INCIDENTS:

Kite-surfer stuck in channel for 15 min
Para-sail boat picked him up and drop off at 10th St + Bay

SIGNATURE [Signature]

NORTH WILDWOOD BEACH PATROL

DAILY REPORT

DATE: 7-31-10 DAY: SUN. MON. TUES. WED. THURS. FRI. SAT.

JEEP: Lt. LINDSAY Dr. Auty

WEATHER 86 TEMP. 68 WATER TEMP.
☒ SUNNY ☐ FOG ☒ CALM
☐ CLOUDY ☐ WINDY ☐ CHOPPY
☐ RAIN ☐ LIGHTING ☐ ROUGH

SUGGESTIONS

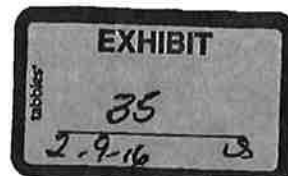
LOST CHILDREN

| NAME | M | F | AGE | TIME LOST | TIME FOUND |
|------|---|---|-----|-----------|------------|
| N/A | | | | | |

MEDICALS HANDLED AT TRUCK 2
 INCIDENTS:

3:55 Guard Lydon saw a group at the point that was about 200yds out. They drifted down from Moors and two of the victims were shaken up. all four guards were in the water and Supervisors Auty North backed up Lt. Taylor checked the two victims and released them. Excellent Job to all that were involved

SIGNATURE [Signature]



NORTH WILDWOOD BEACH PATROL

DAILY REPORT

DATE: 8-23-10 DAY: SUN. (MON.) TUES. WED. THURS. FRI. SAT.JEEP: Lt. LINDSAY Dr. _____

WEATHER 82 TEMP. WATER 69 TEMP.
☒ SUNNY ☐ FOG ☐ CALM
☒ CLOUDY ☒ WINDY ☐ CHOPPY
☒ RAIN ☐ LIGHTING ☒ ROUGH

SUGGESTIONSLOST CHILDREN

| NAME | M | F | AGE | TIME LOST | TIME FOUND |
|------|---|---|-----|-----------|------------|
|------|---|---|-----|-----------|------------|

| | | | | | |
|-----|--|--|--|--|--|
| N/A | | | | | |
|-----|--|--|--|--|--|

MEDICALS HANDLED AT TRUCK 1

INCIDENTS:

2nd + Ocean Rescue at 12:30
2nd + Surf Rescue at the Point people
drifted down from Moors

SIGNATURE [Signature]

NORTH WILDWOOD BEACH PATROL

DAILY REPORT

DATE: 8-25-10 DAY: SUN. MON. TUES. WED. THURS. FRI. SAT.JEEP: Lt. LINDSAY Dr. WEATHER TEMP. ☒ SUNNY FOG☒ CLOUDY WINDY RAIN☒ LIGHTINGWATER TEMP. CALM☒ CHOPPY ROUGHSUGGESTIONSLOST CHILDREN

| NAME | M | F | AGE | TIME LOST | TIME FOUND |
|------|---|---|-----|-----------|------------|
|------|---|---|-----|-----------|------------|

MEDICALS HANDLED AT TRUCK 0

INCIDENTS:

Major Rescue off Moor's Beach. Fisherman
fell off seawallSIGNATURE 

NORTH WILDWOOD BEACH PATROL

DAILY REPORT

DATE: 8-31-10 DAY: SUN. MON. TUES WED. THURS. FRI. SAT.JEEP: Lt. LINDSEY Dr. _____

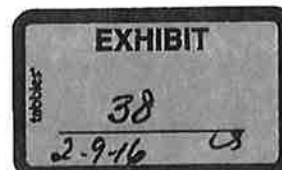
WEATHER 91 TEMP. _____ WATER 71 TEMP. _____
 _____ SUNNY _____ FOG _____ CALM _____
 _____ CLOUDY _____ WINDY _____ CHOPPY _____
 _____ RAIN _____ LIGHTING _____ X ROUGH _____

SUGGESTIONSLOST CHILDREN

| NAME | M | F | AGE | TIME LOST | TIME FOUND |
|--------------|----------|---|----------|-----------------|-----------------|
| <u>Kavin</u> | <u>X</u> | | <u>9</u> | <u>12:43 pm</u> | <u>12:57 pm</u> |

MEDICALS HANDLED AT TRUCK 2INCIDENTS:

Rescue at 2:07 2nd + Ocean
Rescue at "The Point" 3:10
C-Spine 4:20 treated + transported
C-Spine 5:05 treated + transported

SIGNATURE [Signature]

NORTH WILDWOOD BEACH PATROL
DAILY REPORT

DATE: 7/24/11 ~~SUN~~ MON. TUES. WED. THUR. FRI. SAT.
TRUCK 06 SECTION Patrol CREW Taylor Lindsey
WEATHER CONDITIONS:

WATER CONDITIONS Good
good

LOST CHILDREN-ADULTS

| NAME | M-F | AGE | TIME LOST | TIME FOUND | STREET LOST | FOUND | SPECIAL NOTES |
|-------|-----|-----|-----------|------------|-------------|-------|---------------|
| Hanna | F | 4 | 1:25 | 1:30 | Ocean | Surf | — |
| | | | | | | | |
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TRANSPORTS 3 SURF CHAIRS 3 BOAT LAYOUT —
WORKOUTS ✓
RED NO SWIM FLAGS 4 -
SIGNS-STREETS CLOSED 2nd JFK
NOTES-COMPLAINTS OF PUBLIC

OCEAN RESCUES

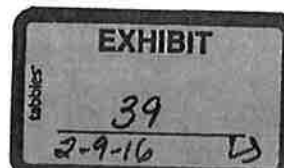
Guard Ryan Sanki - rescue on women 50 y/o
outside swim zone, ignoring whistle

MEDICALS@TRUCK 3 MEDICALS HANDLED BY MEDIC —

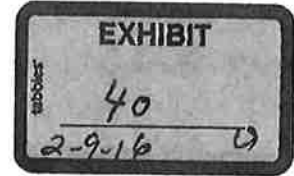
EQUIPMENT ISSUES

LIFEGUARD ISSUES-CONCERNS-COMP TIME USED

GAS FILL-UP ✓ Jet ski



NORTH WILDWOOD BEACH PATROL
DAILY REPORT



DATE: 5/26/12 SUN. MON. TUES, WED. THUR. FRI. SAT.

TRUCK _____ CREW Aoty / Lins

WEATHER CONDITIONS:

80° Sunny

WATER CONDITIONS

65° Rips @ outgoing tide

BOAT LAYOUT _____ AFTERNOON WORKOUT _____

LOST CHILDREN-ADULTS

| NAME | M-F | AGE | TIME LOST | TIME FOUND | STREET LOST | FOUND | GUARD |
|------|-----|-----|-----------|------------|-------------|-------|-------|
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TRANSPORTS IN SECTION _____ SURF CHAIRS 1
NOTES-COMPLAINTS OF PUBLIC

OCEAN RESCUES

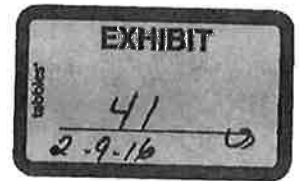
2 Rescues, Guards Gosed Musso did a good job on controlling the crowd at 1st and surf. There are heavy crowds at 1st street due to the parking lot.

MEDICALS@ TRUCK 2 MEDICALS HANDLED BY MEDIC 2

EQUIPMENT ISSUES

LIFEGUARD ISSUES-CONCERNS-COMP TIME USED

NORTH WILDWOOD BEACH PATROL
DAILY REPORT



DATE: 7/4/12 SUN. MON. TUES, WED. THUR. FRI. SAT.

TRUCK 06 CREW Taylor Edwards

WEATHER CONDITIONS: Calm nice

WATER CONDITIONS Calm

BOAT LAYOUT AFTERNOON WORKOUT

LOST CHILDREN-ADULTS

| NAME | M-F | AGE | TIME LOST | TIME FOUND | STREET LOST | FOUND | GUARD |
|-------|-----|-----|-----------|------------|-------------|-------|-------|
| Devon | M | 4 | 1:05 | 1:10 | | | Goose |
| Avery | F | 5 | 1:30 | 1:35 | | | Goose |
| | | | | | | | |
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TRANSPORTS IN SECTION 2 SURF CHAIRS 2

NOTES-COMPLAINTS OF PUBLIC

Hummer on beach

OCEAN RESCUES

Two jet ski prevents at Moores beach

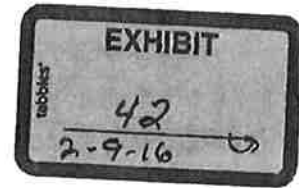
MEDICALS@ TRUCK 2 MEDICALS HANDLED BY MEDIC

EQUIPMENT ISSUES

LIFEGUARD ISSUES-CONCERNS-COMP TIME USED

No incidents

NORTH WILDWOOD BEACH PATROL
DAILY REPORT



DATE: 8/17/12 SUN. MON. TUES. WED. THUR. FRI. SAT.

TRUCK 06 CREW Edwards / Lindsay

WEATHER CONDITIONS: Windy (South @ 15 knots) SUNG

WATER CONDITIONS Choppy 2 ft @ 45°C

BOAT LAYOUT 0 AFTERNOON WORKOUT ✓

LOST CHILDREN-ADULTS

| NAME | M-F | AGE | TIME LOST | TIME FOUND | STREET LOST | FOUND | GUARD |
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TRANSPORTS IN SECTION 5 SURF CHAIRS 3
NOTES-COMPLAINTS OF PUBLIC

OCEAN RESCUES gulf surfers

MEDICALS@ TRUCK 2 MEDICALS HANDLED BY MEDIC 0

EQUIPMENT ISSUES

LIFEGUARD ISSUES-CONCERNS-COMP TIME USED
5 Preventing at the point

NORTH WILDWOOD BEACH PATROL
DAILY REPORT



DATE: 8/19/12 SUN. MON. TUES. WED. THUR. FRI. SAT.

TRUCK 06 CREW TE / DAVE

WEATHER CONDITIONS: East W. wind 5 knots Surf

WATER CONDITIONS 1 ft @ 6 sec.

BOAT LAYOUT AFTERNOON WORKOUT

LOST CHILDREN-ADULTS

| NAME | M-F | AGE | TIME LOST | TIME FOUND | STREET LOST | FOUND | GUARD |
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TRANSPORTS IN SECTION 5 SURF CHAIRS 3
NOTES-COMPLAINTS OF PUBLIC

OCEAN RESCUES gully surf chair

MEDICALS@ TRUCK / MEDICALS HANDLED BY MEDIC /

EQUIPMENT ISSUES surf one life guard chair needs repair

LIFEGUARD ISSUES-CONCERNS-COMP TIME USED
7 Preventions @ Truck, retired
OB 5 min A/C wheel was 1 wheel

NORTH WILDWOOD BEACH PATROL
DAILY REPORT



DATE: 8/19/12 SUN. MON. TUES, WED. THUR. FRI. SAT.

TRUCK 06 CREW TE / AAR

WEATHER CONDITIONS:

SUNNY

WATER CONDITIONS

SEA @ 5K COOL CALM

BOAT LAYOUT AFTERNOON WORKOUT

LOST CHILDREN-ADULTS

| NAME | M-F | AGE | TIME LOST | TIME FOUND | STREET LOST | FOUND | GUARD |
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TRANSPORTS IN SECTION 5 SURF CHAIRS 3

NOTES-COMPLAINTS OF PUBLIC

OCEAN RESCUES

MEDICALS@ TRUCK MEDICALS HANDLED BY MEDIC

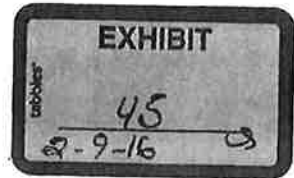
EQUIPMENT ISSUES

LIFEGUARD ISSUES-CONCERNS-COMP TIME USED

5 out of 6 lifeguards have ready reports

8 Preseasoners @ the point

NORTH WILDWOOD BEACH PATROL
DAILY REPORT



DATE: 8/20/16 SUN. MON. TUES. WED. THUR. FRI. SAT.

TRUCK OG CREW TX

WEATHER CONDITIONS N/E @ 10 Sunny / some clouds

WATER CONDITIONS 20-54

BOAT LAYOUT AFTERNOON WORKOUT

LOST CHILDREN-ADULTS

| NAME | M-F | AGE | TIME LOST | TIME FOUND | STREET LOST | FOUND | GUARD |
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TRANSPORTS IN SECTION 3 SURF CHAIRS 3
NOTES-COMPLAINTS OF PUBLIC

OCEAN RESCUES N/A

MEDICALS@ TRUCK 1 MEDICALS HANDLED BY MEDIC

EQUIPMENT ISSUES switched surf gear chairs

LIFEGUARD ISSUES-CONCERNS-COMP TIME USED

10 Preventions @ Point

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Guard chief warns about swimming in inlet

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Posted: Wednesday, July 27, 2011 12:00 am

Missing woman's body found off Avalon

NORTH WILDWOOD — Tony Cavalier, chief of the North Wildwood Beach Patrol, warned beach goers about swimming at unprotected beaches after the State Police Marine Bureau recovered the body believed to be that of a Baltimore woman reported missing in North Wildwood on July 21.

North Wildwood Police announced on July 25 that they were informed at 8 p.m. Thursday, July 21 that a woman was missing.

Christina Tsotsias, 49, of Echodale Avenue in Baltimore, Md., had been dropped off at the beach at Spruce Avenue at the Hereford Inlet at 3 p.m., and was going to be picked up around 6 p.m.

However, when her family members returned at 6 p.m., they couldn't find her and were unable to contact her by cell phone, according to police.

Police found her beach blanket and began a search of the area and of nearby businesses.

The following morning, the State Police Marine Bureau contacted North Wildwood police to inform them they had recovered a body that matched Tsotsias' description.

According to North Wildwood Police, an investigation is pending the results of an autopsy. Officials with the North Wildwood Police said they would have no comment beyond what was included in a press release on Monday.

Cavalier said there are no guards at Spruce Avenue, by Hereford Inlet. The city's beach patrol has lifeguards stationed up until Surf Avenue, but none farther north.

"The inlet can look like it has calm water, but it is deceiving," Cavalier said. "The water starts off shallow but then about two feet out from shore it can drop off."

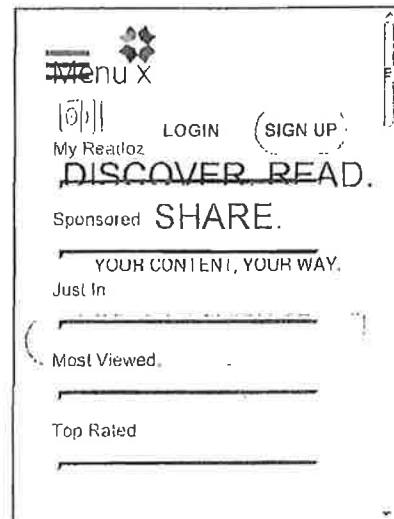


Signs warn beachgoers not to swim in unprotected waters by the Hereford Inlet in North Wildwood. The city's beach patrol has lifeguards stationed up until Surf Avenue, but no further north.

Click main image for a full-size version



This Week's E-Edition



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Events Calendar

February 2016

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"You can go from knee deep to right over your head real quick," he added.

The inlet also has strong outgoing or incoming tides, which can be strong enough to pull even accomplished swimmers far out in the water.

"There's a certain point off the shore, you can see it from the sea wall, the water looks like a washing machine out there," he said.

In June 2009, Jamilah Watkins, 27, of South Carolina, and 15-year-old Shayne Hart, of Middletown, Conn. died after they were caught in an outgoing tide along the Surf Avenue beach by the Hereford Inlet.

Cavalier said the city has signs posted on all the unguarded beaches warning people not swim. He urged swimmers not to go into the water unless lifeguards are on duty.

Lauren Sult can be e-mailed at lauren.sult@catamaranmedia.com or you can comment on this story by calling 624-8900, ext 250

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Upcoming Events

Shrink everything but your smile Zumba class

Tue, Feb 09, 5:00 pm EST
Pleasantville Recreation Center

Tuckahoe United Methodist Church schedule

Tue, Feb 09, 6:00 pm EST
Tuckahoe United Methodist Church, Tuckahoe

CREATE AN EVENT

Discuss

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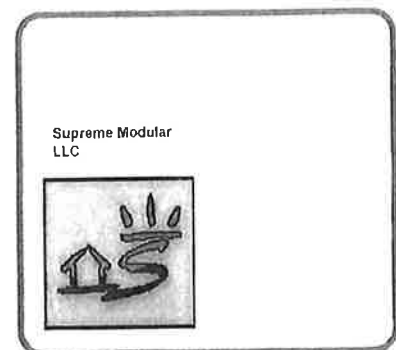
Posted in News on Wednesday, July 27, 2011 12:00 am

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Article I: Government, Supervision, Use and Policing

[Adopted 5-19-1950 by Ord. No. 334]

§ 138-1 Definitions.

[Amended 5-5-1987 by Ord. No. 957; 6-21-1988 by Ord. No. 1008]

As used in this article, the following terms shall have the meanings indicated:

BEACH

Beginning at 26th Street and continuing in a northwestwardly direction, the beach shall consist of all of the area that is located in a generally seawardly and southeasterly direction from the westerly edge of the Boardwalk, the easterly edge of Blocks 411, 412 and 413, the easterly edge of John F. Kennedy Beach Drive and the easterly edge of the seawall that is located along Hereford Inlet from John F. Kennedy Beach Drive to an existing stone groin in the vicinity of Ocean Avenue. Beginning at the existing stone groin in the vicinity of Ocean Avenue and continuing in a generally northwestwardly direction, the beach also shall consist of all of the area that is located in a general seawardly and easterly direction of the easterly edge of the seawall and then the bulkhead that runs along Hereford Inlet from the aforementioned stone groin to the easterly lot line of the municipal parking lot at Old New Jersey Avenue and Spruce Avenue and which then continues running in a general northwestwardly direction along the northwesterly edge of the municipal parking lot at Pine Avenue and New York Avenue.

[Amended 4-17-2001 by Ord. No. 1386]

BOARDWALK AND APPROACHES THERETO

The elevated pedestrian walk extending along the beach northeastward from 26th Avenue to 13th Avenue, the ramp, inclines, steps and approaches connected or appurtenant thereto both on the easterly and westerly sides thereof, together with the pavilions, platforms, rest rooms, lavatories, comfort stations and public facilities.

PICNICKING

The carrying of a box, basket, tub or other receptacle in which is contained food and beverages and the consumption of such food and beverages.

§ 138-2 Hours of use.

[Added 5-16-1961 by Ord. No. 417]

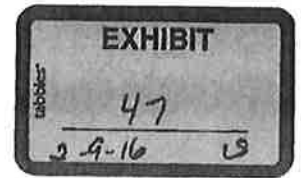
It shall be unlawful during the months of May, June, July, August and September of each year for any person to walk, drive, ride, bathe, swim or otherwise be on the beach, as defined in said ordinance, from 10:00 p.m. to 6:00 a.m. the following day, excepting City employees who clean the beach, during their performance of such duty, and the municipal police and other members in the Department of Public Affairs and Public Safety.

§ 138-3 Rules and regulations. ⁽¹⁾

[Amended 6-21-1988 by Ord. No. 1008; 6-7-1990 by Ord. No. 1064; 4-5-1994 by Ord. No. 1167; 5-7-1996 by Ord. No. 1232; 4-6-1999 by Ord. No. 1321]

The actions and activities set forth below shall be unlawful conduct when taken place during the months of May through September, inclusive, each year:

- A. To throw, bat or catch a baseball, football, basketball, softball or engage in the playing of any game endangering the health and safety of others on the beach except in areas specifically designated for said activities. This subsection shall not apply to the playing of games in other areas which would not be likely to endanger the health and safety of others.



- B. To swim or bathe beyond a safe depth in the ocean as from time to time indicated, determined or regulated by the lifeguards of the City of North Wildwood.
- C. To use a life belt, surfboard, canoe, boat, raft, water wings, inner tube or any floating or inflated object or device of any kind or description in the bathing area adjacent to the beach except in such areas which may be designated by the Beach Supervisor of the City of North Wildwood for the use of such devices. Said Beach Supervisor may, in his sole discretion, designate a certain area or areas, on a daily basis, for the use of certain floating or inflated objects or devices of any kind or description.
- D. To throw, place, deposit or leave any bottles, glass, crockery, sharp or pointed article or thing, paper, refuse or debris of any kind in any area except in proper receptacles provided for on the Boardwalk and beach.
- E. To use said beach, Boardwalk and approaches thereto as areas for picnicking except in areas specifically designated therefor.
- F. To fail to immediately obey all orders, directions, whistles or other signals used by the City lifeguards and police.
- G. To consume alcoholic beverages within the areas defined as the beach, Boardwalk and approaches thereto.
- H. To climb upon or stand on the railings, fences or benches so as to cause or be likely to cause damage to the same on the beach, Boardwalk or approaches thereto or tamper with or handle the lifeguards' boats or other equipment used by them on the beach.
- I. To revel, disport or behave in a noisy and boisterous manner, emitting loud cries and other noises, so as to inconvenience others or otherwise disrupt and disturb the public peace and dignity within the areas defined as the beach, Boardwalk and approaches thereto.
- J. To loiter, assemble, band or crowd together so as to interfere or be likely to interfere with the ingress and egress of others at the street ends approaching the beach or Boardwalk or within the areas defined as the beach, Boardwalk and approaches thereto.
- K. To act in a loud, indecent, obscene, offensive or lascivious manner within said defined areas.
- L. To hawk, peddle or sell any article, goods, wares, merchandise or services on the beaches of the City of North Wildwood, except when permitted with a license issued pursuant to Chapter 330, Peddling and Soliciting, of the North Wildwood Code, and except where permitted by contract or lease with the City of North Wildwood.
- M. To dress, undress or change clothing for bathing or other purpose in any passenger automobile, bus, truck or vehicle of any kind, regardless of whether the doing thereof is in public view or can be seen by any other person or persons.
- N. To engage at any time, either day or night, in the practice commonly known as "sleeping in cars."
- O. To allow dogs, cats or any other domestic animal upon the beaches of the City of North Wildwood. This prohibition shall be in effect from May 1 to October 1, inclusive, of each year.
[Amended 6-5-2002 by Ord. No. 1416]
- P. To operate any personal watercraft, defined herein to include any boat, jet ski, wave runner or any other floating device propelled by a motor or some other method other than solely by musculature activity, wind or wave action, within 100 feet of the shoreline and within 100 feet of any person in the water (except in connection with rescue efforts of a person or persons). Additionally, it shall be unlawful to launch or bring to shore any such floating device on any of the beaches in the City of North Wildwood, between Surf Avenue and 26th Street, inclusive, with the exception of the area between 8th and 10th Streets, inclusive, and then only in connection with the operation of a business permitted by a contract with the City of North Wildwood.
[Amended 8-4-2015 by Ord. No. 1683]

[1] Editor's Note See also Ch. 326, Peace and Good Order.

§ 138-4

Violations and penalties.

[Amended 6-21-1988 by Ord. No. 1008; 3-20-1991 by Ord. No. 1054; 4-5-1994 by Ord. No. 1167; 5-21-2002 by Ord. No. 1411]

Any person or association of persons violating any provision of this article shall, upon conviction thereof, be punishable by a fine not to exceed \$1,250 or imprisonment in the county jail for a term not to exceed 90 days, or both.

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Guard chief warns about swimming in inlet

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Posted: Wednesday, July 27, 2011 12:00 am

Missing woman's body found off Avalon

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The following morning, the State Police Marine Bureau contacted North Wildwood police to inform them they had recovered a body that matched Tsiotsias' description.

According to North Wildwood Police, an investigation is pending the results of an autopsy. Officials with the North Wildwood Police said they would have no comment beyond what was included in a press release on Monday.

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Lauren Sult can be e-mailed at lauren.sult@catamaranmedia.com or you can comment on this story by calling 624-8900, ext 150

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Posted in News on Wednesday, July 27, 2011 12:00 am.

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6 EXECUTRIX OF THE ESTATE : CIVIL ACTION
7 OF HER LATE HUSBAND :
8 GEORGE BRADLEY SMITH, : DEPOSITION
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10 : DAVID LINDSAY
11 Plaintiff,
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13 vs.
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16 STATE OF NEW JERSEY,
17 JOHN DOE, MARY DOE, ABC
18 PARTNERSHIPS and XYZ
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WORD FOR WORD REPORTING, LLC
CERTIFIED COURT REPORTERS & VIDEOGRAPHERS
6 NORTH BROAD STREET, SUITE 202
WOODBURY, NEW JERSEY 08096
Ph. (856) 384-2770 Fax. (856) 384-2779

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INDEX

| 2 | WITNESS | PAGE |
|----|----------------------------|------|
| 3 | DAVID LINDSAY | |
| 4 | Examination By Mr. D'Amato | 4 |
| 5 | Examination By Mr. Hunkins | 55 |
| 6 | | |
| 7 | | |
| 8 | | |
| 9 | | |
| 10 | | |
| 11 | | |
| 12 | | |
| 13 | | |
| 14 | | |
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A P P E A R A N C E S :

2 D'AMATO LAW FIRM
3 2900 Fire Road, Suite 200
4 Egg Harbor Township, New Jersey 08234
5 BY: PAUL R. D'AMATO, ESQUIRE
6 For the Plaintiffs

7 BARKER, GELFAND & JAMES
8 210 New Road
9 Linwood, New Jersey 08221
10 (609) 601-8677
11 BY: WILL ROZELL, ESQUIRE
12 For the Defendant, North Wildwood

13 STATE OF NEW JERSEY
14 DEPARTMENT OF LAW AND PUBLIC SAFETY
15 DIVISION OF LAW
16 R.J. Hughes Justice Complex
17 25 Market Street
18 Trenton, New Jersey 08625
19 (609) 777-4872
20 BY: BRIAN HUNKINS, DAG
21 For the State of New Jersey

22 Also present: Lou DiJoseph

23 Videographer: Tom Zanaras

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1 (Map, received and marked for
2 identification as Exhibit P-55.)
3 VIDEOGRAPHER: Today is February the
4 18th, 2016. This is the videotaped deposition of
5 David Lindsay. Going on the record, the time is 2:51
6 p.m. The appearance of counsel will be noted in the
7 transcript.
8 Would the court reporter please swear
9 in the witness.
10 D A V I D L I N D S A Y,
11 having been first duly sworn, testified as follows:
12 EXAMINATION BY MR. D'AMATO:
13 Q. Lieutenant, before we began, you told me
14 that, once before, you had your deposition taken.
15 Did it relate to your employment with North Wildwood?
16 A. No, sir.
17 Q. All right. How long ago was that?
18 A. 1993.
19 Q. All right. Because that was some time ago,
20 let me go over some basic pointers. And with the
21 cooperation of all the attorneys here, we really have
22 been trying to expedite these depositions, and
23 getting to what is really important. And
24 incidentally, the young man to my left, Lou DiJoseph,
25 I don't know when he served the subpoena, if he told

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1 you, he's retired from the intelligence bureau of the
2 New Jersey State Police, and now he's a licensed
3 private investigator. Okay?

4 **A. Um-hum.**

5 **Q.** And that's why he's sitting here.

6 The most important recommendation I can
7 give you, that all of us would tell you, is if I
8 should ask you a question that is not clear, just say
9 to me, Paul, it's not clear.

10 I've been doing this for over 40 years,
11 and it just amazes me how people will answer
12 questions that are totally incomprehensible, because
13 they think they understand it. All right? I've been
14 known to do that. But fortunately, we have lawyers
15 here that, if I do it, they're going to say, Paul, I
16 object to the form of the question. That means,
17 Paul, it wasn't clear. Did you mean this? Did you
18 mean that? And I want them to do that, because I
19 don't want anybody to think that I was asking tricky
20 questions. I hope you'll leave here today going, he
21 asked me important questions, but not tricky
22 questions.

23 So, how we eliminate any confusion on
24 your part is to give you the opportunity to say I
25 don't understand the question. I won't think less of

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1 you. In fact, we'll all think more of you if you say
2 that to us, because that means there was something
3 structurally wrong with the question.

4 You are not a party to this litigation.
5 The reason you're here is a couple things. One was
6 an interview that was done, unbeknownst to you, and
7 the other one is all these reports that had your name
8 on it.

9 So, let me get started, and we'll try
10 to get you out of here as quickly as possible.

11 So far, we've taken the deposition of
12 the chief of the beach patrol, Anthony Cavalier,
13 former city administrator, Mr. Belasco, was here, and
14 administrative assistant Ronald Simone.

15 MR. ROZELL: Um-hum.

16 **Q.** All right? And what I've done with everybody
17 is -- terminology is important. And I did this with
18 the chief. And here's what I told the chief, and
19 these gentlemen were there. I said, there's a
20 certain area of beach in North Wildwood that people
21 call The Point, Moore's Beach, Moore's Inlet --
22 inlets beach, the inlet, and the spit. And what I'm
23 going to do is, I'm going to go over this aerial
24 photograph, and I'm going to show you how we're going
25 to do this in a second, but so far, the spit doesn't

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1 seem to -- people don't know about that. Do you know
2 what the spit is?

3 **A. No.**

4 **Q.** Okay. It was in one of the documents that we
5 read, it was called the spit. But that's okay.

6 So now, here's -- get your orientation
7 on that aerial photograph. And do you see where the
8 condos are right there, up -- right? Isn't that the
9 condos in -- where's the parking lot?

10 **A. This is the parking lot here.**

11 **Q.** That's the parking lot right there. Okay.
12 And you see where the condos are?

13 **A. Moore's?**

14 **Q.** Moore's Beach.

15 **A. Yes, um-hum.**

16 **Q.** Okay, fine. Now, here's what I'm going to
17 do: I'm going to give you this red marker, and I'm
18 going to ask you to draw lines as to where Moore's
19 Beach begins and where it ends, and where the inlet
20 beach begins and ends.

21 Now, to be fair to you, Mr. Belasco
22 said, I don't differentiate between the two. I call
23 that whole area the inlet beach. And then he used
24 the phrase inlet zone. The chief kind of broke it
25 up, he said, Moore's Beach kind of ends here, and the

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1 inlet starts here. And we got -- and as I expected,
2 everybody's, you know, geographical orientation is a
3 little bit different. So, if you could draw a -- let
4 me withdraw that.

5 Where -- for our purposes today, do you
6 differentiate between Moore's Beach and the inlet
7 beach?

8 **A. Yes, sir.**

9 **Q.** Okay. So, why don't you use the red marker,
10 and draw, like, about an inch, a line, saying where
11 does Moore's Beach begin and end?

12 **A. At --**

13 **Q.** Okay. That's all right. I see what you're
14 doing. You're doing it that way. Go ahead.

15 **A. Yeah.**

16 **Q.** Okay. And so it's complete, why don't you
17 just kind of take it all the way around, if you know
18 what I mean. Just show the entire Moore's Beach.
19 That's it.

20 **A. (Witness complies.)**

21 **Q.** Okay. Now, if I give you the blue -- the
22 blue marker, why don't you do for us what is the
23 inlet beach.

24 **A. (Witness complies.)**

25 **Q.** Okay. Now, what do you call the beach that
WORD FOR WORD REPORTING, LLC

1 we see in this aerial photograph between Moore's
 2 Beach and the inlet beach?
 3 **A. Well, this is the bird sanctuary.**
 4 **Q.** Here. I'll give you green for the bird
 sanctuary.
 6 **A. (Witness complies.)**
 7 **Q.** Is that working?
 8 **A. Not too well.**
 9 **Q.** Wait. Hold on.
 10 Tom, could you see if there's another
 11 green one in there, please.
 12 We also had an orange one. Where did
 13 that go?
 14 Okay. And could you see if there's an
 15 orange one in there?
 16 Here. Let me hand to you a green
 17 marker that hopefully will work. You were -- you
 18 were talking about the bird sanctuary?
 19 **A. Um-hum.**
 20 **Q.** Okay. Now, you -- yeah, go ahead.
 21 **A. Just making that one line --**
 22 **Q.** Now, the area to the right of the bird
 23 sanctuary is what? What do you call that?
 24 **A. This area?**
 25 **Q.** Yeah.

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1 **A. To my right?**
 2 **Q.** No, no. Let me -- I want all counsel to look
 3 at what I'm doing here. Okay.
 4 You bracketed off for us, and we
 5 appreciate it, what Moore's Beach is?
 6 **A. Um-hum.**
 7 **Q.** You did that for the inlet beach. And then
 8 you said, here is the bird sanctuary, which you
 9 covered, like, in green.
 10 **A. Um-hum.**
 11 **Q.** There's other beach here.
 12 **A. Um-hum.**
 13 **Q.** What do we call the other beach?
 14 **A. Well, there was no name for this section of**
 15 **the beach. And -- or this section. This is The**
 16 **Point. We call that The Point.**
 17 **Q.** Okay. Let's do this: The -- I have an
 18 orange marker now. The area that is The Point, could
 19 you mark it on there?
 20 **A. (Witness complies.)**
 21 **Q.** Okay. And that's in orange. All right?
 MR. D'AMATO: Can all counsel see that?
 23 MR. ROZELL: Yes.
 24 MR. HUNKINS: Okay, thanks.
 25 MR. D'AMATO: Do you see that?
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1 MR. DIJOSEPH: Yes.
 2 **Q.** Yeah, okay. All right.
 3 Now, the areas of beach that did not
 4 have a name, they don't have a name; is that it?
 5 **A. Yeah. This area of the beach, when the tide**
 6 **comes up, the tide was right in -- came right up to**
 7 **the bird sanctuary fence.**
 8 **Q.** Okay.
 9 **A. So, this looks like a low tide picture.**
 10 **Q.** I see.
 11 **A. So, at high -- you know, that's why that**
 12 **wouldn't have a name.**
 13 **Q.** Okay.
 14 **A. And this -- this part of the beach was --**
 15 **didn't really have a name for it, either.**
 16 **Q.** Okay. Now, so now we -- we have a good idea
 17 of the terminology that you'll be using.
 18 When we took the deposition of Mr.
 19 Simone, the administrative assistant, he said that
 20 when he was on the beach patrol, there was an inlet
 21 zone, a north zone, a central zone, and a south zone.
 22 Is that correct?
 23 **A. Yes, sir.**
 24 **Q.** All right. Now, and he told -- he told us,
 25 according to his experience, where a certain -- you
 WORD FOR WORD REPORTING, LLC

1 know, where the zone would begin and end according to
 2 streets.
 3 I may get another copy of this exhibit.
 4 In fact, let me do that, and we'll mark it as Exhibit
 5 56.
 6 (Copy of photograph received and marked
 7 for identification as Exhibit P-56.)
 8 **Q.** This is, again, it's a copy of that April 6,
 9 2005 --
 10 **A. Were the condos built then?**
 11 **Q.** I don't know.
 12 **A. I don't think so. I think that's still**
 13 **Moore's Inlet Bar.**
 14 **Q.** Okay.
 15 **A. But that's not important.**
 16 **Q.** All right.
 17 MR. ROZELL: He can instruct you this,
 18 but, technically, you're really not supposed to be
 19 asking him questions, so.
 20 THE WITNESS: Oh. Well, he asked if --
 21 he referred to the condos.
 22 MR. ROZELL: Okay.
 23 THE WITNESS: And I don't think the
 24 condos are there. I think it's still Moore's Bar.
 25 **Q.** You're right. I think you're right. And
 WORD FOR WORD REPORTING, LLC

1 I'll tell you why. The only reason I did that, is
2 people have been using the condos as a reference
3 point. Okay?

4 **A. All right.**

5 **Q.** Now, here is Exhibit 56. And if I said to
6 you, given the fact that you were a lieutenant --
7 that was your rank, lieutenant, right?

8 **A. Yes, sir.**

9 **Q.** In the North Wildwood Beach Patrol, could you
10 draw with a red marker where the inlet zone was?

11 **A. Sure.**

12 **Q.** All right. Now, you know the city better
13 than I do. I was raised in Atlantic City and
14 Margate.

15 Can you give us street names?

16 **A. Yes, sir.**

17 **Q.** Okay. Go ahead.

18 **A. Inlet zone went from Surf Avenue down to the**
19 **ocean, along the waterfront to the rock pile at**
20 **Second and JFK, and then back along the bulkhead or**
21 **walkway up to, I believe it's First and JFK.**

22 **Q.** First?

23 **A. First and Surf.**

24 **Q.** Okay.

25 **A. Sorry about that. That's me.**

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1 VIDEOGRAPHER: Going off the record,
2 3:04.

3 (Discussion off the record.)

4 VIDEOGRAPHER: Back on the record,
5 3:04.

6 BY MR. D'AMATO:

7 **Q.** Okay. The inlet zone, the city gave us, us
8 attorneys, all of these daily reports from the North
9 Wildwood Beach Patrol, and this is one of the reasons
10 you're here, because your name appeared on a lot of
11 these reports, along with other lifeguards, like Mr.
12 Taylor -- is that Mr. Taylor?

13 **A. Yes, sir.**

14 **Q.** Yeah. And you refer to the geographical area
15 where the report refers to as the inlet.

16 When you put down inlet, typically, in
17 these daily reports, that would be the inlet zone?

18 **A. Yes, sir.**

19 **Q.** Okay, fine. Now, let's go over your
20 background really quick. You became a lifeguard in
21 what year?

22 **A. 1984.**

23 **Q.** Okay. And what's your date of birth?

24 **A. 4/27/1967.**

25 **Q.** Okay. And you finished your career here as a

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1 lifeguard in 2015, or '14?

2 **A. 2014.**

3 **Q.** '14. Okay. And are you a resident of North
4 Wildwood?

5 **A. Yes, sir.**

6 **Q.** And were you a resident of North Wildwood
7 while you were a lifeguard?

8 **A. Yes, sir.**

9 **Q.** During --

10 **A. We bought a home here, my wife and I, in**
11 **1999.**

12 **Q.** Okay. The body of water that is adjacent to
13 the Moore's Beach, the inlet beach, the inlet zone,
14 that's Hereford Inlet. Correct?

15 **A. Yes, sir.**

16 **Q.** Okay. Before you were a lifeguard, did you
17 ever go on the beach that's located near Hereford
18 Inlet, Inlet?

19 **A. Before '84?**

20 **Q.** Yeah.

21 **A. No. I grew up in Cape May Point, so.**

22 **Q.** All right. Would you agree that from 1984
23 until Brad Smith drowned on July 27, 2012, that the
24 actual configuration of the inlet over the years has
25 changed?

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1 **A. Monthly.**

2 **Q.** Okay. All right. We've spoken to this
3 expert, Dr. Stewart Farrell, at Stockton?

4 **A. Um-hum.**

5 **Q.** He's at the Coastal Research Center. Does
6 that name mean anything to you?

7 **A. (Witness nods.)**

8 **Q.** Okay, all right. Given your personal
9 experience with this inlet, why is the -- the inlet
10 water, the path of it, changing monthly?

11 **A. That, I don't know. I mean, the currents,**
12 **the tides.**

13 **Q.** Okay.

14 **A. I -- you know, I really -- that's beyond my**
15 **--**

16 **Q.** Your grade pay, as they say?

17 **A. Yeah.**

18 **Q.** That's all right. No, that's okay.

19 And that's a good thing you just did.

20 If you don't know the answer, just say you don't know
21 the answer.

22 **A. Yeah.**

23 **Q.** We'll accept that as being truthful, and
24 we'll move on.

25 We took the deposition of the chief.

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1 And he told us, you know, in all the years that he
2 was the chief, up until July 27, 2012, that when the
3 back bays were going into the ocean, and vice-versa,
4 that the currents would really move quite quickly
o through the inlet. And he estimated that sometimes
o the currents were five to nine miles an hour.

7 Based upon your own personal
8 experience, would you agree with him or disagree?

9 **A. Yes. Yeah. I mean, that I -- I know the**
10 **answer to that. That's because, if you have a bigger**
11 **picture of this area --**

12 **Q.** I do. How about this here, would that work?

13 **A. Yeah. Yes.**

14 **Q.** Okay. Let's mark it as Exhibit 57.

15 (Front page of Dr. Farrell's report,
16 received and marked for identification as Exhibit
17 P-57.)

18 MR. D'AMATO: And for the record, this
19 is the front page of a report that was written by the
20 -- Dr. Farrell's group.

21 **Q.** Okay?

22 **A. Um-hum. Yeah. So, you can see a little bit**
23 **in this picture. There are these sand bars here.**

24 **Q.** Okay. Now, what you're going to have to do
25 is, do me a favor, when you said here, on exhibit?

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1 **A. 56.**

2 **Q.** 56. Put a circle. I mean, we all see it
3 here, but for later reference, just put a circle
4 there?

5 **A. In, what, blue?**

6 **Q.** Yeah. Go ahead.

7 **A. (Witness complies.)**

8 **Q.** Okay.

9 **A. There.**

10 **Q.** Go ahead.

11 **A. Now, if you look at this picture --**

12 **Q.** This is Exhibit 57.

13 **A. You'll see the white caps, which show shallow**
14 **water.**

15 **Q.** Okay.

16 **A. From Stone Harbor all the way over to the**
17 **channel.**

18 **Q.** Why don't you put a big red circle about
19 those white caps.

20 **A. (Witness complies.)**

21 **Q.** Thank you.

22 **A. So, that indicates shallow water. So, at**
23 **high tide, you have this back bay filled with water.**
24 **In six hours, that water is going to empty back into**
25 **the ocean. And it doesn't go over this shallow**

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1 **water, it goes through this channel, boating channel**
2 **right there.**

3 **Q.** Got it. Okay.

4 **A. So, you're going to get a heavy flow of**
5 **water.**

6 **Q.** Yeah. And fast currents?

7 **A. Yes.**

8 **Q.** Right. You know, we lawyers try to do our
9 homework on this thing. And I was reading in
10 something about the history of Hereford Inlet, that
11 when the Iroquois Indians were here then, that this
12 was always known for the currents, and how they were
13 moving.

Did you know that?

14 **A. I didn't know that.**

15 **Q.** Yeah.

16 **A. No.**

17 **Q.** So, anyhow, let me tell you something the
18 chief said, which is really interesting to all us
19 lawyers. He said that when the tides are changing,
20 back bay to ocean, but vice-versa, that in a certain
21 area, there's an actual whirlpool or, as Dr. Farrell
22 calls it, a vortex that moves around and around. He
23 said -- the chief said you can actually see it at --
24 when it's mid tide and low tide, you can see the

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1 vortex or whirlpool.

2 Did you ever see that before?

3 **A. No.**

4 **Q.** No. Okay.

5 Now, let's go back to your experience
6 as a lifeguard when you were in the inlet zone.

7 **A. Um-hum.**

8 **Q.** For how many years before July 27, 2012 were
9 you assigned for the summer to, we'll call it, the
10 inlet zone?

11 **A. I believed in '98, I was moved to the inlet.**

12 **Q.** Okay. Now, I'm surmising this. And -- and
13 later, when we're finished, I'm going to tell you a
14 story when I tried out for the Margate lifeguards.
15 You'll leave here laughing.

16 (Discussion off the record.)

17 **Q.** Okay? True story.

18 But anyhow, I'm surmising that because
19 of your experience and your professionalism, you were
20 assigned to the inlet zone, as opposed to other
21 zones. Would that be a fair statement?

22 **A. Well, I was assigned to the inlet zone in '90**
23 **-- the dates aren't exactly clear, but around '96, I**
24 **was put in charge of the Jet Ski.**

25 **Q.** Right.

WORD FOR WORD REPORTING, LLC

1 **A. And then the Jet Ski was more or less put in**
2 **charge -- it was assigned to the inlet. So, I went**
3 **with the Jet Ski.**

4 **Q. Right.**

5 **A. So, that's kind of how it happened.**

6 **Q. In doing our research about the -- all of the**
7 **beaches, the ones that are protected and not**
8 **protected, am I correct in saying that the area where**
9 **is, say, Moore's Beach and the inlet beach is some of**
10 **the more dangerous beach area in North Wildwood,**
11 **because of these currents that we've been talking**
12 **about?**

13 **A. That's true.**

14 **Q. All right.**

15 **A. Yes.**

16 **Q. And that's why I -- I don't know who told me,**
17 **somebody told me that that's why you were assigned**
18 **there, because you were a veteran, and -- and because**
19 **of the condition of the inlet there.**

20 **Now, the chief said that in the early**
21 **'70s, I think it was 1977, 1975, that they actually**
22 **used to have lifeguard stands in the area that you**
23 **call Moore's Beach and The Point area.**

24 **Do you remember that?**

25 **A. No.**

WORD FOR WORD REPORTING, LLC

1 **Q. Okay. In looking at Exhibit 55, which you**
2 **call the inlet zone or beach, or the inlet beach, how**
3 **many lifeguard stands would typically be located in**
4 **that area before July 27, 2012 for the summer season?**

5 **A. It would vary between two and three.**

6 **Q. Okay. And the lifeguard stand that would be**
7 **closest to the -- what do you call it, the bird**
8 **sanctuary?**

9 **A. Yes.**

10 **Q. Would be how far from the bird sanctuary?**

11 **A. Right on the bird sanctuary line.**

12 **Q. Okay. Now, while we're talking about this**
13 **bird sanctuary, in the past summers I've been there,**
14 **and I see where they put up the fence all around that**
15 **area, and the bird in question, is it the plover?**

16 **A. Piping plover.**

17 **Q. Piping plover. Okay. How was that bird**
18 **sanctuary created?**

19 **A. Well, I mean, I don't know much about it.**
20 **It's -- I believe it's a -- on the verge of**
21 **extinction, and --**

22 **Q. Okay.**

23 **A. -- so, it's protected by the state. And --**

24 **Q. Was it the wildlife department?**

25 **A. I think so.**

WORD FOR WORD REPORTING, LLC

1 **Q. Okay.**

2 **A. Yeah. And they did a very good job of**
3 **sometimes there would be a guy there, in the peak**
4 **season, you know, we tried to keep people out of**
5 **there, it wasn't our job, but we would try to, if we**
6 **saw someone go in there, we would get them out. But**
7 **sometimes they would have someone in that area, you**
8 **know, keeping people out.**

9 **Q. Okay.**

10 **A. Yeah.**

11 **Q. And who put up the fence that I saw there --**

12 **A. The state.**

13 **Q. -- when we were there?**

14 **A. Wildlife.**

15 **Q. Okay. And how long ago did the state start**
16 **putting up a fence to protect the birds?**

17 **A. My -- it's -- I'd say --**

18 **Q. You can estimate.**

19 **A. Yeah. I'd say 2003 or '4.**

20 **Q. Okay. And every summer, they come and they**
21 **put up the fence?**

22 **A. Um-hum. And it was a certain -- it only**
23 **lasted a certain amount of time. So, towards the end**
24 **of the season, the fence would come down.**

25 **Q. Are the birds still there, or they go away?**

WORD FOR WORD REPORTING, LLC

1 **A. No, it's a -- it was a mate -- you know, a**
2 **mating type of --**

3 **Q. Area.**

4 **A. -- area, yeah. And then it only lasted, you**
5 **know, I couldn't tell you -- I know by the end of**
6 **August, the fences were down, and we didn't have to**
7 **worry about people walking back there.**

8 **Q. Okay. Now, Mr. DiJoseph and I and a couple**
9 **other investigators, and for the past summers, after**
10 **the drowning, we would go to the beach, and we**
11 **observed employees of the North Wildwood Public Works**
12 **Department cleaning the beach. Okay?**

13 **And near -- in the Moore's Beach area,**
14 **we saw an employee of the Public Works Department,**
15 **because he had something on that said public works,**
16 **picking up trash. Given your experience on the beach**
17 **patrol, what work would the Public Works Department**
18 **do cleaning the beaches north of the inlet zone?**

19 **A. I would -- they would clean them. Yeah.**

20 **Q. Yeah. I -- as I said, I was raised in**
21 **Margate, and they used to have a large tractor, and**
22 **it had this device in the back that would collect**
23 **shells.**

24 **A. A rake.**

25 **Q. A rake?**

WORD FOR WORD REPORTING, LLC

1 **A. Yeah, the beach rake, yeah.**
 2 **Q.** Yeah, and --
 3 **A. That, I don't think they raked it. I don't**
 4 **believe they raked it.**
 5 **Q.** Okay.
 6 **A. But I mean, you know, you being down there,**
 7 **this section of the beach is --**
 8 **Q.** Moore's.
 9 **A. Moore's is -- is crowded. So, if they didn't**
 10 **clean up down there, you know, the -- the trash and**
 11 **whatnot, you know, would be --**
 12 **Q.** Okay. I see.
 13 **A. Out of control.**
 14 **Q.** Now, we also interviewed ice cream vendors.
 15 **A. Um-hum.**
 16 **Q.** And -- and we -- we were talking to one
 17 gentleman that was -- had taken his cart almost --
 18 well, I would say what you call The Point. Isn't
 19 that where we met him; at The Point, we were talking
 20 to him.
 21 Now, would the beach patrol have the
 22 responsibility of determining if a vendor of ice
 23 cream and popsicles had a mercantile license? Who
 24 would do that?
 25 **A. Police department.**

WORD FOR WORD REPORTING, LLC

1 **Q.** Police department. All right. And speaking
 2 of the police department -- well, no, let's go back a
 3 little bit.
 4 According to these records, which we'll
 5 get into in a moment, it appears to us that there
 6 were occasions where lifeguards, and not just saying
 7 you necessarily just yet.
 8 **A. Um-hum.**
 9 **Q.** Where lifeguards that were posted in the
 10 inlet zone had to effectuate rescues up north, the
 11 Moore's Beach, and at The Point area. Is that
 12 correct?
 13 **A. Yes, sir.**
 14 **Q.** All right. And how would you, if you were
 15 posted in the inlet zone, know that somebody was in
 16 trouble at the beaches, which is Moore's Beach, The
 17 Point area? How would you know that?
 18 **A. Well, I actually was, you know, a lot of guys**
 19 **made jokes, because I would always listen to scan.**
 20 **But because of the section of the beach I was in**
 21 **charge of, I would have my radio on scan all the**
 22 **time, so I'm listening directly to dispatch.**
 23 **Q.** Okay.
 24 **A. So, if a 911 call comes in, I'm, you know,**
 25 **instead of a 911 call coming in, going through our**

WORD FOR WORD REPORTING, LLC

1 **beach tent, filtering down to me, I'm -- I'm reacting**
 2 **right away.**
 3 **Q.** All right. Would you take the Jet Ski down
 4 there?
 5 **A. A lot depended on the call. If it was,**
 6 **there's somebody on a raft, you know, if there's -- a**
 7 **lot depended on the 911 call, itself. Always, we'd**
 8 **go with the -- I would go in the Jeep first, because**
 9 **you're going to get your quickest response time with**
 10 **the Jeep in the truck. And you'll get an eyes on the**
 11 **situation.**
 12 **A lot of times, you know, the group I**
 13 **work -- the guys I worked with were all really good,**
 14 **and we all knew what we were dealing with. So, if I**
 15 **started down -- if they saw the truck going towards**
 16 **The Point, or at Moore's Beach, you know, not in its**
 17 **normal 10 mile an hour pace, they would start to**
 18 **gravitate towards the Jet Ski to get that piece of**
 19 **equipment in motion.**
 20 **So, you know, a 911 call comes in,**
 21 **there's a situation in the Moore's inlet, The Point,**
 22 **and it doesn't just affect here, we would go to the**
 23 **island. I can't --**
 24 **Q.** Champagne Island?
 25 **A. Champagne Island.**

WORD FOR WORD REPORTING, LLC

1 **Q.** Yeah.
 2 **A. Yeah. Any kind of water emergency, you know,**
 3 **we're going to respond to.**
 4 **Q.** Now, what we've learned from doing research
 5 is, it seems like every summer, you're affected or
 6 infested with super stars that want to try to go from
 7 Moore's Beach over to Champagne Island and back. Is
 8 that correct?
 9 **A. Well, this actually isn't Champagne Island.**
 10 **Q.** Oh, okay.
 11 **A. That's just a sand bar that appears at low**
 12 **tide. Champagne Island is more over here. Off the**
 13 **-- off the map.**
 14 **Q.** Okay. So, it would be above Exhibit 55?
 15 **A. Yes.**
 16 **Q.** Okay. I see.
 17 **A. And, yeah, it's -- you know, visually, it**
 18 **looks like a 75 to a hundred meter swim. But --**
 19 **Q.** What is it?
 20 **A. Probably 75 to a hundred meters. But it**
 21 **looks like it's a -- you know, something you can get**
 22 **to.**
 23 **Q.** I would agree.
 24 **A. But --**
 25 **Q.** Because, you know --

WORD FOR WORD REPORTING, LLC

1 **A. Right.**
 2 **Q.** That's what I would have thought it was.
 3 **A. Yeah. But at high tide, you can't see this.**
 4 **Q.** You can't see Champagne Island?
 5 **A. No. You can't see this sand bar right there.**
 6 **Q.** Oh.
 7 **A. So, that's only visible at mid to low tide.**
 8 **Q.** Okay. If you had to give me an estimate of
 9 the number of times when you were assigned to the
 10 inlet zone before July 27, 2012 that you had to
 11 assist in rescues of people who were trying to swim
 12 from Moore's Beach to Champagne Island, or back, give
 13 me your best estimate. How many times a summer?
 14 **A. Twice a week.**
 15 **Q.** Okay. And I have a buddy that was raised
 16 down here in Cape May County. And he told -- he's a
 17 tremendous swimmer, but he was explaining to me how
 18 difficult that swim is, because of the currents.
 19 Correct?
 20 **A. Yeah. It's treacherous.**
 21 **Q.** Okay. Now, in what situations, again going
 22 back to your experience as a lifeguard, would members
 23 of the North Wildwood Fire Department have to assist
 24 you in effectuating rescues from Moore's Beach to the
 25 beginning of the inlet zone?

WORD FOR WORD REPORTING, LLC

1 **A. Assist us, or show up?**
 2 **Q.** Or show up.
 3 **A. Well, never during a -- our working hours.**
 4 **We've never had the fire department show up during --**
 5 **Q.** Okay.
 6 **A. -- guarded hours of operation.**
 7 **Q.** Got it. Go ahead.
 8 **A. And then whenever there was an after water --**
 9 **an after hours call that came through 911, because**
 10 **the fire -- I work with the fire department, also.**
 11 **They're listening to the dispatch, also. So, they're**
 12 **-- they're responding, more than likely, whenever it**
 13 **comes through dispatch.**
 14 **Q.** What was your position on the fire
 15 department?
 16 **A. Part-time. And a volunteer.**
 17 **Q.** Okay. Got you. All right.
 18 On what -- in what type of situation
 19 would you have to request the assistance of North
 20 Wildwood police officers relative to any issues that
 21 were happening from Moore's Beach to the beginning of
 22 the inlet zone?
 23 **A. Only when we were dealing with intoxicated**
 24 **people on -- on the beach. Never called the police**
 25 **department for a water issue.**

WORD FOR WORD REPORTING, LLC

1 **Q.** Okay.
 2 **A. Not -- you know, it just --**
 3 **Q.** All right. In your experience as a lifeguard
 4 with the North Wildwood Beach Patrol, was there ever
 5 a discussion about closing the beaches? But before
 6 you answer that, because I want you to walk out of
 7 here saying that I was fair to you.
 8 **A. Um-hum.**
 9 **Q.** I want you to read what's been marked for
 10 identification as Exhibit 31, where you were -- an
 11 investigator, by the way, named Mrs. Simpson had a
 12 conversation with you. And to be candid with you,
 13 you weren't aware of the fact that she was wired.
 14 And I've highlighted in yellow certain questions.
 15 And I'm just going to focus in on, as you're reading
 16 this, it's about three or four pages, I've given
 17 copies to all counsel, I'm just going to ask you
 18 questions about the bars and the condominium owners,
 19 and then we'll get into these reports, and then we
 20 should be finished.
 21 **A. I'm just reading the yellow highlight.**
 22 **Right?**
 23 **Q.** Yeah, yeah. I just want you to do that,
 24 because I'm going to ask you questions about pressure
 25 from bar owners, and pressure from the owners of the

WORD FOR WORD REPORTING, LLC

1 condominiums.
 2 Okay. That's it?
 3 **A. Yeah.**
 4 **Q.** All right. The bars, Flip Flopz -- you can
 5 leave it right there, yeah.
 6 The bars, Flip Flopz, what's the one
 7 across the street from Flip Flopz?
 8 **A. Westy's.**
 9 **Q.** Yeah, Westy's. We've been to both of them
 10 during the investigation of this case.
 11 What was the pressure that whomever
 12 that was associated with the bars was putting on to
 13 keep Moore's Beach open, as opposed to closing it?
 14 **MR. ROZELL:** Object to the form. You
 15 can answer.
 16 **A. Well, to be honest with you, I -- I don't**
 17 **know any pressure. When I was in that conversation,**
 18 **I was really just talking about my own personal**
 19 **opinion. And what I did a lot with -- and, you know,**
 20 **I still to that day feel the same way, it has nothing**
 21 **to do with how the city or the bartenders -- the bar**
 22 **owners, but it's just my personal opinion would be**
 23 **that if you were to -- if you were to shut that**
 24 **section of the beach down, which is really the -- the**
 25 **only way you're going to prevent another drowning,**

WORD FOR WORD REPORTING, LLC

1 and everything I say in there, you know, I'll stand
 2 by. I would have told Mrs. Simpson --
 3 Q. Right.
 4 A. -- the same thing if she told me she was with
 you guys.
 6 Q. Right.
 7 A. So, it's not a matter of any of the bar
 8 owners, or anyone. It's just my personal opinion
 9 that if you were to shut down this section of the
 10 beach --
 11 Q. Right.
 12 A. -- which, and you said you were there in the
 13 -- you know, the peak of the summer, I don't think
 14 the bar owners that are right over the bulkhead would
 15 be too happy. And I know for a fact that the -- the
 16 local people, who go to that beach, just to get away
 17 from the lifeguards, you -- you know, you wouldn't
 18 have a happy bunch of people.
 19 Q. Right. Well, the locals, like, let's be
 20 candid.
 21 A. Um-hum.
 22 Q. And I think everybody here has done it one
 23 time in their life. They like taking down some
 24 alcoholic beverages, and to sit there, and relax.
 25 And because it's not a protected beach, they can do

WORD FOR WORD REPORTING, LLC

1 it.
 2 A. And not be told what to do by jerk off
 3 lifeguards.
 4 Q. I get it. And also, too, I understand they
 5 can take dogs there, too. Right?
 6 A. Well, no.
 7 Q. No?
 8 A. Legally, you couldn't take dogs there. But
 9 it was unguarded, unprotected, you know, it wasn't --
 10 there was no -- there was no one there to tell you
 11 not to take dogs there.
 12 Q. Okay.
 13 A. So, I would hear a lot of times dispatch send
 14 down some Class II officers to -- because locals
 15 might call and say there's a dog on the beach. But,
 16 you know, for the most part, it's an area where
 17 people would take their dogs and not be hassled as
 18 much.
 19 Q. Okay. I got it.
 20 Now, let me ask you this: You told
 21 Mrs. Simpson on the bottom of page 3, "You know,
 there's been seven drownings in nine years."
 23 A. Um-hum.
 24 Q. When you say drownings, are they fatalities?
 25 A. Well, to be honest with you, there were four

WORD FOR WORD REPORTING, LLC

1 in nine years. What I would do is, I would sit here
 2 in my truck, and I would see people down there.
 3 Q. At The Point, you mean?
 4 A. At The Point.
 5 Q. Yeah.
 6 A. And what I would do is, I would go down
 7 there, and try to express to the people, you know,
 8 how dangerous it is down there. So, when I said
 9 that, it was just trying to get people -- because I
 10 could go down there, tell them what's going on, and
 11 on my way back, look in the rearview mirror, and
 12 they're going right back in the same spot.
 13 So, I was trying to -- to convey to her
 14 that it's not a place to be swimming.
 15 Q. You know, I think it was last summer, we came
 16 down here early in the morning, and we had a drone.
 17 And in the area -- you see that X on Exhibit 48
 18 there?
 19 A. Yes.
 20 Q. Okay. That is where Chief Cavalier said
 21 that, based upon his investigation, which he headed,
 22 is where the incident with Brad Smith took place.
 23 Would you concur with that?
 24 A. Between -- between here and there.
 25 Q. Okay. Let's do this.

WORD FOR WORD REPORTING, LLC

1 MR. DIJOSEPH: That's a prior exhibit.
 2 MR. D'AMATO: Yeah, I know. Okay.
 3 Hold on.
 4 Q. Why don't you do this. This is a clear copy.
 5 On Exhibit 56, why don't you bracket where the Brad
 6 Smith incident took place.
 7 A. You can see right here that it gets shallow
 8 right there. So, starting right here --
 9 Q. Make a nice long line, so we can see it later
 10 on.
 11 A. Um-hum.
 12 Q. Right.
 13 A. Starting right there, to right here.
 14 Q. Okay. And just put your initials, your two
 15 initials -- oh, no, in the -- in the -- on the sand,
 16 so we know we can see it better.
 17 A. Um-hum.
 18 Q. And that area is about how long, estimated?
 19 A. Twenty yards.
 20 Q. Okay. Now -- all right. You told me earlier
 21 that you never heard about the whirlpool or vortex,
 22 but --
 23 A. Not -- not in this area.
 24 Q. Okay.
 25 A. I have seen it happen at the rock pile back

WORD FOR WORD REPORTING, LLC

1 here.

2 Q. Okay. Now, you better put a -- a green X
3 where you're saying rock pile.

4 A. For the whirlpool. Right?

5 Q. The whirlpool, yeah.

6 A. Yeah. That's going to be right -- there's a
7 hole right here.

8 Q. Okay. For the record, he put a dot that --
9 he put an X over it. Okay.

10 And when does that whirlpool occur?

11 A. The change of tides. Yep.

12 Q. Okay. Now, let me finish with what the chief
13 said, and everybody here in this room was there,
14 including the stenographer. He said that when the
15 whirlpool is going like this, he estimated that it's
16 about 25 yards long. And that what it does is it
17 eats up a part of the beach. So that he theorized
18 that when Scott Sunderland and Brad Smith are walking
19 with their children, that they just walk -- they were
20 walking literally in ankle deep water, and they just
21 fell into this 10-foot hole, which had been cut out
22 because of the whirlpool.

23 Now, did you ever hear what I just said
24 before my saying it?

25 MR. HUNKINS: Object to the form.
WORD FOR WORD REPORTING, LLC

1 MR. D'AMATO: Okay. That's okay.

2 MR. HUNKINS: I mean, at least, part
3 it's mischaracterized.

4 MR. ROZELL: I'll join.

5 MR. D'AMATO: Okay.

6 MR. ROZELL: You can answer.

7 A. I don't know what he's talking about, to be
8 honest with you.

9 Q. Okay.

10 A. I don't know. A whirl -- I've never seen a
11 whirlpool, or -- yeah, none of that makes sense to
12 me.

13 Q. Okay. All right. Now, let me hand to you
14 Exhibit 32. I want to take these all back.

15 We're not going to go through all of
16 them.

17 A. Um-hum.

18 Q. Did I give you all copies? Here.

19 MR. ROZELL: Thanks.

20 Q. That's your copy. That's your -- we all have
21 copies, yeah.

22 Okay. All right. Now, in looking at
23 Exhibit 32, you see at the bottom there?

24 A. Yes.

25 Q. Is this your handwriting?

WORD FOR WORD REPORTING, LLC

1 A. No.

2 Q. That's Mr. Taylor. Correct?

3 A. Yes, sir. Um-hum.

4 Q. Now, I have highlighted in yellow what I'd
5 like you to look at. It says, "Rescued two boogie
6 boarding adults from the inlet with guard" is that
7 Lydon?

8 A. Yes, sir.

9 Q. All right. Now, I -- listen, if you say you
10 don't remember, I can appreciate it.

11 A. Um-hum.

12 Q. Do you remember this incident?

13 A. No.

14 Q. Okay. All right.

15 Now, go to the next exhibit, 33.

16 A. Um-hum.

17 Q. Is that your handwriting?

18 A. No, sir.

19 Q. All right. That's Lieutenant Taylor again?

20 A. No. That's Bill Whitey.

21 Q. Is he still a member of the beach patrol?

22 A. No.

23 Q. Is he retired?

24 A. No. He's in Wildwood.

25 Q. Okay. He works for the beach patrol there?
WORD FOR WORD REPORTING, LLC

1 A. Yes, sir.

2 Q. All right. Do you remember this incident,
3 "One inlet rescue, kayak in distress"?

4 A. No. I'm not on that day. Up top, it has the
5 -- the Taylor and --

6 Q. Yeah. You wouldn't be it?

7 A. That would be probably my day off.

8 Q. Okay. Go to 34.

9 A. Yes.

10 Q. That's your handwriting?

11 A. Yes, sir.

12 Q. All right. And we've highlighted it, it
13 says, "Kite surfer stuck in channel for 15 minutes,
14 para sailboat picked him up and dropped him off at
15 Tenth Street."

16 Do you remember this?

17 A. No, I don't.

18 Q. All right. Can you tell, in looking at this
19 form, where in the inlet this took place?

20 A. I could guess.

21 Q. Give me your best estimate.

22 A. I mean -- yeah. I would say, more than
23 likely, in this area here.

24 Q. Okay. Let's get the green marker, and make a
25 big circle at -- on Exhibit 56.

WORD FOR WORD REPORTING, LLC

1 **A. (Witness complies.)**

2 **Q.** And --

3 **A.** Initial it?

4 **Q.** Yes, please.

Is that because of past experience with
6 other kite surfers?

7 **A.** I would -- I don't remember exactly, but I
8 would -- I would say, more than likely, it was due to
9 the kite surfer's experience.

10 **Q.** And what do you mean by that?

11 **A.** He wasn't very good.

12 **Q.** Ah. So, he wound up in a place that he
13 probably never intended?

14 **A.** Right.

15 **Q.** I see what you mean. Okay.

16 Now, go to Exhibit 35.

17 **A.** Okay.

18 **Q.** And we see your name at the top.

19 **A.** Yes.

20 **Q.** And it says 3:55 p.m.

21 **A.** Um-hum.

22 **Q.** "Guard Lydon saw a group at The Point that
23 was about 200 yards out. They drifted down from
24 Moore's and two of the victims were shaken up."

25 Now, here's what I want to ask you:
WORD FOR WORD REPORTING, LLC

1 **A.** Um-hum.

2 **Q.** Here we have people that were at Moore's
3 Beach, and they apparently go out into the water, and
4 they drifted down from Moore's Beach.

5 **A.** Yes, sir.

6 **Q.** Okay? Was this a common phenomenon where
7 people would enter the water at Moore's Beach, and
8 then, because of the currents, would be drifting down
9 toward the inlet zone?

10 **A.** Yes. Yes. You know, once again, it depends
11 on the tide. If the tide's dropping, they're going
12 to go in here and drift -- and drift this way. If
13 the tide's coming in, it works just the opposite.
14 The water's coming this way, and they'll -- you know,
15 there's -- it's unguarded down here at Moore's Beach.
16 So, they go out, and they get in that current, and
17 we've rescued people this way.

18 **Q.** Above Moore's Beach, north of Moore's Beach?

19 **A.** Yes, sir.

20 **Q.** Okay. Now, if you go to Exhibit 36, the next
21 one, here's another reference to people drifting down
from Moore's Beach.

22 **A.** Yes, sir.

24 **Q.** So, in a given month, how many times would
25 you see people that were at Moore's Beach, then --

WORD FOR WORD REPORTING, LLC

1 and they just can't get back to the beach, and

2 they're coming down toward the inlet zone?

3 **A.** Well, that's a difficult question to ask,
4 because the ocean could be like a lake for three
5 weeks at a time. And you have nothing. And then you
6 could have the ocean, you know, get angry, and we
7 could be in there twice a day for five days at a
8 time.

9 **Q.** Got it.

10 **A.** So, a lot of that depends on the conditions
11 of the ocean.

12 **Q.** All right. The next one, Exhibit 37, has
13 your name, August 25, 2010. This is where the
14 fisherman fell off the sea wall.

15 **A.** Okay.

16 **Q.** Do you remember this one?

17 **A.** I do remember that, yes, sir.

18 **Q.** Okay. It says here, "Major rescue off
19 Moore's Beach."

20 You've been very candid and truthful
21 today, and I respect that. And I'm almost finished.
22 I just want to ask you a question. I've been through
23 all of these reports, okay, yours and others. With
24 all the rescues that are documented, I keep asking
25 myself, why wasn't there a lifeguard stand with

WORD FOR WORD REPORTING, LLC

1 lifeguards close to Moore's Beach, as opposed to
2 being at, what, First and Surf?

3 **A.** First and Surf, yeah.

4 Well, the answer I would give to that
5 is, when you put a lifeguard stand on the beach,
6 you're telling the public that's a safe place to
7 swim. And that area of the beach is anything but
8 safe. Forget about the currents. It's a boating
9 channel. I explained to my -- Will the other day, we
10 joked about, we thought we were going to see Rodney
11 Dangerfield come in on Caddyshack with the horn
12 going, Jet Skis, you know, kite surfers, speed boats.
13 You name it. I mean, you've been down there.

14 **Q.** Yeah.

15 **A.** On a -- on July 4th, it's -- we would drive
16 down there, and we'd be, like, let's get out of here.
17 It's -- as a lifeguard, it was -- we didn't want to
18 be anywhere near it.

19 **Q.** I don't know if you know this, but no one's
20 going to disagree here with what I say, when Brad and
21 his wife and the Sunderlands came to the beach, they
22 were at the first -- the protected beach.

23 **A.** Yes, sir.

24 **Q.** They decided to take a walk down to Moore's
25 Beach, and on their way back, this horrible,

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1 catastrophic thing happens.
 2 Now, I -- I asked the chief, is walking
 3 in ankle deep water, or water up to your mid calf, is
 4 that a violation of any ordinance in those
 unprotected beaches, and he said no. Would you agree
 6 with him?
 7 **A. Yeah.**
 8 **Q.** Okay.
 9 **A. Yeah.**
 10 **Q.** Well, what warnings are there to people like
 11 Brad Smith, who's walking with his daughter down the
 12 beach, to say that there could come a time where
 13 you're going to walk into 10 foot deep water when
 14 you're only walking in ankle deep to mid calf water?
 15 There's no warning?
 16 **A. No. The signs we put up, dangerous currents.**
 17 **But --**
 18 **Q.** But you wouldn't see them if you're walking
 19 from a protected beach to where this event took
 20 place?
 21 **A. No. Nope.**
 22 **Q.** All right. Here's another thing I asked
 23 myself. And it's easy for me to ask questions, and
 24 it's tough for people to provide answers. I realize
 25 that.

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1 What do you think, given all your
 2 experience on the beach patrol, and especially with
 3 this area that we've been talking about, how do we
 4 prevent another Brad Smith from drowning?
 5 **MR. HUNKINS:** Object to the form.
 6 **MR. ROZELL:** Join in the objection.
 7 **Q.** Go ahead. You can go ahead.
 8 **A. Yeah. You know, being a lieutenant down**
 9 **there for so long, and being on a lot of these**
 10 **drownings, you know, I asked myself the same thing.**
 11 **And I think the only way to prevent it is to shut the**
 12 **beach down completely. I mean, fences, you know,**
 13 **guard dogs, 24/7. Not even -- not even walking down**
 14 **there. Because there's -- you know --**
 15 **Q.** In a perfect world, if -- if you were king,
 16 where would you shut the beach off; from what point
 17 to what point?
 18 **A. Well, I mean, you know, we can control this**
 19 **area. Is it all right with the green?**
 20 **Q.** Yeah, that's all right. You just put a green
 21 line above the inlet zone. Correct?
 22 **A. Yeah, yeah.**
 23 **Q.** On Exhibit 56. Right?
 24 **A. Yeah.**
 25 **Q.** Okay.

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1 **A. And that way. You want me to go all the way**
 2 **around?**
 3 **Q.** Yeah, do it.
 4 You know what, I'll tell you what you
 5 better do. Let's do this, because you had that
 6 marking there.
 7 **A. Yeah.**
 8 **Q.** What you're saying is you'd have to close the
 9 beach from Moore's Beach to the inlet zone, where it
 10 starts?
 11 **A. Yes.**
 12 **Q.** Okay.
 13 **A. And no one step a foot on -- onto the sand.**
 14 **Q.** All right. I have to tell you, I started to
 15 tell you about the drone. I'm trying to get you out
 16 of here, because I told my legal assistant to tell
 17 the lawyers that I would get you out of here by four.
 18 **A. I'm in no hurry.**
 19 **Q.** Oh, okay. We were down here with a drone,
 20 and we were at water's edge, and they all have these
 21 photographs. And you see the drone, and if we had
 22 walked out five, six, seven feet, we would have gone
 23 right into very deep water. Okay?
 24 **A. Um-hum.**
 25 **Q.** You've seen that, yourself, in this area that

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1 we're talking about here. Correct?
 2 **MR. HUNKINS:** Object to the form.
 3 **Q.** Have you, personally, seen what I'm talking
 4 about?
 5 **A. Yes, sir.**
 6 **Q.** The -- from the end of the inlet zone all the
 7 way up to Moore's Beach, what are the variations in
 8 the depth once you go off land and you're, you know,
 9 you're in the water?
 10 **A. Of course, it's going to depend on the tide.**
 11 **Because you got, you know, a low tide, opposed to**
 12 **high tide, sometimes can be 40 feet difference. So**
 13 **that --**
 14 **Q.** Okay.
 15 **A. -- that has a big -- that plays a big factor**
 16 **in it. I can tell you out front here.**
 17 **Q.** Okay. Here -- you're --
 18 **A. Inlet beach.**
 19 **Q.** Right.
 20 **A. Down to The Point.**
 21 **Q.** Right.
 22 **A. It's gradual. You know, you walk 10 feet,**
 23 **you're in knee deep water, you walk 10 more feet,**
 24 **you're in thigh deep water, and then, you know --**
 25 **similar --**

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1 Q. How -- go ahead.

2 A. Similarly, down here at Moore's Beach, it's
3 gradual. Until you get to the -- until you get to
4 the channel. And then it's a boating channel. It's
-- it drops off.

6 Q. I see. Okay.

7 MR. D'AMATO: I am -- I'm finished.

8 But let me just talk to Mr. DiJoseph.

9 Do you have any questions?

10 MR. HUNKINS: No questions.

11 MR. D'AMATO: Okay. Just two seconds.

12 VIDEOGRAPHER: Going off the record,
13 the time is 3:50.

14 (Discussion off the record.)

15 VIDEOGRAPHER: We're back on the
16 record, 3:51.

17 BY MR. D'AMATO:

18 Q. Two questions.

19 The Jeep that you were referring to,
20 where was that kept on the beach?

21 A. How do you want me to mark -- you want me to
22 mark it, or --

23 Q. Well, okay. Was it in the inlet zone?

24 A. Yes, sir.

25 Q. Okay. And, typically, was it at First and
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1 Surf?

2 A. No. We would bring it down, we'd bring the
3 Jet Ski on the trailer, we'd set the -- there would
4 be a stand that we would call Second and Ocean.

5 Q. Right.

6 A. And we'd have Second and JFK. They were the
7 -- the handles on the radio. And we would keep a
8 ramp at Second and Ocean with the Jet Ski in the
9 ramp, you know, cones, and the truck and the Jet Ski
10 would be at Second and Ocean. So, it would be --

11 Q. Okay.

12 A. In orange, it would be right there.

13 Q. Okay. Why don't you finish it off, and so,
14 we'll call it a rectangle.

15 A. (Witness complies.)

16 Q. There you go. The lieutenant put a rectangle
17 there to represent the location of the Jeep. Right?

18 A. Yes, sir.

19 Q. Okay. Now, here's the final thing: I think
20 you've answered this, but you were telling me, if you
21 would ride down on the Jeep to The Point area, and
22 tell people how dangerous it was, as you're driving
23 back, you could see in the rearview mirror that they
24 totally disregarded what you're saying, and they went
25 back into the water. What would you tell them when

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1 you went down there, when they're at The Point, as to
2 why they shouldn't be swimming there?

3 A. We would tell them that they're in
4 unprotected part of the beach, unguarded part, and
5 that it's not a safe place to swim.

6 Q. Okay. If somebody was walking at water's
7 edge, would you tell them not to walk there?

8 A. I couldn't. We just didn't have the --
9 because it was -- it's a pretty -- you know being
10 down there yourself, it's a pretty popular area to
11 walk. A lot of people -- a lot of people that are at
12 Moore's Beach will walk this way to get a hot dog, a
13 lot of people that are at the inlet beach will walk
14 that way to see the boats and Jet Skis, and -- so, it
15 -- you know, it just wasn't -- it wasn't --

16 Q. Yeah. The chief touched on that. Not enough
17 manpower, or woman power.

18 A. Right.

19 Q. To be politically correct.

20 The -- when people would walk from
21 Moore's Beach south, where would they go to get a hot
22 dog?

23 A. There was a stand -- there's a stand at First
24 and Surf, and also one at Second and JFK.

25 Q. Okay. In a perfect world, if North Wildwood
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1 had an unlimited budget, would you, if you were the
2 chief, have lifeguards walking on foot between
3 Moore's Beach and the beginning of the inlet zone to
4 warn people about that even walking in ankle deep
5 water could be dangerous?

6 A. Not lifeguards. Police.

7 Q. Who would you --

8 A. If you would -- you would have to have police
9 department. Because you'd have too much of a
10 confrontation with -- with the beach patrol.

11 Q. What do they call them, the Class II
12 officers?

13 A. Um-hum.

14 Q. Something like that?

15 A. Yeah. I mean, you'd have to really, it would
16 be like a military state. You'd have to -- you would
17 get such a -- have such a problem with locals.
18 That's their beach. They -- you know, they think,
19 you know.

20 Q. Um-hum. You know, I'm going to leave this up
21 to you if you want to answer it or not.

22 Mrs. Smith, her sole motive by this
23 litigation is never to let this happen to another
24 family, to lose, you know, a husband, two young --
25 you know, a father to, you know -- to two young kids.

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1 You don't have to answer if you don't want to.

2 **A. Um-hum.**

3 **Q.** And nobody's blaming you, please, think --
4 about this whole thing.

A. Oh, I know.

6 **Q.** What would you say to her about the future
7 for -- to prevent this from happening again?

8 MR. HUNKINS: Objection.

9 MR. ROZELL: Same objection. Join in
10 the objection.

11 **A. Yeah. You know, it definitely wasn't an easy**
12 **thing for me. I would tell her I don't know what the**
13 **answer is. And I sat -- I sit on the beach eight**
14 **hours a day, six days a week. And knowing how**
15 **dangerous it is down there, trying to do my best.**
16 **And, you know, I know, our response team couldn't**
17 **have done a better job. There was a Jet Ski on**
18 **scene.**

19 **Q.** Yeah.

20 **A. That was right there.**

21 **Q.** Right, yeah, we know.

22 **A. I don't know if Mr. Smith panicked. I don't**
23 **know if he had a heart attack. I know if he went on**
24 **his back and just treaded water, we would have been**
25 **-- we wouldn't have had any problems. It breaks my**

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1 **heart, what happened. But I thought about it, and**
2 **thought about it, and I don't know what -- I don't**
3 **know what --**

4 **Q.** Yeah.

5 **A. What it is is, you put big fences, electrical**
6 **fences with guard dogs, and police, and you don't let**
7 **people in there. That's -- that's what it comes down**
8 **to.**

9 **Q.** Right. I respect you for answering that
10 question. And I'll tell you, she'll appreciate it.

11 **A. Yeah. Well, like I said, I -- it breaks me**
12 **up thinking about it.**

13 **Q.** Yeah.

14 **A. I was -- I'm usually in the water on all the**
15 **rescues. This particular rescue, I was on the beach.**
16 **And I had to see the son come up and ask the friend**
17 **what's happening, and he said, they're looking for**
18 **your dad. And at that point, I had the Jet Ski in**
19 **the water, and two paddle boards, and I knew what**
20 **happened. So, yeah, it's not -- not easy.**

21 MR. D'AMATO: All right. Thank you.
We're finished.

22 MR. HUNKINS: Just a couple.

24 THE WITNESS: Yes.

25 EXAMINATION BY MR. HUNKINS:

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1 **Q.** Is North Wildwood a busy place in the summer?

2 **A. Yes, sir.**

3 **Q.** Are the beaches we're talking about, Moore's
4 Beach and down to the protected beach, a very busy
5 beach in the summer?

6 **A. Yes, sir.**

7 **Q.** Are there thousands of people on that beach
8 during the course of the summer?

9 **A. Yes. More than --**

10 **Q.** Is it a common thing for people to walk up
11 and down between Moore's Beach and the protected
12 beach in ankle or knee deep water?

13 **A. Yes, sir.**

14 **Q.** Would you say, over the course of a summer,
15 thousands of people do that?

16 **A. You know, yeah. I can't -- it's tough to get**
17 **a number, I mean, but, it's -- all you'd have to be**
18 **down there is on a busy July day, and you can -- it's**
19 **a very common thing for people to do.**

20 MR. HUNKINS: Thank you. That's all I
21 have.

22 VIDEOGRAPHER: This concludes the
23 videotaped deposition. Off the record, 3:59.

(Deposition concludes at 3:59 p.m.)

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1
2 CERTIFICATE

3
4 I, LYNN SMITH, a Certified Court Reporter of the
5 State of New Jersey, do hereby certify that prior to
6 the commencement of the examination, DAVID LINDSAY
7 was duly sworn by me to testify the truth, the whole
8 truth and nothing but the truth.

9
10 I DO FURTHER CERTIFY that I am neither a relative nor
11 employee nor attorney nor counsel of any of the
12 parties to this action, and that I am neither a
13 relative nor employee of such attorney or counsel,
14 and that I am not financially interested in the
15 action.

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Lynn Smith, CCR

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|--|--|---|--|--|
| | <p>34 [1] - 40:8 35 [1] - 41:16 36 [1] - 42:20 37 [1] - 43:12 384-2770 [1] - 1:24 384-2779 [1] - 1:24 3:04 [2] - 14:2, 14:5 3:50 [1] - 49:13 3:51 [1] - 49:16 3:55 [1] - 41:20 3:59 [2] - 55:23, 55:24</p> | <p>adjacent [1] - 15:12 Administration [1] - 1:17 administrative [2] - 6:14, 11:19 administrator [1] - 6:13 adults [1] - 39:6 aerial [3] - 6:23, 7:7, 9:1 affect [1] - 27:22 affected [1] - 28:5 ago [3] - 4:17, 4:19, 23:15 agree [4] - 15:22, 17:8, 28:23, 45:5 ahead [9] - 8:14, 9:20, 13:17, 18:6, 18:10, 30:7, 46:7, 49:1 alcoholic [1] - 33:24 almost [2] - 25:17, 43:21 amazes [1] - 5:11 amount [1] - 23:23 AND [2] - 1:4, 2:11 angry [1] - 43:6 ankle [5] - 37:20, 45:3, 45:14, 52:4, 55:12 answer [11] - 5:11, 16:20, 16:21, 17:10, 31:6, 32:15, 38:6, 44:4, 52:21, 53:1, 53:13 answered [1] - 50:20 answering [1] - 54:9 answers [1] - 45:24 Anthony [1] - 6:12 anyhow [2] - 19:18, 20:18 appearance [1] - 4:6 appeared [1] - 14:10 appreciate [3] - 10:5, 39:10, 54:10 April [1] - 12:8 area [32] - 6:20, 7:23, 9:22, 9:24, 10:18, 11:5, 14:14, 17:11, 19:22, 21:8, 21:10, 21:22, 21:23, 22:4, 22:15, 23:7, 24:3, 24:4, 24:13, 26:11, 26:17, 34:16, 35:17, 36:18, 36:23, 40:23, 44:7, 46:3, 46:19, 47:25, 50:21, 51:10 areas [1] - 11:3 AS [1] - 1:4 assigned [6] - 20:9, 20:20, 20:22, 21:2, 21:17, 29:9</p> | <p>assist [3] - 29:11, 29:23, 30:1 assistance [1] - 30:19 assistant [3] - 6:14, 11:19, 47:16 associated [1] - 32:12 Atlantic [1] - 13:13 attack [1] - 53:23 attorney [2] - 56:11, 56:13 attorneys [2] - 4:21, 14:8 August [2] - 24:6, 43:13 Avenue [1] - 13:18 aware [1] - 31:13</p> | <p>26:11, 26:16, 27:16, 28:7, 29:12, 29:24, 30:21, 31:4, 32:13, 42:3, 42:4, 42:7, 42:15, 42:18, 42:22, 42:25, 43:19, 44:1, 44:25, 47:9, 48:7, 49:2, 51:12, 51:21, 52:3, 55:4, 55:11 beaches [6] - 21:7, 24:18, 26:16, 31:5, 45:5, 55:3 became [1] - 14:20 BEFORE [1] - 1:15 began [1] - 4:13 begin [2] - 8:11, 12:1 beginning [3] - 29:25, 30:21, 52:3 begins [2] - 7:19, 7:20 Belasco [2] - 6:13, 7:21 best [3] - 29:13, 40:21, 53:15 better [5] - 13:12, 36:16, 37:2, 47:5, 53:17 between [8] - 7:22, 8:6, 9:1, 22:5, 35:24, 52:2, 55:11 beverages [1] - 33:24 beyond [1] - 16:14 big [5] - 18:18, 40:25, 48:15, 54:5 bigger [1] - 17:10 Bill [1] - 39:20 bird [12] - 9:3, 9:4, 9:18, 9:22, 10:8, 11:7, 22:7, 22:10, 22:11, 22:13, 22:15, 22:17 birds [2] - 23:16, 23:25 birth [1] - 14:23 bit [3] - 8:3, 17:22, 26:3 blaming [1] - 53:3 blue [3] - 8:21, 8:22, 18:5 boarding [1] - 39:6 boards [1] - 54:19 boating [3] - 19:1, 44:8, 49:4 boats [2] - 44:12, 51:14 body [1] - 15:12 boogie [1] - 39:5 bottom [2] - 34:21, 38:23 bought [1] - 15:10 bracket [1] - 36:5</p> |
| <p>'14 [2] - 15:1, 15:3 '4 [1] - 23:19 '70s [1] - 21:21 '84 [1] - 15:19 '90 [1] - 20:22 '96 [1] - 20:23 '98 [1] - 20:11</p> | | | | |
| 0 | 4 | | | |
| <p>08096 [1] - 1:23 08221 [1] - 2:7 08234 [1] - 2:3 08625 [1] - 2:13</p> | <p>4 [3] - 1:18, 3:4, 3:10 4/27/1967 [1] - 14:24 40 [2] - 5:10, 48:12 48 [1] - 35:17 4th [1] - 44:15</p> | | | |
| 1 | 5 | | | |
| <p>10 [4] - 27:17, 45:13, 48:22, 48:23 10-foot [1] - 37:21 12 [1] - 3:11 15 [1] - 40:13 17 [1] - 3:12 18 [1] - 1:19 18th [1] - 4:4 1975 [1] - 21:21 1977 [1] - 21:21 1984 [2] - 14:22, 15:22 1993 [1] - 4:18 1999 [1] - 15:11</p> | <p>55 [3] - 3:5, 22:1, 28:14 56 [7] - 12:5, 13:5, 18:1, 18:2, 36:5, 40:25, 46:23 57 [2] - 17:14, 18:12</p> | | | |
| 2 | 6 | | | |
| | <p>6 [2] - 1:23, 12:8 601-8677 [1] - 2:8 609 [2] - 2:8, 2:14</p> | | | |
| | 7 | | | |
| <p>200 [2] - 2:3, 41:23 2003 [1] - 23:19 2005 [1] - 12:9 2010 [1] - 43:13 2012 [5] - 15:23, 17:2, 20:8, 22:4, 29:10 2014 [1] - 15:2 2015 [1] - 15:1 2016 [2] - 1:19, 4:4 202 [1] - 1:23 210 [1] - 2:7 24/7 [1] - 46:13 25 [3] - 2:13, 37:16, 43:13 27 [5] - 15:23, 17:2, 20:8, 22:4, 29:10 2900 [1] - 2:3 2:51 [2] - 1:20, 4:5</p> | <p>75 [2] - 28:18, 28:20 777-4872 [1] - 2:14</p> | | | |
| | 8 | | | |
| | 856 [2] - 1:24 | | | |
| | 9 | | | |
| | <p>911 [5] - 26:24, 26:25, 27:7, 27:20, 30:9</p> | | | |
| | A | | | |
| | <p>ABC [1] - 1:9 accept [1] - 16:23 according [3] - 11:25, 12:1, 26:4 ACTION [1] - 1:4 action [2] - 56:12, 56:15 actual [2] - 15:24, 19:22</p> | | | |
| 3 | | | | |
| <p>3 [1] - 34:21 31 [1] - 31:10 32 [2] - 38:14, 38:23 33 [1] - 39:15</p> | | | | |

| | | |
|---|---|---|
| bracketed [1] - 10:4 Brad [7] - 15:23, 35:22, 36:5, 37:18, 44:20, 45:11, 46:4 BRADLEY [1] - 1:5 breaks [2] - 53:25, 54:11 BRIAN [1] - 2:14 bring [2] - 50:2 BROAD [1] - 1:23 broke [1] - 7:24 buddy [1] - 29:15 budget [1] - 52:1 Building [1] - 1:18 built [1] - 12:10 bulkhead [2] - 13:20, 33:14 bunch [1] - 33:18 bureau [1] - 5:1 busy [3] - 55:1, 55:4, 55:18 BY [7] - 2:4, 2:8, 2:14, 4:12, 14:6, 49:17, 54:25 | 19:20 channel [7] - 18:17, 19:1, 40:13, 44:9, 49:4 charge [3] - 20:24, 21:2, 26:21 chief [13] - 6:12, 6:18, 7:24, 16:25, 17:2, 19:19, 19:24, 21:20, 37:12, 45:2, 51:16, 52:2 Chief [1] - 35:20 children [1] - 37:19 circle [4] - 18:2, 18:3, 18:18, 40:25 city [4] - 6:13, 13:12, 14:7, 32:21 City [1] - 13:13 CITY [1] - 1:8 CIVIL [1] - 1:4 Class [2] - 34:14, 52:11 clean [2] - 24:19, 25:10 cleaning [2] - 24:12, 24:18 clear [5] - 5:8, 5:9, 5:17, 20:23, 36:4 close [2] - 44:1, 47:8 closest [1] - 22:7 closing [2] - 31:5, 32:13 Coastal [1] - 16:5 collect [1] - 24:22 coming [4] - 26:25, 42:13, 42:14, 43:2 commencement [1] - 56:6 commencing [1] - 1:19 common [3] - 42:6, 55:10, 55:19 complete [1] - 8:16 completely [1] - 46:12 Complex [1] - 2:12 complies [8] - 8:20, 8:24, 9:6, 10:20, 18:7, 18:20, 41:1, 50:15 concludes [2] - 55:22, 55:24 concur [1] - 35:23 condition [1] - 21:19 conditions [1] - 43:10 condominium [1] - 31:18 condominiums [1] - 32:1 condos [7] - 7:8, 7:9, 7:12, 12:10, 12:21, 12:24, 13:2 cones [1] - 50:9 configuration [1] - 15:24 confrontation [1] - 52:10 confusion [1] - 5:23 control [2] - 25:13, 46:18 conversation [2] - 31:12, 32:17 convey [1] - 35:13 cooperation [1] - 4:21 copies [3] - 31:17, 38:18, 38:21 Copy [1] - 3:11 copy [5] - 12:3, 12:6, 12:8, 36:4, 38:20 CORPORATIONS [1] - 1:10 correct [10] - 11:22, 15:14, 21:8, 26:12, 28:8, 29:19, 39:2, 46:21, 48:1, 51:19 counsel [6] - 4:6, 10:2, 10:22, 31:17, 56:11, 56:13 COUNTY [1] - 1:1 County [2] - 1:17, 29:16 couple [3] - 6:5, 24:8, 54:23 course [3] - 48:10, 55:8, 55:14 court [1] - 4:8 COURT [2] - 1:1, 1:22 Court [4] - 1:15, 1:18, 56:4, 56:20 covered [1] - 10:9 CPM-L-331-14 [1] - 1:2 cream [2] - 25:14, 25:23 created [1] - 22:18 crowded [1] - 25:9 current [1] - 42:16 currents [10] - 16:11, 17:4, 17:6, 19:6, 19:12, 21:11, 29:18, 42:8, 44:8, 45:16 cut [1] - 37:21 | d'Amato [1] - 3:4 dad [1] - 54:18 DAG [1] - 2:14 daily [2] - 14:8, 14:17 Dangerfield [1] - 44:11 dangerous [6] - 21:10, 35:8, 45:16, 50:22, 52:5, 53:15 date [1] - 14:23 dates [1] - 20:23 daughter [1] - 45:11 DAVID [3] - 1:6, 3:3, 56:6 David [1] - 4:5 days [2] - 43:7, 53:14 dealing [2] - 27:14, 30:23 decided [1] - 44:24 deep [9] - 37:20, 45:3, 45:13, 45:14, 47:23, 48:23, 48:24, 52:4, 55:12 Defendant [1] - 2:9 Defendants [1] - 1:11 definitely [1] - 53:11 department [9] - 22:24, 25:25, 26:1, 26:2, 30:4, 30:10, 30:15, 30:25, 52:9 Department [4] - 24:12, 24:14, 24:17, 29:23 DEPARTMENT [1] - 2:11 depended [2] - 27:5, 27:7 Deposition [1] - 55:24 deposition [6] - 4:4, 4:14, 6:11, 11:18, 16:25, 55:23 DEPOSITION [1] - 1:5 depositions [1] - 4:22 depth [1] - 48:8 DESCRIPTION [1] - 3:9 determining [1] - 25:22 device [1] - 24:22 difference [1] - 48:12 different [1] - 8:3 differentiate [2] - 7:22, 8:6 difficult [2] - 29:18, 43:3 DiJoseph [6] - 2:17, 4:24, 11:1, 24:8, 36:1, 49:8 directly [1] - 26:22 disagree [2] - 17:8, 44:20 discussion [4] - 14:3, 20:16, 31:5, 49:14 dispatch [4] - 26:22, 30:11, 30:13, 34:13 disregarded [1] - 50:24 distress [1] - 40:3 DIVISION [2] - 1:1, 2:12 DO [1] - 56:10 DOCKET [1] - 1:2 documented [1] - 43:24 documents [1] - 7:4 DOE [2] - 1:9 dog [3] - 34:15, 51:12, 51:22 dogs [6] - 34:5, 34:8, 34:11, 34:17, 46:13, 54:6 done [4] - 6:6, 6:16, 33:22, 53:17 dot [1] - 37:8 down [44] - 13:18, 14:16, 23:24, 24:6, 25:6, 25:10, 27:1, 27:3, 27:15, 29:16, 32:24, 33:9, 33:23, 34:14, 35:2, 35:6, 35:8, 35:10, 35:16, 41:23, 42:4, 42:8, 42:15, 42:21, 43:2, 44:13, 44:16, 44:24, 45:11, 46:8, 46:12, 46:13, 47:19, 48:20, 49:2, 50:2, 50:21, 51:1, 51:10, 53:15, 54:7, 55:4, 55:11, 55:18 Dr [5] - 3:12, 16:3, 17:15, 17:20, 19:22 draw [4] - 7:18, 8:3, 8:10, 13:10 drift [2] - 42:12 drifted [2] - 41:23, 42:4 drifting [2] - 42:8, 42:21 drive [1] - 44:15 driving [1] - 50:22 drone [4] - 35:16, 47:15, 47:19, 47:21 dropped [1] - 40:14 dropping [1] - 42:11 drops [1] - 49:5 drowned [1] - 15:23 drowning [3] - 24:10, 32:25, 46:4 drownings [3] - 34:22, |
| C | | |
| Caddyshack [1] - 44:11 calf [2] - 45:3, 45:14 candid [3] - 31:12, 33:20, 43:20 CAPE [1] - 1:1 Cape [4] - 1:17, 1:18, 15:21, 29:16 caps [2] - 18:13, 18:19 career [1] - 14:25 cart [1] - 25:17 case [1] - 32:10 catastrophic [1] - 45:1 Cavalier [2] - 6:12, 35:20 Center [1] - 16:5 central [1] - 11:21 certain [6] - 6:20, 11:25, 19:21, 23:22, 23:23, 31:14 Certified [2] - 1:15, 56:4 certified [1] - 56:20 CERTIFIED [1] - 1:22 certify [1] - 56:5 CERTIFY [1] - 56:10 Champagne [7] - 27:24, 27:25, 28:7, 28:9, 28:12, 29:4, 29:12 change [1] - 37:11 changed [1] - 15:25 changing [2] - 16:10, | 12:24, 13:2 cones [1] - 50:9 configuration [1] - 15:24 confrontation [1] - 52:10 confusion [1] - 5:23 control [2] - 25:13, 46:18 conversation [2] - 31:12, 32:17 convey [1] - 35:13 cooperation [1] - 4:21 copies [3] - 31:17, 38:18, 38:21 Copy [1] - 3:11 copy [5] - 12:3, 12:6, 12:8, 36:4, 38:20 CORPORATIONS [1] - 1:10 correct [10] - 11:22, 15:14, 21:8, 26:12, 28:8, 29:19, 39:2, 46:21, 48:1, 51:19 counsel [6] - 4:6, 10:2, 10:22, 31:17, 56:11, 56:13 COUNTY [1] - 1:1 County [2] - 1:17, 29:16 couple [3] - 6:5, 24:8, 54:23 course [3] - 48:10, 55:8, 55:14 court [1] - 4:8 COURT [2] - 1:1, 1:22 Court [4] - 1:15, 1:18, 56:4, 56:20 covered [1] - 10:9 CPM-L-331-14 [1] - 1:2 cream [2] - 25:14, 25:23 created [1] - 22:18 crowded [1] - 25:9 current [1] - 42:16 currents [10] - 16:11, 17:4, 17:6, 19:6, 19:12, 21:11, 29:18, 42:8, 44:8, 45:16 cut [1] - 37:21 | D |
| D | | |
| | D'AMATO [14] - 2:2, 2:4, 4:12, 10:22, 10:25, 14:6, 17:18, 36:2, 38:1, 38:5, 49:7, 49:11, 49:17, 54:21 | |

| | | | | | | | | |
|---|---|--|---|---|--|---|---|---|
| <p>34:24, 46:10 due [1] - 41:8 duly [2] - 4:11, 56:7 during [5] - 15:9, 30:3, 30:4, 32:10, 55:8</p> | <p>E</p> <p>early [2] - 21:20, 35:16 easy [3] - 45:23, 53:11, 54:20 eats [1] - 37:17 edge [2] - 47:20, 51:7 effectuate [1] - 26:10 effectuating [1] - 29:24 Egg [1] - 2:3 eight [1] - 53:13 either [1] - 11:15 electrical [1] - 54:5 eliminate [1] - 5:23 emergency [1] - 28:2 employee [3] - 24:14, 56:11, 56:13 employees [1] - 24:11 employment [1] - 4:15 empty [1] - 18:24 end [5] - 8:11, 12:1, 23:23, 24:5, 48:6 ends [3] - 7:19, 7:20, 7:25 enter [1] - 42:7 entire [1] - 8:18 equipment [1] - 27:19 especially [1] - 46:2 ESQUIRE [2] - 2:4, 2:8 ESTATE [1] - 1:4 estimate [4] - 23:18, 29:8, 29:13, 40:21 estimated [3] - 17:5, 36:18, 37:15 event [1] - 45:19 exactly [2] - 20:23, 41:7 Examination [1] - 3:4 examination [2] - 3:5, 56:6 EXAMINATION [2] - 4:12, 54:25 EXECUTRIX [1] - 1:4 exhibit [4] - 12:3, 17:25, 36:1, 39:15 Exhibit [19] - 4:2, 12:4, 12:7, 13:5, 17:14, 17:16, 18:12, 22:1, 28:14, 31:10, 35:17, 36:5, 38:14, 38:23, 40:25, 41:16, 42:20, 43:12, 46:23 Exhibits [1] - 3:14</p> | <p>expected [1] - 8:1 expedite [1] - 4:22 experience [11] - 11:25, 16:9, 17:8, 20:5, 20:19, 24:16, 29:22, 31:3, 41:5, 41:9, 46:2 expert [1] - 16:3 explained [1] - 44:9 explaining [1] - 29:17 express [1] - 35:7 extinction [1] - 22:21 eyes [1] - 27:10</p> | <p>F</p> <p>fact [5] - 6:1, 12:4, 13:6, 31:13, 33:15 factor [1] - 48:15 fair [3] - 7:21, 20:21, 31:7 family [1] - 52:24 far [3] - 6:11, 6:25, 22:10 Farrell [2] - 16:3, 19:22 Farrell's [3] - 3:13, 17:15, 17:20 fast [1] - 19:6 fatalities [1] - 34:24 father [1] - 52:25 favor [1] - 17:25 Fax [1] - 1:24 February [2] - 1:19, 4:3 feet [4] - 47:22, 48:12, 48:22, 48:23 fell [2] - 37:21, 43:14 fence [6] - 11:7, 22:14, 23:11, 23:16, 23:21, 23:24 fences [4] - 24:6, 46:12, 54:5, 54:6 filled [1] - 18:23 filtering [1] - 27:1 final [1] - 50:19 financially [1] - 56:14 fine [2] - 7:16, 14:19 finish [2] - 37:12, 50:13 finished [6] - 14:25, 20:13, 31:20, 43:21, 49:7, 54:22 fire [4] - 30:4, 30:10, 30:14 Fire [2] - 2:3, 29:23 FIRM [1] - 2:2 First [6] - 13:21, 13:23, 44:2, 44:3, 49:25, 51:23</p> | <p>first [4] - 4:11, 13:22, 27:8, 44:22 fisherman [1] - 43:14 five [3] - 17:6, 43:7, 47:22 Flip [3] - 32:4, 32:6, 32:7 Flopz [3] - 32:4, 32:6, 32:7 flow [1] - 19:4 focus [1] - 31:15 follows [1] - 4:11 foot [3] - 45:13, 47:13, 52:2 FOR [1] - 1:22 forget [1] - 44:8 form [6] - 5:16, 32:14, 37:25, 40:19, 46:5, 48:2 former [1] - 6:13 fortunately [1] - 5:14 four [3] - 31:16, 34:25, 47:17 friend [1] - 54:16 Front [2] - 3:12, 17:15 front [2] - 17:19, 48:16 FURTHER [1] - 56:10 future [1] - 53:6</p> | <p>G</p> <p>GELFAND [1] - 2:6 gentleman [1] - 25:17 gentlemen [1] - 6:19 geographical [2] - 8:2, 14:14 GEORGE [1] - 1:5 given [8] - 13:6, 16:8, 24:16, 31:16, 42:24, 46:1 grade [1] - 16:16 gradual [2] - 48:22, 49:3 gravitate [1] - 27:18 green [8] - 9:4, 9:11, 9:16, 10:9, 37:2, 40:24, 46:19, 46:20 grew [1] - 15:21 group [3] - 17:20, 27:12, 41:22 guard [4] - 39:6, 41:22, 46:13, 54:6 guarded [1] - 30:6 guess [1] - 40:20 guy [1] - 23:3 guys [3] - 26:18, 27:13, 33:5</p> | <p>H</p> <p>hand [2] - 9:16, 38:13 handles [1] - 50:7 handwriting [3] - 38:25, 39:17, 40:10 happy [2] - 33:15, 33:18 Harbor [2] - 2:3, 18:16 hassled [1] - 34:17 headed [1] - 35:21 hear [2] - 34:13, 37:23 heard [1] - 36:21 heart [2] - 53:23, 54:1 heavy [1] - 19:4 HER [1] - 1:5 hereby [1] - 56:5 Hereford [3] - 15:14, 15:17, 19:10 high [4] - 11:11, 18:23, 29:3, 48:12 highlight [1] - 31:21 highlighted [3] - 31:14, 39:4, 40:12 history [1] - 19:10 hold [2] - 9:9, 36:3 hole [2] - 37:7, 37:21 home [1] - 15:10 homework [1] - 19:9 honest [3] - 32:16, 34:25, 38:8 hope [1] - 5:20 hopefully [1] - 9:17 horn [1] - 44:11 horrible [1] - 44:25 hot [2] - 51:12, 51:21 hour [2] - 17:6, 27:17 hours [5] - 18:24, 30:3, 30:6, 30:9, 53:14 House [1] - 1:18 Hughes [1] - 2:12 hum [28] - 5:4, 6:15, 7:15, 9:19, 10:6, 10:10, 10:12, 16:4, 17:22, 20:7, 23:22, 25:15, 26:8, 31:8, 33:21, 34:23, 36:11, 36:17, 38:17, 39:3, 39:11, 39:16, 41:21, 42:1, 47:24, 52:13, 52:20, 53:2 hundred [2] - 28:18, 28:20 HUNKINS [11] - 2:14, 10:24, 37:25, 38:2, 46:5, 48:2, 49:10, 53:8, 54:23, 54:25, 55:20 Hunkins [1] - 3:5</p> | <p>hurry [1] - 47:18 HUSBAND [1] - 1:5 husband [1] - 52:24</p> | <p>I</p> <p>ice [2] - 25:14, 25:22 ID [1] - 3:9 idea [1] - 11:16 identification [4] - 4:2, 12:7, 17:16, 31:10 Il [2] - 34:14, 52:11 important [5] - 4:23, 5:6, 5:21, 6:17, 12:15 inch [1] - 8:10 incident [4] - 35:22, 36:6, 39:12, 40:2 incidentally [1] - 4:24 including [1] - 37:14 incomprehensible [1] - 5:12 Indians [1] - 19:11 indicates [1] - 18:22 INDIVIDUALLY [1] - 1:4 infested [1] - 28:6 initial [1] - 41:3 initials [2] - 36:14, 36:15 Inlet [6] - 6:21, 12:13, 15:14, 15:18, 19:10 inlet [51] - 6:22, 7:19, 7:23, 7:24, 8:1, 8:6, 8:23, 9:2, 10:7, 11:20, 13:10, 13:18, 14:7, 14:15, 14:16, 14:17, 15:13, 15:24, 16:9, 17:5, 20:6, 20:10, 20:11, 20:20, 20:22, 21:2, 21:9, 21:19, 22:2, 24:18, 26:10, 26:15, 27:21, 29:10, 29:25, 30:22, 39:6, 40:3, 40:19, 42:9, 43:2, 46:21, 47:9, 48:6, 48:18, 49:23, 51:13, 52:3 inlets [1] - 6:22 instead [1] - 26:25 instruct [1] - 12:17 intelligence [1] - 5:1 intended [1] - 41:13 interested [1] - 56:14 interesting [1] - 19:19 interview [1] - 6:6 Interviewed [1] - 25:14 intoxicated [1] - 30:23 investigation [2] -</p> |
|---|---|--|---|---|--|---|---|---|

| | | | | |
|--|---|---|--|--|
| 32:10, 35:21 investigator [2] - 5:3, 31:11 investigators [1] - 24:9 Iroquois [1] - 19:11 island [1] - 27:23 Island [7] - 27:24, 27:25, 28:7, 28:9, 28:12, 29:4, 29:12 issue [1] - 30:25 issues [1] - 30:20 itself [1] - 27:7 | known [2] - 5:14, 19:12 | 34:14, 52:17 located [2] - 15:17, 22:3 location [1] - 50:17 look [4] - 10:2, 18:11, 35:11, 39:5 looking [4] - 22:1, 38:22, 40:18, 54:17 looks [3] - 11:9, 28:18, 28:21 lose [1] - 52:24 Lou [2] - 2:17, 4:24 low [5] - 11:9, 19:25, 28:11, 29:7, 48:11 Lydon [2] - 39:7, 41:22 LYNN [2] - 1:15, 56:4 | military [1] - 52:16 minutes [1] - 40:13 mirror [2] - 35:11, 50:23 mischaracterized [1] - 38:3 moment [1] - 26:5 month [1] - 42:24 monthly [2] - 16:1, 16:10 Moore [1] - 1:18 Moore's [48] - 6:21, 7:13, 7:14, 7:18, 7:25, 8:6, 8:11, 8:18, 9:1, 10:5, 12:13, 12:24, 15:13, 21:9, 21:23, 24:13, 25:8, 25:9, 26:11, 26:16, 27:16, 27:21, 28:7, 29:12, 29:24, 30:21, 32:13, 41:24, 42:2, 42:4, 42:7, 42:15, 42:18, 42:22, 42:25, 43:19, 44:1, 44:24, 47:9, 48:7, 49:2, 51:12, 51:21, 52:3, 55:3, 55:11 morning [1] - 35:16 most [2] - 5:6, 34:16 motion [1] - 27:19 motive [1] - 52:22 move [2] - 16:24, 17:4 moved [1] - 20:11 moves [1] - 19:23 moving [1] - 19:13 MR [34] - 4:12, 6:15, 10:22, 10:23, 10:24, 10:25, 11:1, 12:17, 12:22, 14:6, 17:18, 32:14, 36:1, 36:2, 37:25, 38:1, 38:2, 38:4, 38:5, 38:6, 38:19, 46:5, 46:6, 48:2, 49:7, 49:10, 49:11, 49:17, 53:8, 53:9, 54:21, 54:23, 54:25, 55:20 | 30:24, 36:21, 38:10, 41:13, 52:23 NEW [4] - 1:1, 1:9, 1:23, 2:11 New [9] - 1:16, 1:18, 2:3, 2:7, 2:7, 2:13, 2:15, 5:2, 56:5 next [3] - 39:15, 42:20, 43:12 nice [1] - 36:9 nine [3] - 17:6, 34:22, 35:1 NO [1] - 1:2 nobody's [1] - 53:3 none [1] - 38:11 normal [1] - 27:17 NORTH [2] - 1:8, 1:23 North [14] - 2:9, 4:15, 6:20, 13:9, 14:8, 15:3, 15:6, 21:10, 24:11, 29:23, 30:19, 31:4, 51:25, 55:1 north [4] - 11:21, 24:18, 26:10, 42:18 noted [1] - 4:6 nothing [3] - 32:20, 43:5, 56:8 number [2] - 29:9, 55:17 NUMBER [1] - 3:9 |
| J | L | M | N | O |
| JAMES [1] - 2:6 Jeep [5] - 27:8, 27:10, 49:19, 50:17, 50:21 jerk [1] - 34:2 JERSEY [4] - 1:1, 1:9, 1:23, 2:11 Jersey [8] - 1:16, 1:19, 2:3, 2:7, 2:13, 2:15, 5:2, 56:5 Jet [12] - 20:24, 21:1, 21:3, 27:3, 27:18, 44:12, 50:3, 50:8, 50:9, 51:14, 53:17, 54:18 JFK [4] - 13:20, 13:21, 50:6, 51:24 job [3] - 23:2, 23:5, 53:17 JOHN [1] - 1:9 join [3] - 38:4, 46:6, 53:9 joked [1] - 44:10 jokes [1] - 26:19 July [7] - 15:23, 17:2, 20:8, 22:4, 29:10, 44:15, 55:18 Justice [1] - 2:12 | lake [1] - 43:4 land [1] - 48:8 large [1] - 24:21 last [1] - 35:15 lasted [2] - 23:23, 24:4 LATE [1] - 1:5 laughing [1] - 20:15 LAW [4] - 1:1, 2:2, 2:11, 2:12 lawyers [4] - 5:14, 19:8, 19:20, 47:17 learned [1] - 28:4 least [1] - 38:2 leave [4] - 5:20, 20:15, 32:5, 52:20 left [1] - 4:24 legal [1] - 47:16 legally [1] - 34:8 less [2] - 5:25, 21:1 license [1] - 25:23 License [2] - 1:16, 56:21 licensed [1] - 5:2 Lieutenant [1] - 39:19 lieutenant [5] - 4:13, 13:6, 13:7, 46:8, 50:16 life [1] - 33:23 lifeguard [13] - 14:20, 15:1, 15:7, 15:16, 20:6, 21:22, 22:3, 22:6, 29:22, 31:3, 43:25, 44:5, 44:17 lifeguards [9] - 14:11, 20:14, 26:6, 26:9, 33:17, 34:3, 44:1, 52:2, 52:6 likely [3] - 30:12, 40:23, 41:8 LINDSAY [3] - 1:6, 3:3, 56:6 Lindsay [1] - 4:5 line [5] - 8:10, 9:21, 22:11, 36:9, 46:21 lines [1] - 7:18 Linwood [1] - 2:7 listen [2] - 26:19, 39:9 listening [2] - 26:22, 30:11 literally [1] - 37:20 litigation [2] - 6:4, 52:23 LLC [1] - 1:22 local [1] - 33:16 locals [3] - 33:19, | Major [1] - 43:18 man [1] - 4:24 manpower [1] - 51:17 map [1] - 28:13 Map [2] - 3:10, 4:1 Margate [3] - 13:14, 20:14, 24:21 mark [5] - 10:19, 12:4, 17:14, 49:21, 49:22 marked [4] - 4:1, 12:6, 17:16, 31:9 marker [7] - 7:17, 8:9, 8:22, 9:17, 10:18, 13:10, 40:24 Market [1] - 2:13 marking [1] - 47:6 MARY [1] - 1:9 mate [1] - 24:1 mating [1] - 24:2 matter [1] - 33:7 MAY [1] - 1:1 mean [19] - 5:17, 5:18, 8:18, 16:6, 16:11, 17:9, 18:2, 22:19, 25:6, 35:3, 38:2, 40:22, 41:10, 41:15, 44:13, 46:12, 46:18, 52:15, 55:17 means [2] - 5:16, 6:2 member [1] - 39:21 members [1] - 29:22 mercantile [1] - 25:23 met [1] - 25:19 meter [1] - 28:18 meters [1] - 28:20 mid [4] - 19:25, 29:7, 45:3, 45:14 might [1] - 34:15 mile [1] - 27:17 miles [1] - 17:6 | name [11] - 6:7, 10:14, 11:4, 11:12, 11:15, 14:10, 16:6, 41:18, 43:13, 44:13 named [1] - 31:11 names [1] - 13:15 near [3] - 15:17, 24:13, 44:18 necessarily [1] - 26:7 never [7] - 30:3, 30:4, | object [5] - 5:16, 32:14, 37:25, 46:5, 48:2 objection [4] - 46:6, 53:8, 53:9, 53:10 observed [1] - 24:11 occasions [1] - 26:6 occur [1] - 37:10 ocean [7] - 13:19, 17:3, 18:25, 19:21, 43:4, 43:6, 43:11 Ocean [3] - 50:4, 50:8, 50:10 OF [9] - 1:1, 1:4, 1:5, 1:8, 1:9, 1:6, 2:11, 2:11, 2:12 officers [3] - 30:20, 34:14, 52:12 once [3] - 4:14, 42:10, 48:8 One [1] - 40:3 one [17] - 6:5, 6:7, 7:4, 9:11, 9:12, 9:15, 9:21, 14:9, 25:16, 32:6, 33:22, 34:10, 42:21, 43:12, 43:16, 47:13, 51:24 |
| K | | | | |
| kayak [1] - 40:3 keep [4] - 23:4, 32:13, 43:24, 50:7 keeping [1] - 23:8 kept [1] - 49:20 kids [1] - 52:25 kind [5] - 7:24, 7:25, 8:17, 21:5, 28:2 king [1] - 46:15 Kite [1] - 40:13 kite [3] - 41:6, 41:9, 44:12 knee [2] - 48:23, 55:12 knowing [1] - 53:14 | | | | |

| | | | | |
|---|---|--|---|--|
| <p>one's [1] - 44:19 ones [1] - 21:7 open [1] - 32:13 operation [1] - 30:6 opinion [3] - 32:19, 32:22, 33:8 opportunity [1] - 5:24 opposed [4] - 20:20, 32:13, 44:1, 48:11 opposite [1] - 42:13 orange [5] - 9:12, 9:15, 10:18, 10:21, 50:12 ordinance [1] - 45:4 orientation [2] - 7:6, 8:2 own [2] - 17:7, 32:18 owners [6] - 31:18, 31:25, 32:22, 33:8, 33:14</p> | <p>peak [2] - 23:3, 33:13 people [33] - 5:11, 6:20, 7:1, 13:2, 23:4, 23:8, 24:7, 29:11, 30:24, 33:16, 33:18, 34:17, 35:2, 35:7, 35:9, 42:2, 42:7, 42:17, 42:21, 42:25, 45:10, 45:24, 50:22, 51:11, 51:13, 51:20, 52:4, 54:7, 55:7, 55:10, 55:15, 55:19 perfect [2] - 46:15, 51:25 personal [5] - 16:8, 17:7, 32:18, 32:22, 33:8 personally [1] - 48:3 Ph [1] - 1:24 phenomenon [1] - 42:6 photograph [5] - 3:11, 6:24, 7:7, 9:1, 12:6 photographs [1] - 47:21 phrase [1] - 7:24 picked [1] - 40:14 picking [1] - 24:16 picture [4] - 11:9, 17:11, 17:23, 18:11 piece [1] - 27:18 pile [3] - 13:19, 36:25, 37:3 piping [2] - 22:16, 22:17 place [9] - 35:14, 35:22, 36:6, 40:19, 41:12, 44:6, 45:20, 51:5, 55:1 Plaintiff [1] - 1:6 Plaintiffs [1] - 2:4 plays [1] - 48:15 plover [3] - 22:15, 22:16, 22:17 Point [18] - 6:21, 10:16, 10:18, 15:21, 21:23, 25:18, 25:19, 26:11, 26:17, 27:16, 27:21, 35:3, 35:4, 41:22, 48:20, 50:21, 51:1 point [4] - 13:3, 46:16, 46:17, 54:18 pointers [1] - 4:20 police [8] - 25:25, 26:1, 26:2, 30:20, 30:24, 52:6, 52:8, 54:6 Police [1] - 5:2 politically [1] - 51:19</p> | <p>popsicles [1] - 25:23 popular [1] - 51:10 position [1] - 30:14 possible [1] - 6:10 posted [2] - 26:9, 26:15 power [1] - 51:17 present [1] - 2:17 pressure [4] - 31:24, 31:25, 32:11, 32:17 pretty [2] - 51:9, 51:10 prevent [4] - 32:25, 46:4, 46:11, 53:7 private [1] - 5:3 problem [1] - 52:17 problems [1] - 53:25 professionalism [1] - 20:19 protect [1] - 23:16 protected [8] - 21:7, 21:8, 22:23, 33:25, 44:22, 45:19, 55:4, 55:11 provide [1] - 45:24 Public [3] - 24:11, 24:14, 24:17 PUBLIC [1] - 2:11 public [2] - 24:15, 44:6 purposes [1] - 8:5 put [18] - 14:16, 18:2, 18:3, 18:18, 20:24, 21:1, 22:14, 23:11, 23:21, 36:14, 37:2, 37:8, 37:9, 44:5, 45:16, 46:20, 50:16, 54:5 putting [2] - 23:16, 32:12</p> | <p>25:1 raked [2] - 25:3, 25:4 ramp [2] - 50:8, 50:9 rank [1] - 13:7 reacting [1] - 27:1 read [2] - 7:5, 31:9 reading [3] - 19:9, 31:15, 31:21 realize [1] - 45:24 really [12] - 4:21, 4:23, 11:15, 12:18, 14:20, 16:14, 17:4, 19:19, 27:13, 32:18, 32:24, 52:15 rearview [2] - 35:11, 50:23 reason [2] - 6:5, 13:1 reasons [1] - 14:9 received [3] - 4:1, 12:6, 17:16 recommendation [1] - 5:6 record [11] - 4:5, 14:1, 14:3, 14:4, 17:18, 20:16, 37:8, 49:12, 49:14, 49:16, 55:23 records [1] - 26:4 rectangle [2] - 50:14, 50:16 red [4] - 7:17, 8:9, 13:10, 18:18 refer [1] - 14:14 reference [3] - 13:2, 18:3, 42:21 referred [1] - 12:21 referring [1] - 49:19 refers [1] - 14:15 relate [1] - 4:15 relative [3] - 30:20, 56:10, 56:13 relax [1] - 33:24 remember [8] - 21:24, 39:10, 39:12, 40:2, 40:16, 41:7, 43:16, 43:17 report [4] - 3:13, 14:15, 17:15, 17:19 Reporter [3] - 1:16, 56:4, 56:20 reporter [1] - 4:8 REPORTERS [1] - 1:22 REPORTING [1] - 1:22 reports [6] - 6:7, 14:8, 14:11, 14:17, 31:19, 43:23 represent [1] - 50:17 request [1] - 30:19 rescue [3] - 40:3, 43:18, 54:15</p> | <p>Rescued [1] - 39:5 rescued [1] - 42:17 rescues [5] - 26:10, 29:11, 29:24, 43:24, 54:15 research [2] - 21:6, 28:4 Research [1] - 16:5 resident [2] - 15:3, 15:6 respect [2] - 43:21, 54:9 respond [1] - 28:3 responding [1] - 30:12 response [2] - 27:9, 53:16 responsibility [1] - 25:22 retained [1] - 3:14 retired [2] - 5:1, 39:23 ride [1] - 50:21 Road [3] - 1:18, 2:3, 2:7 rock [3] - 13:19, 36:25, 37:3 Rodney [1] - 44:10 Ronald [1] - 6:14 room [1] - 37:13 ROZELL [11] - 2:8, 6:15, 10:23, 12:17, 12:22, 32:14, 38:4, 38:6, 38:19, 46:6, 53:9</p> |
| <p>P</p> <p>P-55 [2] - 3:10, 4:2 P-56 [2] - 3:11, 12:7 P-57 [2] - 3:12, 17:17 p.m [4] - 1:20, 4:6, 41:20, 55:24 pace [1] - 27:17 paddle [1] - 54:19 PAGE [1] - 3:2 page [4] - 3:12, 17:15, 17:19, 34:21 pages [1] - 31:16 panicked [1] - 53:22 para [1] - 40:14 parking [3] - 7:9, 7:10, 7:11 part [8] - 5:24, 11:14, 30:16, 34:16, 37:17, 38:2, 51:4 part-time [1] - 30:16 particular [1] - 54:15 parties [1] - 56:12 PARTNERSHIPS [1] - 1:10 party [1] - 6:4 past [3] - 22:13, 24:9, 41:5 path [1] - 16:10 patrol [8] - 6:12, 11:20, 24:17, 25:21, 39:21, 39:25, 46:2, 52:10 Patrol [3] - 13:9, 14:9, 31:4 PAUL [1] - 2:4 Paul [3] - 5:9, 5:15, 5:17 pay [1] - 16:16</p> | <p>Q</p> <p>questions [12] - 5:12, 5:20, 5:21, 5:22, 12:19, 31:14, 31:18, 31:24, 45:23, 49:9, 49:10, 49:18 quick [1] - 14:20 quickest [1] - 27:9 quickly [2] - 6:10, 17:4 quite [1] - 17:4</p> | <p>R</p> <p>R.J [1] - 2:12 radio [2] - 26:21, 50:7 raft [1] - 27:6 raised [3] - 13:13, 24:20, 29:15 rake [3] - 24:24, 24:25,</p> | <p>S</p> <p>safe [3] - 44:6, 44:8, 51:5 SAFETY [1] - 2:11 sailboat [1] - 40:14 sanctuary [11] - 9:3, 9:5, 9:18, 9:23, 10:8, 11:7, 22:8, 22:10, 22:11, 22:13, 22:18 sand [5] - 17:23, 28:11, 29:5, 36:15, 47:13 SANDY [1] - 1:3 sat [1] - 53:13 saw [5] - 23:6, 23:11, 24:14, 27:15, 41:22 scan [2] - 26:19, 26:21 scene [1] - 53:18 Scott [1] - 37:18 sea [1] - 43:14 season [3] - 22:4, 23:4, 23:24 second [1] - 6:25 Second [6] - 13:20,</p> | |

| | | | | |
|---|---|---|--|--|
| <p>50:4, 50:6, 50:8, 50:10, 51:24 seconds [1] - 49:11 section [6] - 10:14, 10:15, 25:7, 26:20, 32:24, 33:9 see [37] - 7:7, 7:12, 8:13, 9:1, 9:10, 9:14, 10:22, 10:25, 11:10, 17:22, 18:2, 18:13, 19:24, 19:25, 20:2, 22:14, 25:12, 28:16, 29:3, 29:4, 29:5, 35:2, 35:17, 36:7, 36:9, 36:16, 38:23, 41:15, 41:18, 42:25, 44:10, 45:18, 47:21, 49:6, 50:23, 51:14, 54:16 seem [1] - 7:1 send [1] - 34:13 sense [1] - 38:11 served [1] - 4:25 set [1] - 50:3 seven [2] - 34:22, 47:22 shaken [1] - 41:24 shallow [4] - 18:13, 18:22, 18:25, 36:7 shells [1] - 24:23 show [6] - 6:24, 8:18, 18:13, 30:1, 30:2, 30:4 shut [4] - 32:23, 33:9, 46:11, 46:16 signs [1] - 45:16 similar [1] - 48:25 similarly [1] - 49:2 Simone [2] - 6:14, 11:19 Simpson [3] - 31:11, 33:2, 34:21 sit [3] - 33:24, 35:1, 53:13 sitting [1] - 5:5 situation [3] - 27:11, 27:21, 30:18 situations [1] - 29:21 six [3] - 18:24, 47:22, 53:14 Ski [10] - 20:24, 21:1, 21:3, 27:3, 27:18, 50:3, 50:8, 50:9, 53:17, 54:18 Skis [2] - 44:12, 51:14 SMITH [4] - 1:3, 1:5, 1:15, 56:4 Smith [8] - 15:23, 35:22, 36:6, 37:18, 45:11, 46:4, 52:22,</p> | <p>53:22 sole [1] - 52:22 someone [2] - 23:6, 23:7 sometimes [4] - 17:5, 23:3, 23:7, 48:12 son [1] - 54:16 sorry [1] - 13:25 south [2] - 11:21, 51:21 speaking [1] - 26:1 speed [1] - 44:12 spit [4] - 6:22, 6:25, 7:2, 7:5 spoken [1] - 16:2 spot [1] - 35:12 stand [7] - 22:6, 33:1, 43:25, 44:5, 50:4, 51:23 stands [2] - 21:22, 22:3 stars [1] - 28:6 start [2] - 23:15, 27:17 started [3] - 6:9, 27:15, 47:14 starting [2] - 36:8, 36:13 starts [2] - 8:1, 47:10 state [4] - 22:23, 23:12, 23:15, 52:16 STATE [2] - 1:9, 2:11 State [4] - 1:16, 2:15, 5:2, 56:5 statement [1] - 20:21 stenographer [1] - 37:14 step [1] - 47:13 Stewart [1] - 16:3 still [6] - 12:12, 12:24, 23:25, 32:20, 39:21 Stockton [1] - 16:3 Stone [1] - 18:16 story [2] - 20:14, 20:17 STREET [1] - 1:23 street [2] - 13:15, 32:7 Street [2] - 2:13, 40:15 streets [1] - 12:2 structurally [1] - 6:3 stuck [1] - 40:13 subpoena [1] - 4:25 SUITE [1] - 1:23 Suite [1] - 2:3 summer [11] - 20:9, 22:4, 23:20, 28:5, 29:13, 33:13, 35:15, 55:1, 55:5, 55:8, 55:14 summers [2] - 22:13, 24:9</p> | <p>Sunderland [1] - 37:18 Sunderlands [1] - 44:21 super [1] - 28:6 SUPERIOR [1] - 1:1 supposed [1] - 12:18 Surf [6] - 13:18, 13:23, 44:2, 44:3, 50:1, 51:24 surfer [1] - 40:13 surfer's [1] - 41:9 surfers [2] - 41:6, 44:12 surmising [2] - 20:12, 20:18 swear [1] - 4:8 swim [5] - 28:18, 29:11, 29:18, 44:7, 51:5 swimmer [1] - 29:17 swimming [2] - 35:14, 51:2 sworn [2] - 4:11, 56:7</p> | <p>Tom [1] - 9:10 tom [1] - 2:18 took [6] - 11:18, 16:25, 35:22, 36:6, 40:19, 45:19 top [2] - 40:4, 41:18 totally [2] - 5:12, 50:24 touched [1] - 51:16 tough [2] - 45:24, 55:16 toward [2] - 42:9, 43:2 towards [3] - 23:23, 27:15, 27:18 Township [1] - 2:3 tractor [1] - 24:21 trailer [1] - 50:3 transcript [1] - 4:7 trash [2] - 24:16, 25:10 treacherous [1] - 29:20 treaded [1] - 53:24 tremendous [1] - 29:17 Trenton [1] - 2:13 tricky [2] - 5:19, 5:21 tried [2] - 20:14, 23:4 trouble [1] - 26:16 truck [4] - 27:10, 27:15, 35:2, 50:9 true [2] - 20:17, 21:13 truth [3] - 56:7, 56:8 truthful [2] - 16:23, 43:20 try [5] - 6:9, 19:8, 23:5, 28:6, 35:7 trying [6] - 4:22, 29:11, 35:9, 35:13, 47:15, 53:15 twenty [1] - 36:19 twice [2] - 29:14, 43:7 two [10] - 7:22, 22:5, 36:14, 39:5, 41:24, 49:11, 49:18, 52:24, 52:25, 54:19 type [2] - 24:2, 30:18 typically [3] - 14:16, 22:3, 49:25</p> | <p>52:13, 52:20, 53:2 unbeknownst [1] - 6:6 unguarded [3] - 34:9, 42:15, 51:4 unlimited [1] - 52:1 unprotected [3] - 34:9, 45:5, 51:4 up [29] - 7:8, 7:25, 11:6, 13:21, 15:21, 17:2, 22:14, 23:11, 23:16, 23:21, 24:16, 25:10, 26:10, 30:1, 30:2, 30:4, 37:17, 40:4, 40:14, 41:12, 41:24, 45:3, 45:16, 48:7, 52:20, 54:12, 54:16, 55:10</p> |
| V | | | | |
| <p>variations [1] - 48:7 vary [1] - 22:5 vendor [1] - 25:22 vendors [1] - 25:14 verge [1] - 22:20 versa [2] - 17:3, 19:21 veteran [1] - 21:18 vice [2] - 17:3, 19:21 vice-versa [2] - 17:3, 19:21 victims [1] - 41:24 Videographer [1] - 2:18 VIDEOGRAPHER [6] - 4:3, 14:1, 14:4, 49:12, 49:15, 55:22 VIDEOGRAPHERS [1] - 1:22 videotaped [2] - 4:4, 55:23 violation [1] - 45:4 visible [1] - 29:7 visually [1] - 28:17 volunteer [1] - 30:16 vortex [3] - 19:23, 20:1, 36:21 vs [1] - 1:7</p> | | | | |
| W | | | | |
| <p>wait [1] - 9:9 walk [12] - 31:6, 37:19, 44:24, 45:13, 48:22, 48:23, 51:7, 51:11, 51:12, 51:13, 51:20, 55:10 walked [1] - 47:22 walking [11] - 24:7, 37:18, 37:20, 45:2, 45:11, 45:14, 45:18,</p> | | | | |

| | |
|---|---|
| 46:13, 51:6, 52:2, 52:4 walkway [1] - 13:21 wall [1] - 43:14 warn [1] - 52:4 warning [1] - 45:15 warnings [1] - 45:10 water [28] - 15:12, 16:10, 18:14, 18:22, 18:23, 18:24, 19:1, 19:5, 28:2, 30:8, 30:25, 37:20, 42:3, 42:7, 45:3, 45:13, 45:14, 47:23, 48:9, 48:23, 48:24, 50:25, 52:5, 53:24, 54:14, 54:19, 55:12 water's [3] - 42:14, 47:20, 51:6 waterfront [1] - 13:19 week [2] - 29:14, 53:14 weeks [1] - 43:5 Westy's [2] - 32:8, 32:9 whatnot [1] - 25:11 whirl [1] - 38:10 whirlpool [9] - 19:22, 20:1, 36:21, 37:4, 37:5, 37:10, 37:15, 37:22, 38:11 white [2] - 18:13, 18:19 Whitey [1] - 39:20 whole [3] - 7:23, 53:4, 56:7 wife [2] - 15:10, 44:21 wildlife [2] - 22:24, 23:14 Wildwood [15] - 2:9, 4:15, 6:20, 13:9, 14:9, 15:4, 15:6, 21:10, 24:11, 29:23, 30:20, 31:4, 39:24, 51:25, 55:1 WILDWOOD [1] - 1:8 WILL [1] - 2:8 wired [1] - 31:13 withdraw [1] - 8:4 WITNESS [4] - 3:2, 12:20, 12:23, 54:24 Witness [9] - 8:20, 8:24, 9:6, 10:20, 16:7, 18:7, 18:20, 41:1, 50:15 witness [1] - 4:9 woman [1] - 51:17 WOODBURY [1] - 1:23 WORD [2] - 1:22 | Works [3] - 24:11, 24:14, 24:17 works [3] - 24:15, 39:25, 42:13 world [2] - 46:15, 51:25 worry [1] - 24:7 wound [1] - 41:12 written [1] - 17:19 |
| X | |
| XIO1520 [2] - 1:17, 56:21 XYZ [1] - 1:10 | |
| Y | |
| yards [3] - 36:19, 37:16, 41:23 year [1] - 14:21 years [6] - 5:10, 15:24, 17:1, 20:8, 34:22, 35:1 yellow [3] - 31:14, 31:21, 39:4 young [3] - 4:24, 52:24, 52:25 yourself [2] - 47:25, 51:10 | |
| Z | |
| Zanaras [1] - 2:18 zone [29] - 7:24, 11:21, 12:1, 13:10, 13:18, 14:7, 14:17, 15:13, 20:6, 20:10, 20:20, 20:22, 22:2, 24:18, 26:10, 26:15, 29:10, 29:25, 30:22, 42:9, 43:2, 46:21, 47:9, 48:6, 49:23, 52:3 zones [1] - 20:21 | |



April 6, 2005



1 inch = 500 feet

Provided by the Cape May County Planning Department
Aerial Provided by Picometry

The Coastal Research Center
Ph: 609.652.4245
Fax: 609.748.0656



30 Wilson Avenue
Port Republic NJ 08241
www.stockton.edu/crc

THE RICHARD STOCKTON COLLEGE OF NEW JERSEY

Mr. Louis Belasco, Administrator
City of North Wildwood
901 Atlantic Avenue
North Wildwood, NJ 08260

December 1, 2011

Dear Mr. Belasco,

The Coastal Research Center (CRC) has completed a composite review of the 2009 beach project using a sub-set of the 54 profile lines used for project construction. This set of 6 lines is done in one day and covers the major elements of the project. The two northern sites document changes in the erosional zone, the middle two show what has been deposited in the mid-section, and the southern two sides cross the eroding dune system that surrounds the ends of the four piers south of 21st Avenue.

The review period extends from June 17, 2011, the date of the prior survey, a post-Hurricane Irene survey completed September 22, 2011, and the most recent 6-site study completed October 26, 2011. This survey occurred just 3 days prior to the first northeast storm of the season (October 29, 2011, which is likely to be declared as a Federal Disaster for Cape May County, FEMA representative, personal communication).

Hurricane Irene Impact on the Beach Nourishment Project:

A complete 54-site survey was conducted following Hurricane Irene (August 28, 2011), that is represented in the September 22, 2011 data. That analysis was submitted to the City and FEMA under DR-NJ 4021 and represented a gross loss of **82,252 cubic yards of sand**. This loss was divided unequally between the dune system protecting the piers (1,508 cubic yards) and the northern segment between 2nd Avenue and 6th Avenue (80,809 cubic yards). These losses were communicated to the FEMA disaster team and are being incorporated into a claim for ultimate reimbursement.

The means to restore this loss is currently the focus of multiple agencies and the Borough of Wildwood Crest in cooperation with the City to move sand from Wildwood Crest's municipal beach where there is a chronic excess. The means would be large-capacity trucks driven on the beach between Wildwood Crest and the depositional zone between 2nd and 6th Avenues in North Wildwood. Some of the material would be dropped along the toe of the dunes protecting the four piers to be graded into a replacement structure for the coming season. At present the work is focused on the issues raised by permitting agencies (the NJ DEP and the Federal ACOE). Meetings between the two municipalities have resulted in general accord that this is a promising plan that should be pursued. Permission to transport the material through the City of Wildwood along its municipal beach is also in the works.

The chosen methodology solves both municipal problems simultaneously at a far cheaper price to North Wildwood than either pumping sand from the existing (and permitted) borrow zone using an ocean dredging



company or contracting with a mainland quarry to have suitable beach material trucked to North Wildwood and added to the eroded beach. The key element is approaching with a meeting scheduled for December 14, 2011 with all the affected agencies involved with permitting this activity.

Shoreline retreat is evident on the northern half of engineered beach as a band of darker red, representing a 2 – 4 ft loss in elevation over the past 6 months, extends from the northwest corner of the study area curving along the shoreline to the ocean facing beaches continuing through to the southern half of the study area. It appears some of the sand lost from the shoreline has been moved by longshore currents to the south. A very thin band of dark red is located in front of the piers representing the continuing erosion of the dune.

Beach and Shoreline Changes from 6/2011 to Current 12/2011:

Site 4+00; In the north section of the beach, Hurricane Irene took a toll on the Hereford Inlet shoreline as revealed by photography. The area around the 2nd Avenue jetty was impacted with sand deposited during the summer stripped away along with more of the dunes. Site 4+00, located 400 feet south of the 2nd Ave. jetty lost more dune and had the berm reduced to an intertidal beach all the way to the toe of the dune. In the month following the hurricane, sand was deposited offshore, but not back onto the beach. This is the middle of the zone selected for restoration by the project outlined above.

Site 20+00; This site represents the transition from erosion to deposition in the mid-section of the beach. Hurricane Irene moved sand onto the berm crest as it pushed the beachface landward. No dune damage occurred. The site lost just 3.27 yds³/ft. as the shoreline retreated 8 feet.

Site 40+00; Positioned 4,000 feet south of the 2nd Ave. jetty, this site gained sand on the beach and on the dry berm. The net change was a gain of 4.59 yds³/ft. to a depth of 3 feet of water, followed by a near-equal loss offshore as sand moved landward. The net change was just 0.22 yds³/ft. and a 10-foot shoreline advance. No dune damage occurred here.

Site 52+00; At this location, the beach width is declining as the dune shifts seaward to pass in front of the four piers located on the municipal beach. Sand was washed onto the dry beach by the hurricane, but little damage was done to the shoreline position. The net change was a gain in sand volume of 10.21 yds³/ft. and a 23-foot shoreline advance. This is the southern limit of sand accumulation.

Site 58+00; This site is positioned at the northern end of the seaward-most position of the dune system. Here the dune was further cut back by the Hurricane. In the months since, the beach has gained a small sand volume, but no significant recovery has occurred. Here is where the dune needs additional material for the coming winter storms. The entire site lost 1.38 yds³/ft. with a 28-foot shoreline advance produced post-hurricane. The loss was due to sand moving landward. The sand volume was plus 4.84 yds³/ft. up to a point 315 feet from the reference position behind the dunes.

Site 64+00; This is the southern-most cross section of the sub-set. The survey lines extend another 800 feet south, crossing into the City of Wildwood to cover the taper in the fill back to the original beach configuration. Here the dune is in pretty bad shape having lost over half its design volume in spite of modest additions of sand to the seaward dune toe over the summer. The net change was a loss of 3.08 yds³/ft. and a 18-foot shoreline advance. The post-hurricane deposition produced sand transport landward that probably was taken away on the 29th of October with the first northeaster of the season.

Summary:

The big losses were experienced at the northeast corner of the island at the 2nd and Kennedy Boulevard intersection at the oceanfront and inlet shoreline confluence. The mid-section gained several thousand cubic yards of sand and the south saw loss to the dune system, but without significant loss seaward of the eastern toe of the dune. The beach slope has remained constant and the position of the shoreline actually migrated seaward somewhat (15 to 25 feet). Separate surveys conducted on behalf of the Morey's Organization focused on two sets of piers, one in North Wildwood, and the second in Wildwood City. The Wildwood pier group saw a shoreline advance of up to 95 feet, while the northern pair of piers suffered dune loss, but no shoreline retreat.

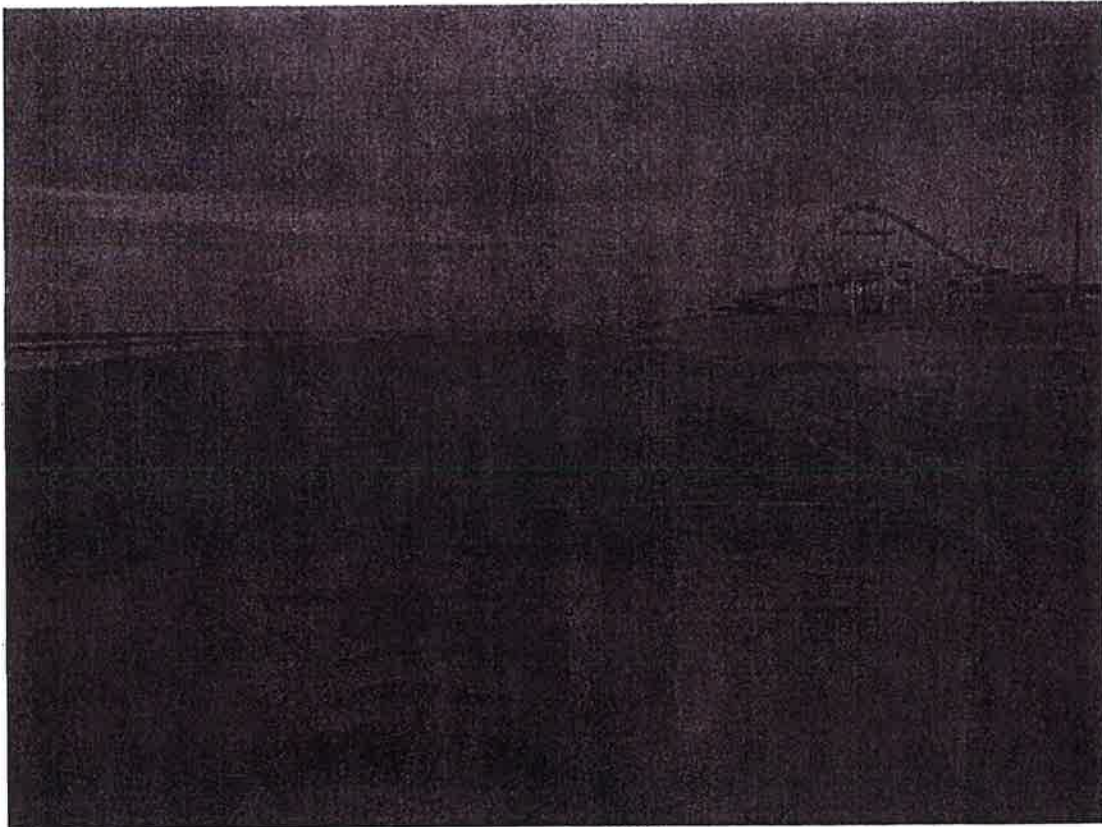


Photo of the beach seaward of the dunes protecting the piers at site 52+00, Oct 26, 2011. The erosion has cut into the dunes, but the beach itself remains relatively wide. Unfortunately it is not very high to block wave attack on the dune toe even during spring tides. Some sand needs to be placed here either with the proposed project or using the General Permit.

If the regulatory agencies approve the proposed sand transfer plan between Wildwood Crest and North Wildwood, the 82,000 cy lost to Irene will be replaced using this method with the hope of continuing this process to extend the time between successive needs to go back to Hereford Inlet with the ocean dredge.

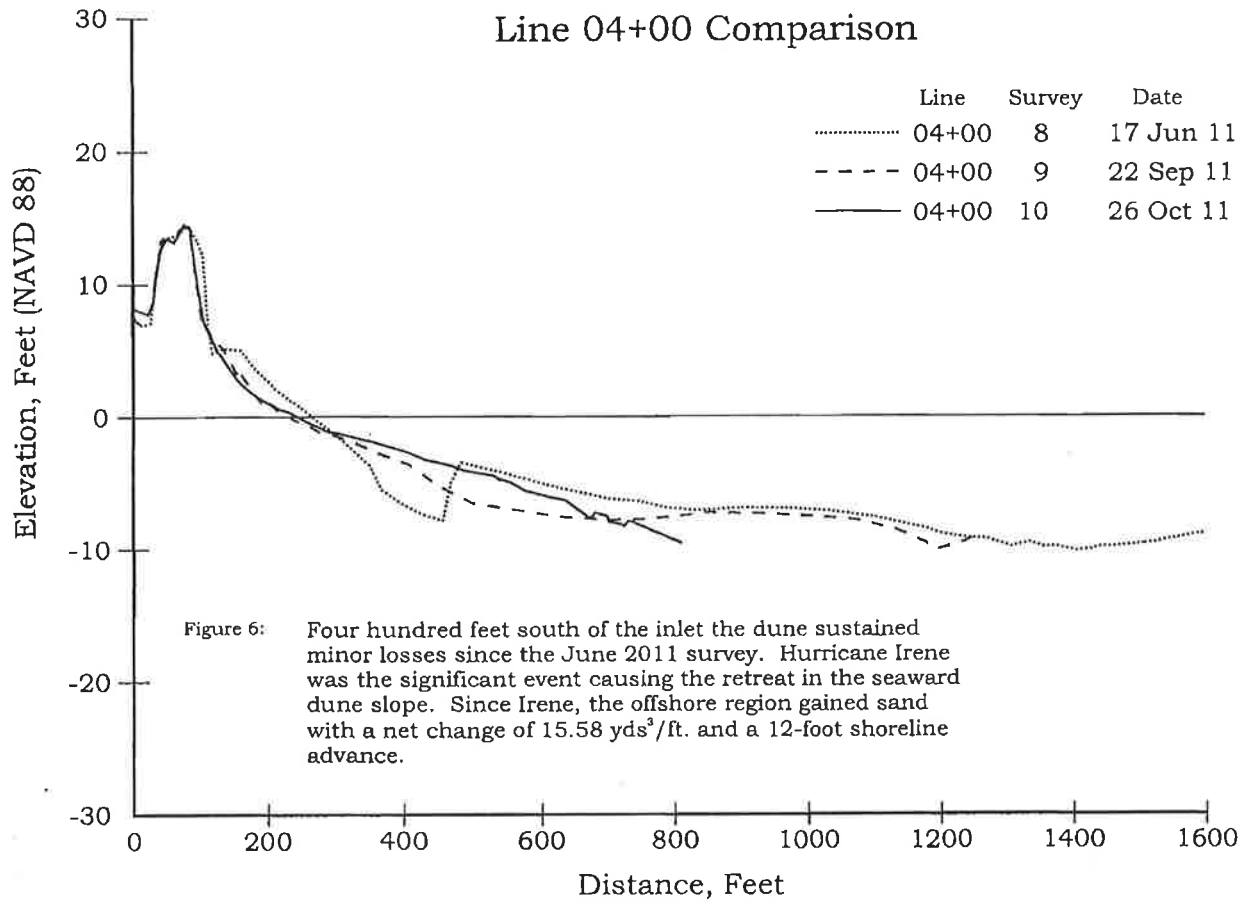
Sincerely yours,

A handwritten signature in cursive script, appearing to read "Stewart Farrell".

Stewart Farrell
Executive Director
Coastal Research Center

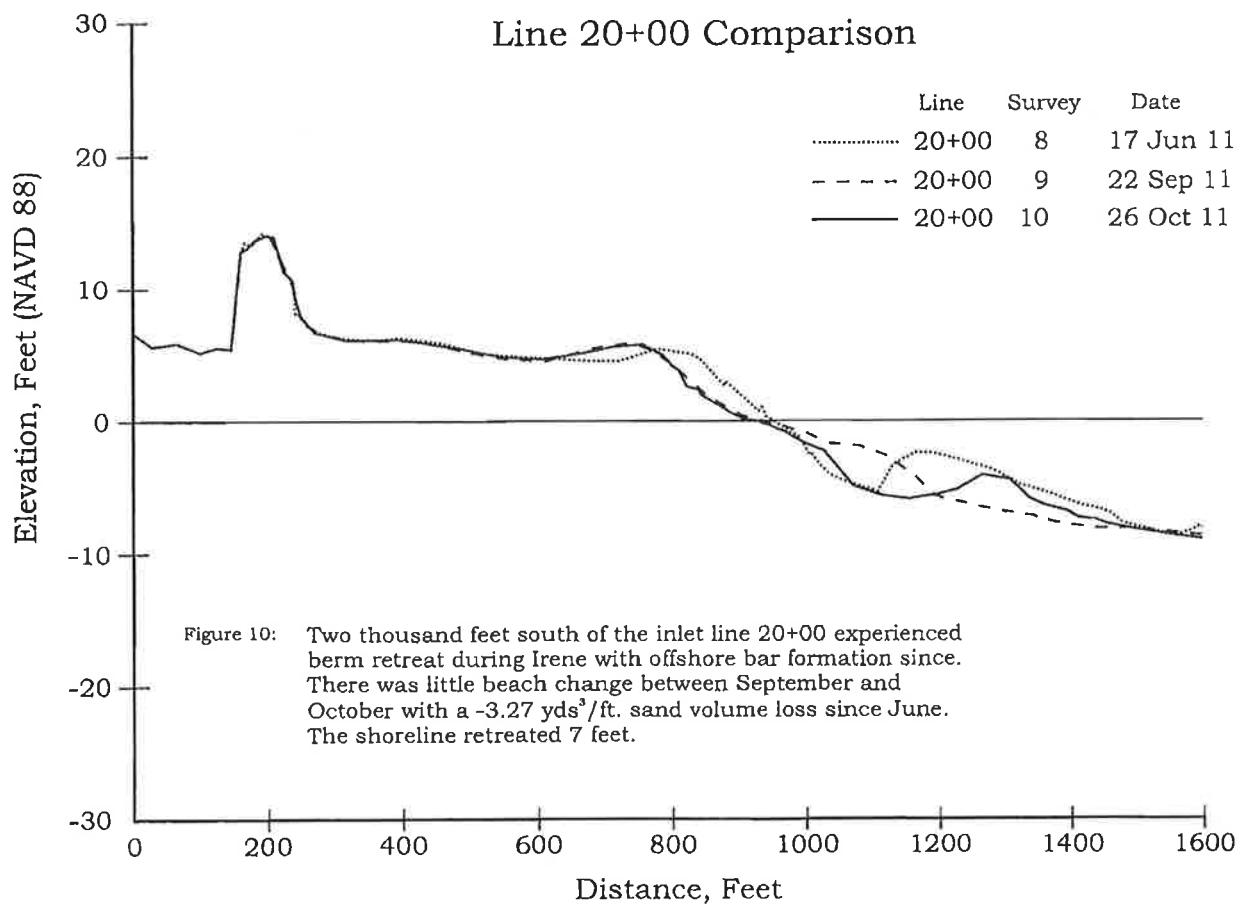
City of North Wildwood - Quarterly Comparison

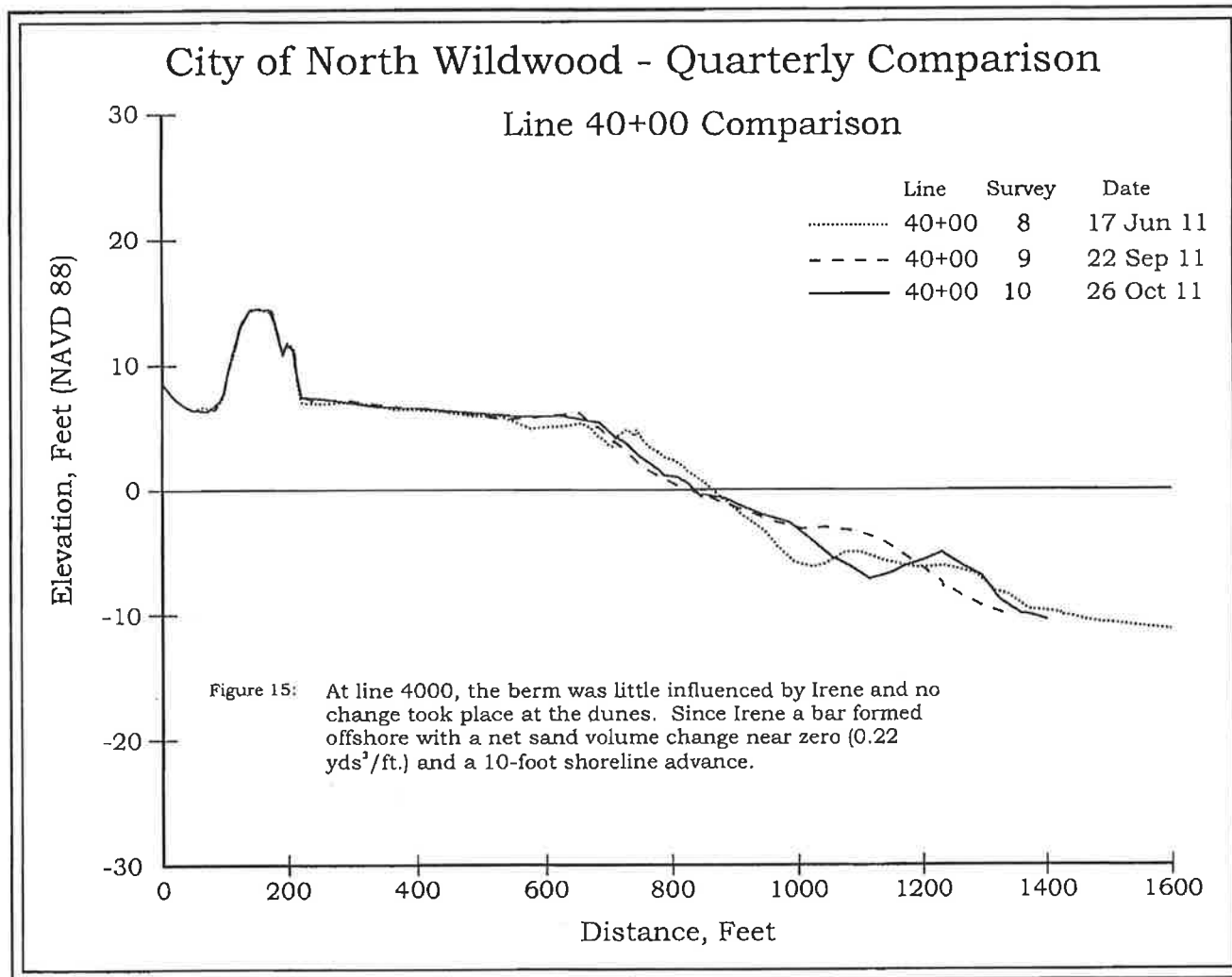
Line 04+00 Comparison



City of North Wildwood - Quarterly Comparison

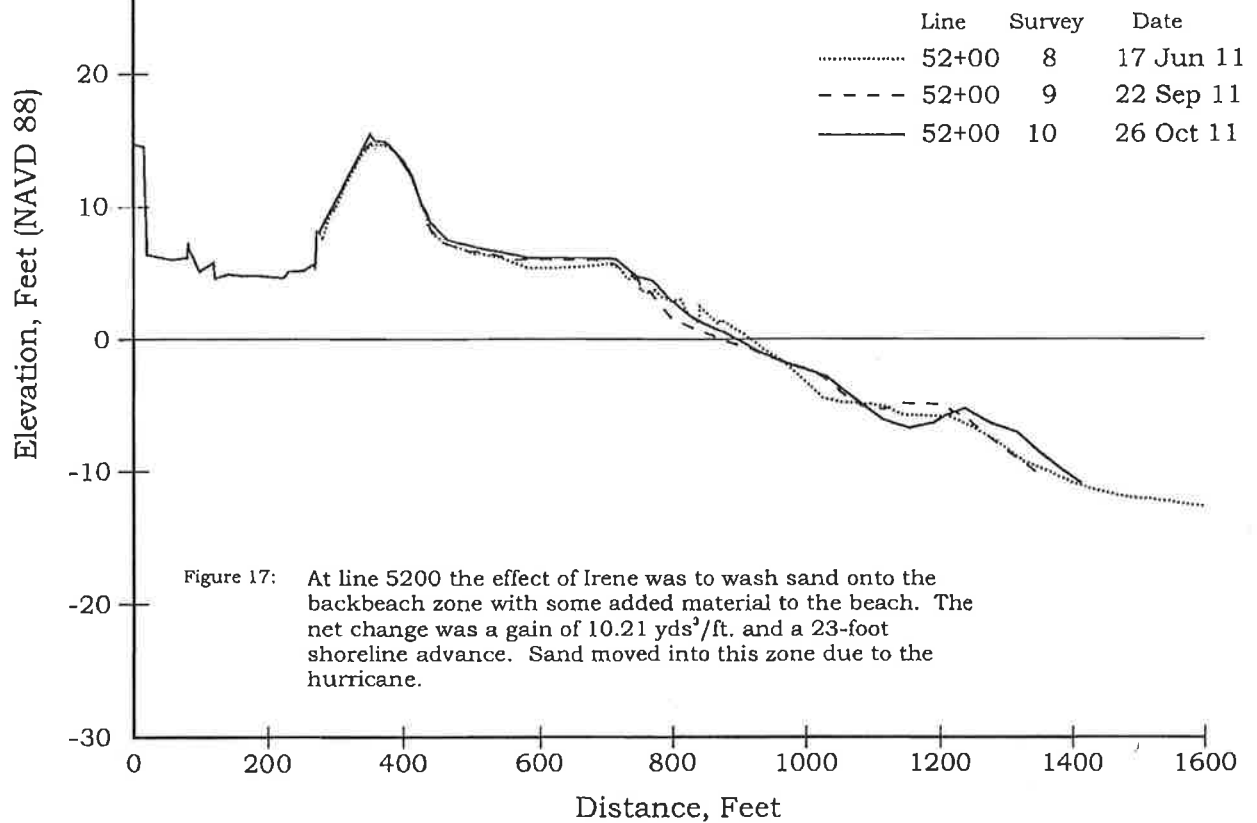
Line 20+00 Comparison





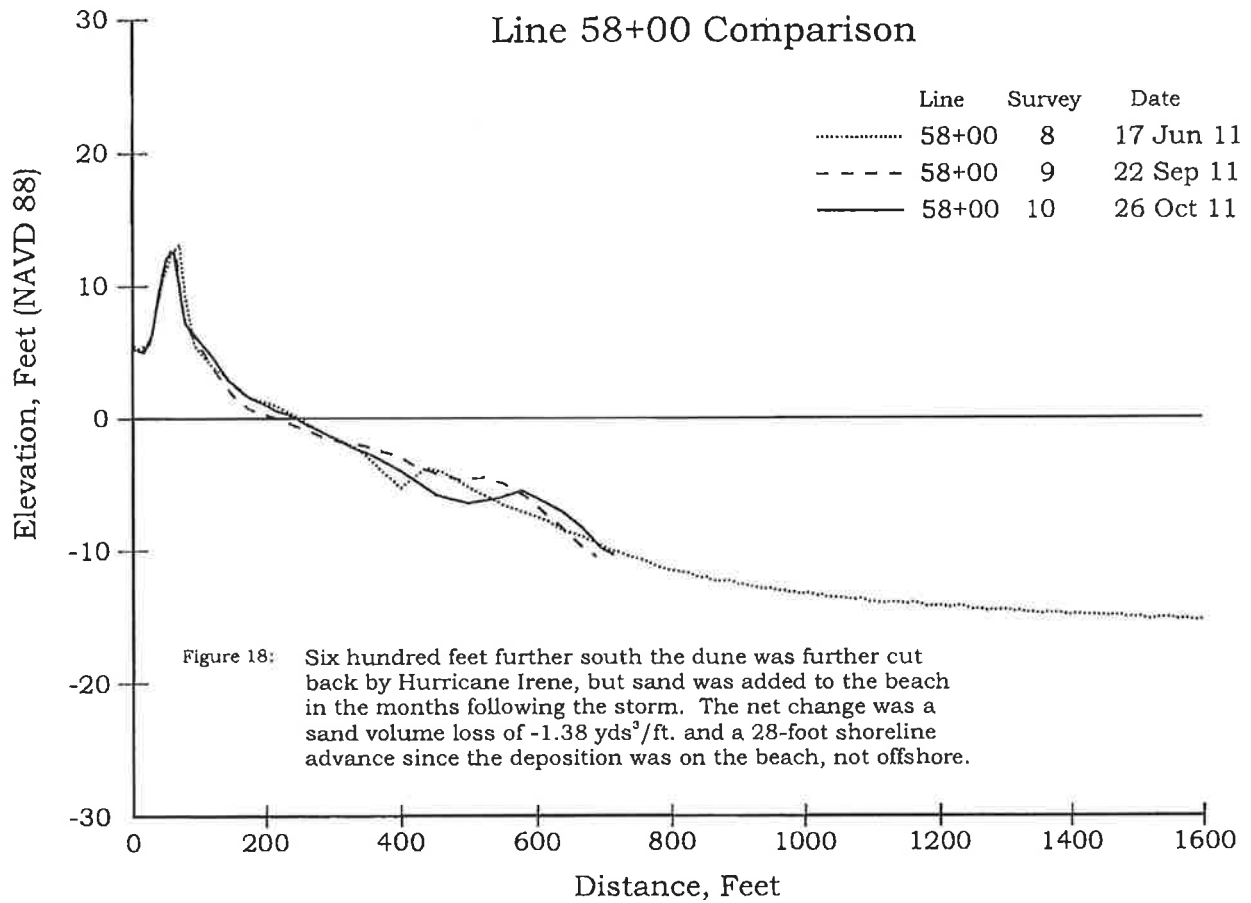
City of North Wildwood - Quarterly Comparison

Line 52+00 Comparison



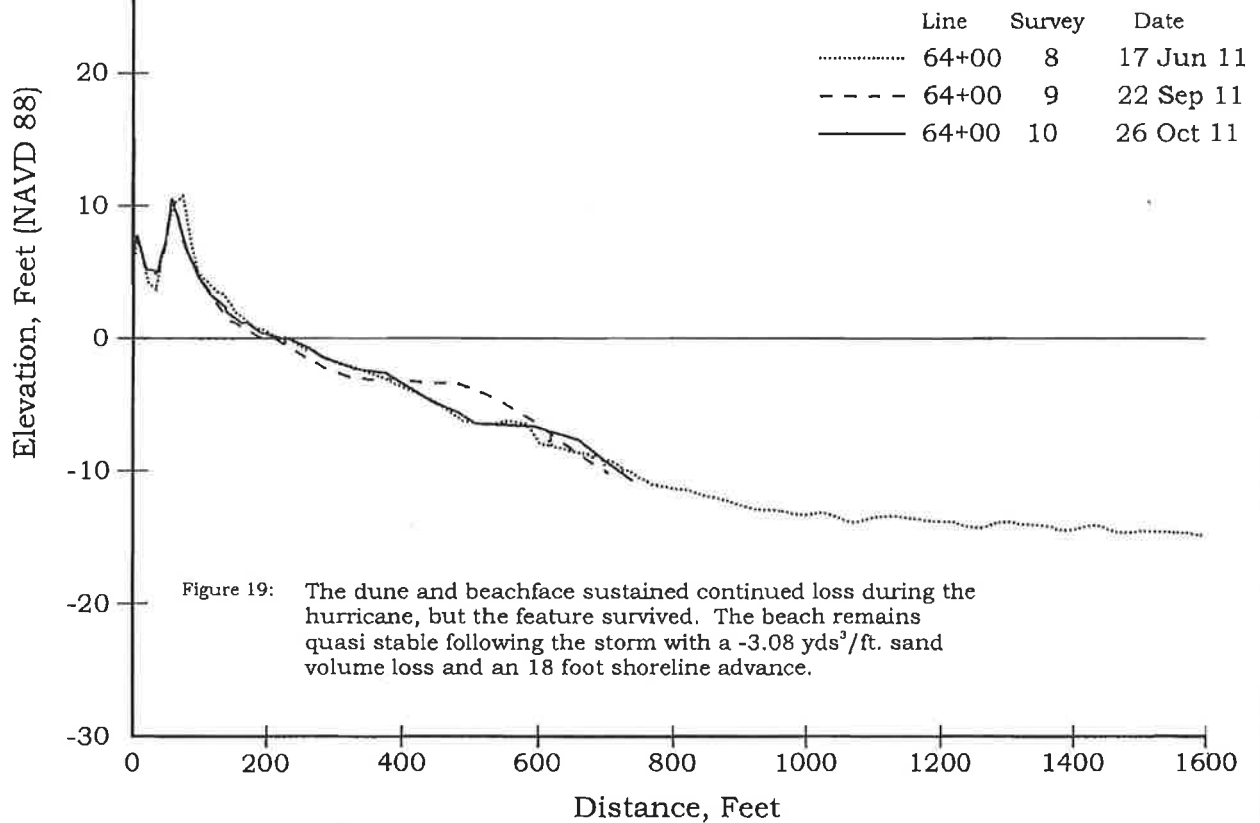
City of North Wildwood - Quarterly Comparison

Line 58+00 Comparison



City of North Wildwood - Quarterly Comparison

Line 64+00 Comparison





**NORTH WILDWOOD
BEACH PATROL**
15TH AVENUE & BEACH
NORTH WILDWOOD, N.J. 08260
(609) 522-7500
(609) 522-6531 FAX
nwbp@northwildwood.com

Tony Cavalier
Chief

07A

09/01/12

TO WHOM IT MAY CONCERN:

The day after the drowning, I was instructed to put up red "no swimming flags" by the City Administrator. The Beach Patrol put six (6) flags in a 100 yard area that is known as the Point. This area has several no swimming signs posted at the high tide mark. This area is approximately 1/2 mile from the protected beaches in the inlet. Also, all entrances have signs stating that the beach is unprotected.

Tony Cavalier - Chief
North Wildwood Beach Patrol





RECORDED CONVERSATIONS

**NORTH WILDWOOD BEACH
NORTH WILDWOOD, NJ**

(JULY 1, 2013)

In The Matter Of:

Smith v. City of North Wildwood

Transcript Prepared For:

**D'AMATO LAW FIRM, P.C.
2900 FIRE ROAD, SUITE 200
EGG HARBOR TOWNSHIP, NJ 08234
609-926-3300**

Certified Transcript By:

**CHERYL A. BRYSON, C.E.T #00129., NJ AOC #202
AGENT FOR
CB TRIALSCRIPT SERVICE
1606 ADAMS AVENUE
LINWOOD, NJ 08221
PHONE/FAX: 609-653-1971
CABRYSON1427@AOL.COM**

1 (In-person recorded conversation occurring on
2 July 1, 2013 at the North Wildwood Beach as
3 follows:)

4 * * * * *

5 LIEUTENANT LINDSAY: - and the boating,
6 boating, and the, the jet skis, it's anything but safe
7 to swim. So that's why I put my car there.

8 MRS. SIMPSON: But yet there's still people
9 there.

10 LIEUTENANT LINDSAY: Well, yeah. Yeah.

11 MRS. SIMPSON: That's the crazy part.

12 LIEUTENANT LINDSAY: And the thing is if
13 you close it down, the bars are going to complain. The
14 condos, the people - The condos at Moores, they're
15 going to complain because they lost beach access.
16 So, -

17 MRS. SIMPSON: Oh.

18 LIEUTENANT LINDSAY: - you know, it's -

19 MRS. SIMPSON: Give or take.

20 LIEUTENANT LINDSAY: - a fine line. Hey,
21 buddy. Hi there.

22 MRS. SIMPSON: Now is it safe for him to be
23 swimming?

24 LIEUTENANT LINDSAY: Well, these dogs are
25 great swimmers. Hi, there. Hello, there. Yeah.

1 Yeah.

2 MRS. SIMPSON: All right. Yeah. You want to
3 show off now. Go ahead.

4 LIEUTENANT LINDSAY: What do you got? What
5 do you got?

6 MRS. SIMPSON: Because I know a couple times
7 we went there, and then the police would come down on
8 their quads.

9 LIEUTENANT LINDSAY: Yeah. But like I said,
10 there's - This Surf Avenue, there's things and those -
11 We all got emails that no vehicles are allowed to
12 patrol. If there's an emergency -

13 MRS. SIMPSON: They'll come down.

14 LIEUTENANT LINDSAY: - of course we're
15 allowed to go down. So -

16 MRS. SIMPSON: But there's no patrolling?

17 LIEUTENANT LINDSAY: But they're not - Yeah.

18 MRS. SIMPSON: Is that all because of, from
19 Sandy? Or is it just naturally changing or ...

20 LIEUTENANT LINDSAY: What? The bad - I got a
21 great thing for you. See, let me (inaudible, moving
22 away) ... We got this at the marina. You know, there's
23 been seven drownings in nine years.

24 MRS. SIMPSON: Really?

25 LIEUTENANT LINDSAY: Right out there. This

1 is a great reason to show you why. We're right here.

2 MRS. SIMPSON: Okay.

3 LIEUTENANT LINDSAY: Okay? Now the - You go
4 down here, the beach goes here.

5 MRS. SIMPSON: Right.

6 LIEUTENANT LINDSAY: That's the Point.

7 MRS. SIMPSON: Right.

8 LIEUTENANT LINDSAY: That's Moore's parking
9 lot.

10 MRS. SIMPSON: Okay.

11 LIEUTENANT LINDSAY: Well, if you look at the
12 chart, this tells you the depth of the water.

13 MRS. SIMPSON: Holy crap.

14 LIEUTENANT LINDSAY: The blue is 30 foot.

15 MRS. SIMPSON: Look how close that is.

16 LIEUTENANT LINDSAY: Yeah. At low tide -
17 Between mid- and low tide the gentleman that drowned
18 last year, when - We called him out of the water here.
19 So they said, "Okay. We can't go in the water. Let's
20 go for a walk." They're walking, him and his friend
21 and their two daughters, and they're in ankle deep
22 water, and they're right there, and they fell into the
23 30-foot deep. And the thing is, is when from mid-tide
24 to low-tide all that water in the back bay is rushing
25 out, and it doesn't, the only place - All sandbars

1 here. From -

2 MRS. SIMPSON: Oh.

3 LIEUTENANT LINDSAY: - here to Stone Harbor,
4 all that water comes right through here.

5 MRS. SIMPSON: It's causing like a canal.

6 LIEUTENANT LINDSAY: It's like a river. So
7 you - They fell in here, and before they knew it they
8 were getting sucked out, and he - The one little girl
9 got on the dad's back. They managed to swim - He
10 managed to make it to shore. The other little girl got
11 picked up by a jet ski, brought in. The jet ski went
12 back out to get the father, and by the time he got back
13 out the father must have panicked, and once you panic
14 you're, you're done.

15 MRS. SIMPSON: Right.

16 LIEUTENANT LINDSAY: And he - Yeah. He
17 drowned. It was so sad.

18 MRS. SIMPSON: Oh, my God. I've got goose
19 bumps. That's scary.

20 LIEUTENANT LINDSAY: Yeah. I know. It was
21 sad - because I was on, I was on scene. I had two jet
22 skis. I had a jet ski and two -

23 MRS. SIMPSON: Jake.

24 LIEUTENANT LINDSAY: I had a jet ski and two
25 surfboards in the water, and the guy said, "The last

1 time I saw him he was right out there," and he points
2 like a 100 yards out, and I was like, oh, that's not
3 good because my guys were not doing anything, -

4 MRS. SIMPSON: Right.

5 LIEUTENANT LINDSAY: - and just then, -

6 MRS. SIMPSON: Come here, Jake.

7 LIEUTENANT LINDSAY: - just then the guys
8 ten-year-old son comes up, and says, "What's going on?"
9 And they're like, "They're looking for your dad." And
10 he just - It was horrible, man.

11 MRS. SIMPSON: Oh, my God.

12 LIEUTENANT LINDSAY: And the worse thing
13 about is as the beach patrol we know it's going to
14 happen again, this summer maybe, so - just because it's
15 such a dangerous -

16 MRS. SIMPSON: Well, what can they do to
17 prevent people - I mean there's -

18 LIEUTENANT LINDSAY: Well, -

19 MRS. SIMPSON: - some signs, but, -

20 LIEUTENANT LINDSAY: No. That's - There's -

21 MRS. SIMPSON: - people, that's people's
22 human nature.

23 LIEUTENANT LINDSAY: There's more than some
24 signs. There's signs everywhere, but you could put up
25 a neon billboard with the pictures of the people, and

1 they would just say, "Hey, look at the pretty lights,"
2 and go in. I mean it's just, it's just the way people
3 are. But the, the thing to do would be to tell -
4 because I talked to those people at the state that do
5 the piping plover and said, "How - The day after this
6 drowning, "I'm like, "how hard would it be just to shut
7 this," - "I know. No problem." We could get the State
8 and have this whole - from there to the Greek church,
9 the rocks, shut down, but then you run, -

10 MRS. SIMPSON: Because of the bars.

11 LIEUTENANT LINDSAY: - then you run into the
12 people with the, you know, the bars and the condo
13 owners who want to walk over the bulkhead and be on the
14 beach, and for the local people they know, you know,
15 they, they know how dangerous it is, but a guy comes
16 down from Philly with his family, and they're like -
17 because a lot of people, when we go down, and say,
18 "Hey, you can't be - They're like, "Oh, we didn't know.
19 Thanks for telling us," -

20 MRS. SIMPSON: Right.

21 LIEUTENANT LINDSAY: - but this picture is
22 just incredible. I mean it, that right there tells you
23 it's just so - I mean - And as the tide goes lower it
24 gets closer to that channel.

25 MRS. SIMPSON: Right.

1 LIEUTENANT LINDSAY: So you're really -

2 MRS. SIMPSON: Because I know a couple times
3 I walked, and you can, you can -

4 LIEUTENANT LINDSAY: You can see.

5 MRS. SIMPSON: - see the drop.

6 LIEUTENANT LINDSAY: Yeah. And when you're
7 walking you can see the water rushing out. It's - And
8 like I said, for us it's frustrating because like we
9 know it's going to happen, but there's no - we don't
10 know what the answer is. We put those big orange balls
11 out there, but that doesn't -

12 MRS. SIMPSON: They think it's to swim to.

13 LIEUTENANT LINDSAY: They do. They say,
14 "Oh," and they'll say -

15 MRS. SIMPSON: Or they bet each other.

16 LIEUTENANT LINDSAY: - "Oh, we thought it," -
17 Yeah.

18 MRS. SIMPSON: "Bet you can swim to that."

19 LIEUTENANT LINDSAY: Right. So it's just
20 crazy.

21 MRS. SIMPSON: That's right. But he'll be -
22 he would be fine swimming in there? I thought - Now
23 I'm like, "Oh."

24 LIEUTENANT LINDSAY: Yeah. But, here's the
25 thing. I wouldn't, I wouldn't take him -

1 MRS. SIMPSON: Like we've been back here.
2 Here it's green.

3 LIEUTENANT LINDSAY: See here - You see that
4 right here?

5 MRS. SIMPSON: Yeah.

6 LIEUTENANT LINDSAY: That you don't really
7 have to worry. The current's not real bad because the
8 rock part, the rock pile is kind of cutting that so,
9 and it's not that deep.

10 MRS. SIMPSON: Right.

11 LIEUTENANT LINDSAY: So there right where the
12 municipal lot is, there is not a problem.

13 MRS. SIMPSON: Oh.

14 LIEUTENANT LINDSAY: It's that point right
15 there and especially from mid- to low-tide because,
16 like I said, all the water is rushing out.

17 MRS. SIMPSON: Right.

18 LIEUTENANT LINDSAY: So ...

19 MRS. SIMPSON: All right. Well, thank you.

20 LIEUTENANT LINDSAY: Yeah. No problem.

21 ~~MRS. SIMPSON: Say thanks, Jake.~~

22 LIEUTENANT LINDSAY: See you later.

23 MRS. SIMPSON: All right. Have a good day.

24 (Off the record)

25 * * * * *

1 (Recording concludes at Time Index 00:06:11:28)

2 * * * * *

3 (Beach Conversation No. 2 on July 1, 2013 at the
4 North Wildwood Beach as follows:)

5 * * * * *

6 MRS. SIMPSON: Hi, how are you? I wanted to
7 give this to you. It's called Rescue Me. It's for
8 golden retrievers in Jersey, and -

9 LIEUTENANT LINDSAY: Oh, okay.

10 MRS. SIMPSON: - I know you were looking for
11 a rescue dog.

12 LIEUTENANT LINDSAY: Yeah. I'm doing it
13 right now.

14 MRS. SIMPSON: I called my friend and asked
15 her, but - Well, what's your name so I can let her
16 know?

17 LIEUTENANT LINDSAY: Dave Lindsay.

18 MRS. SIMPSON: Dave Lindsay?

19 LIEUTENANT LINDSAY: Yeah.

20 MRS. SIMPSON: My name is GG -

21 LIEUTENANT LINDSAY: GG?

22 MRS. SIMPSON: - Simpson. So -

23 LIEUTENANT LINDSAY: Great.

24 MRS. SIMPSON: - hopefully you can find
25 somebody there you can take home.

1 LIEUTENANT LINDSAY: I'm going to go on the
2 website right now.

3 MRS. SIMPSON: Oh, okay.

4 LIEUTENANT LINDSAY: Yeah.

5 MRS. SIMPSON: All right.

6 LIEUTENANT LINDSAY: Great.

7 MRS. SIMPSON: All right. Well, good luck.

8 LIEUTENANT LINDSAY: Thank you so much.

9 MRS. SIMPSON: Thanks again.

10 LIEUTENANT LINDSAY: Nice meeting you, GG. '

11 MRS. SIMPSON: All right. You too. Bye-bye.

12 (Off the record)

13 (Recording concludes at Time Index 00:01:08)

14 * * * * *

15 I, Cheryl A. Bryson, agent for CB Trialscript
16 Service, do certify that the foregoing is a true and
17 correct transcript of the recorded conversation in the
18 above-captioned matter for D'Amato Law Firm of Egg
19 Harbor Township, New Jersey.

Cheryl A. Bryson

Cheryl A. Bryson, C.E.T., AD/T
AAERT No. 00129; NJ AOC No. 202
Agent For: CB Trialscript Service
1606 Adams Avenue - Linwood, NJ 08221
Phone/Fax: 609-653-1971
Email cabryson1427@aol.com

May 28, 2014
(Date)

| A | 3:19 channel (1) 7:24 chart (1) 4:12 church (1) 7:8 close (2) 2:13;4:15 closer (1) 7:24 complain (2) 2:13,15 concludes (2) 10:1;11:13 condo (1) 7:12 condos (2) 2:14,14 conversation (2) 2:1;10:3 couple (2) 3:6;8:2 course (1) 3:14 crap (1) 4:13 crazy (2) 2:11;8:20 current's (1) 9:7 cutting (1) 9:8 | drowned (2) 4:17;5:17 drowningI'm (1) 7:6 drownings (1) 3:23 | 7:8 green (1) 9:2 guy (2) 5:25;7:15 guys (2) 6:3,7 | L |
|---|--|---|--|--|
| | | E | H | last (2) 4:18;5:25 later (1) 9:22 LIEUTENANT (56) 2:5,10,12,18,20,24; 3:4,9,14,17,20,25;4:3, 6,8,11,14,16;5:3,6,16, 20,24;6:5,7,12,18,20, 23;7:11,21;8:1,4,6,13, 16,19,24;9:3,6,11,14, 18,20,22;10:9,12,17, 19,21,23;11:1,4,6,8,10 |
| B | | emails (1) 3:11 emergency (1) 3:12 especially (1) 9:15 everywhere (1) 6:24 | | lights (1) 7:1 LINDSAY (58) 2:5,10,12,18,20,24; 3:4,9,14,17,20,25;4:3, 6,8,11,14,16;5:3,6,16, 20,24;6:5,7,12,18,20, 23;7:11,21;8:1,4,6,13, 16,19,24;9:3,6,11,14, 18,20,22;10:9,12,17, 17,18,19,21,23;11:1,4, 6,8,10 |
| | D | F | | line (1) 2:20 little (2) 5:8,10 local (1) 7:14 look (3) 4:11,15;7:1 looking (2) 6:9;10:10 lost (1) 2:15 lot (3) 4:9;7:17;9:12 low (2) 4:16,17 lower (1) 7:23 low-tide (2) 4:24;9:15 luck (1) 11:7 |
| C | dad (1) 6:9 dad's (1) 5:9 dangerous (2) 6:15;7:15 daughters (1) 4:21 Dave (2) 10:17,18 day (2) 7:5;9:23 deep (3) 4:21,23;9:9 depth (1) 4:12 dog (1) 10:11 dogs (1) 2:24 done (1) 5:14 down (8) 2:13;3:7,13,15;4:4; 7:9,16,17 drop (1) 8:5 | G | I | M |
| | | gentleman (1) 4:17 gets (1) 7:24 GG (3) 10:20,21;11:10 girl (2) 5:8,10 God (2) 5:18;6:11 goes (2) 4:4;7:23 golden (1) 10:8 good (3) 6:3;9:23;11:7 goose (1) 5:18 great (5) 2:25;3:21;4:1;10:23; 11:6 Greek (1) | J | man (1) 6:10 managed (2) 5:9,10 marina (1) 3:22 maybe (1) 6:14 mean (4) 6:17;7:2,22,23 |
| | | | K | |
| | | | | |

| | | | | |
|---|---|---|--|---|
| meeting (1) 11:10 | 3:25;4:18,25;5:8,12, 13;6:1,2;8:7,11;9:16 | 9:7 | 7:10,20,25;8:2,5,12,15, 18,21;9:1,5,10,13,17, 19,21,23;10:6,10,14, 18,20,22,22,24;11:3,5, 7,9,11 | |
| mid- (2) 4:17;9:15 | over (1) 7:13 | Really (3) 3:24;8:1;9:6 | | W |
| mid-tide (1) 4:23 | owners (1) 7:13 | reason (1) 4:1 | ski (4) 5:11,11,22,24 | walk (2) 4:20;7:13 |
| Moore's (1) 4:8 | P | record (2) 9:24;11:12 | skis (2) 2:6;5:22 | walked (1) 8:3 |
| Moore's (1) 2:14 | panic (1) 5:13 | recorded (1) 2:1 | son (1) 6:8 | walking (2) 4:20;8:7 |
| more (1) 6:23 | panicked (1) 5:13 | Recording (2) 10:1;11:13 | state (2) 7:4,7 | water (9) 4:12,18,19,22,24;5:4, 25;8:7;9:16 |
| moving (1) 3:21 | parking (1) 4:8 | Rescue (2) 10:7,11 | still (1) 2:8 | way (1) 7:2 |
| MRS (57) 2:8,11,17,19,22;3:2, 6,13,16,18,24;4:2,5,7, 10,13,15;5:2,5,15,18, 23;6:4,6,11,16,19,21; 7:10,20,25;8:2,5,12,15, 18,21;9:1,5,10,13,17, 19,21,23;10:6,10,14, 18,20,22,24;11:3,5,7,9, 11 | part (2) 2:11;9:8 | retrievers (1) 10:8 | Stone (1) 5:3 | website (1) 11:2 |
| | patrol (2) 3:12;6:13 | right (27) 3:2,25;4:1,5,7,22; 5:4,15;6:1,4;7:20,22, 25;8:19,21;9:4,10,11, 14,17,19,23;10:13; 11:2,5,7,11 | sucked (1) 5:8 | What's (2) 6:8;10:15 |
| | patrolling (1) 3:16 | river (1) 5:6 | summer (1) 6:14 | whole (1) 7:8 |
| | people (10) 2:8,14;6:17,21,25; 7:2,4,12,14,17 | rock (2) 9:8,8 | Surf (1) 3:10 | Wildwood (2) 2:2;10:4 |
| | people's (1) 6:21 | rocks (1) 7:9 | surfboards (1) 5:25 | worry (1) 9:7 |
| | Philly (1) 7:16 | run (2) 7:9,11 | swim (4) 2:7;5:9;8:12,18 | worse (1) 6:12 |
| | picked (1) 5:11 | rushing (3) 4:24;8:7;9:16 | swimmers (1) 2:25 | Y |
| | picture (1) 7:21 | | swimming (2) 2:23;8:22 | yards (1) 6:2 |
| N | pictures (1) 6:25 | S | T | year (1) 4:18 |
| name (2) 10:15,20 | pile (1) 9:8 | sad (2) 5:17,21 | talked (1) 7:4 | years (1) 3:23 |
| naturally (1) 3:19 | piping (1) 7:5 | safe (2) 2:6,22 | telling (1) 7:19 | 0 |
| nature (1) 6:22 | place (1) 4:25 | sandbars (1) 4:25 | tells (2) 4:12,7:22 | 00:01:08 (1) 11:13 |
| neon (1) 6:25 | plover (1) 7:5 | Sandy (1) 3:19 | ten-year-old (1) 6:8 | 00:06:11:28 (1) 10:1 |
| Nice (1) 11:10 | Point (2) 4:6;9:14 | saw (1) 6:1 | Thanks (3) 7:19;9:21;11:9 | 1 |
| nine (1) 3:23 | points (1) 6:1 | scarey (1) 5:19 | thought (2) 8:16,22 | 1 (2) 2:2;10:3 |
| North (2) 2:2;10:4 | police (1) 3:7 | scene (1) 5:21 | tide (3) 4:16,17;7:23 | 100 (1) 6:2 |
| O | pretty (1) 7:1 | seven (1) 3:23 | times (2) 3:6;8:2 | 2 |
| occurring (1) 2:1 | prevent (1) 6:17 | shore (1) 5:10 | two (4) 4:21;5:21,22,24 | 2 (1) 10:3 |
| off (3) 3:3;9:24;11:12 | problem (3) 7:7;9:12,20 | show (2) 3:3;4:1 | U | 2013 (2) 2:2;10:3 |
| once (1) 5:13 | Q | shut (2) 7:6,9 | up (3) 5:11;6:8,24 | 3 |
| one (1) 5:8 | quads (1) 3:8 | signs (3) 6:19,24,24 | V | 30 (1) 4:14 |
| only (1) 4:25 | R | SIMPSON (58) 2:8,11,17,19,22;3:2, 6,13,16,18,24;4:2,5,7, 10,13,15;5:2,5,15,18, 23;6:4,6,11,16,19,21; | vehicles (1) 3:11 | 30-foot (1) 4:23 |
| orange (1) 8:10 | real (1) | | | |
| out (11) | | | | |

D'AMATO LAW FIRM

2900 Fire Road, Suite 200
Egg Harbor Township, New Jersey 08234
609-926-3300

Attorneys for Plaintiff

**SANDRA SMITH, INDIVIDUALLY AND
AS EXECUTRIX OF THE ESTATE OF
GEORGE BRADLEY SMITH, AND AS
GUARDIAN AD LITEM FOR HER
CHILDREN KOLE SMITH AND BRANDY
SMITH, NICOLE GAETA, KYLE SMITH;**

Plaintiffs,

-vs-

**CITY OF NORTH WILDWOOD, STATE
OF NEW JERSEY;**

Defendants.

**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION-CAPE MAY COUNTY
DOCKET NUMBER: L-**

Civil Action

**CERTIFICATION OF
MICHAEL C. MASLOWSKI**

I, Michael C. Maslowski, of full age, hereby certified the following:

1. I am a retired New Jersey State Police Trooper 1.
2. I was a member of the New Jersey State Police for 25 years,
3. I was trained in Marine Law Enforcement by the New Jersey State Police.
4. I was previously assigned to the North Wildwood New Jersey State Police Marine Station.
5. I have received various advanced Marine Law Enforcement training.
6. I navigated and patrolled the area of Hereford Inlet for Approximately 10 years while I was a New Jersey State Trooper.
7. I have assisted the North Wildwood Police and the United States Coast Guard with several water rescues and drowning incidents in the area of the Inlet Beach.

8. There were approximately 2-3 rescues that I was personally involved in from the area of Hereford Inlet Beach each summer.

9. Beach Patrons swim and wade at the Inlet Beach during the summer months.

10. A short step off the inlet beach in the wrong direction could cause a person to fall into 30 feet of water.

11. There are several other beach rescues that go unreported each summer at the Inlet Beach.

12. The unreported rescues are performed by civilians utilizing Jet Skis and/or pleasure or fishing boats.

13. I and fellow State Troopers would hear about the rescues after the fact from beach patrons and other emergency rescue personnel.

14. I consider the Inlet Beach very dangerous to beach patrons due to extreme currents and beach erosion.

15. I have seen a vortex type whirlpool that forms near the rock wall at the Inlet Beach when the tides change.

16. I have personally been involved in several water rescues where individuals were caught in the vortex/whirlpool near the Inlet Beach rock wall.

17. I recall fishermen and tourists falling from the rock wall at Inlet Beach and getting sucked into the vortex/whirlpool.

18. I have observed the North Wildwood Police patrolling the Inlet Beach, Moore's Beach, Moore's Inlet Beach, and the Point on foot and ATVs.

19. I have been called by the North Wildwood Police to patrol in the Inlet Beach regarding jet skiers into the Inlet Beach.

20. I would not allow my children to wade or swim at the Inlet Beach.

21. There is a drop off right off of the Inlet Beach and it is very dangerous to wade or swim.

22. Hereford Inlet is not charted for navigation by the Army Corp of Engineers because it is constantly changing and is dangerous.

23. I believe that the violent incoming/outgoing current from Hereford Inlet undermined the beach creating a pocket under Brad Smith's feet which collapsed.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.


Michael C. Maslowski

Dated: 9/28, 2016

1 SUPERIOR COURT OF NEW JERSEY
2 LAW DIVISION - CAPE MAY COUNTY
3 DOCKET NO. CPM-L-331-14

4 SANDY SMITH,
5 INDIVIDUALLY AND AS
6 EXECUTRIX OF THE ESTATE
7 OF HER LATE HUSBAND
8 GEORGE BRADLEY SMITH,

9 Plaintiff,

10 vs.

11 CITY OF NORTH WILDWOOD,
12 STATE OF NEW JERSEY,
13 JOHN DOE, MARY DOE, ABC
14 PARTNERSHIPS and XYZ
15 CORPORATIONS,

16 Defendants.

17 CIVIL ACTION

18 DEPOSITION
19 TESTIMONY OF:
20 LOUIS BELASCO

21
22 TAKEN BEFORE: LYNN SMITH, a Certified Court
23 Reporter of the State of New Jersey, License No.
24 X101520, at the Cape May County Administration
25 Building, 4 Moore Road, Cape May Court House, New
Jersey, on Thursday, February 18, 2016, commencing at
12:13 p.m.

WORD FOR WORD REPORTING, LLC
CERTIFIED COURT REPORTERS & VIDEOGRAPHERS
6 NORTH BROAD STREET, SUITE 202
WOODBURY, NEW JERSEY 08096
Ph. (856) 384-2770 Fax. (856) 384-2779

WORD FOR WORD REPORTING, LLC

INDEX

2 WITNESS PAGE

3 LOUIS BELASCO

4 Examination By Mr. D'Amato 4

EXHIBITS

9 NUMBER DESCRIPTION ID.

10 P-48 Copy of Photograph 4

11 P-49 December 1, 2011 Letter 21

12 P-50 Document 29

13 (Exhibits retained)

WORD FOR WORD REPORTING, LLC

A P P E A R A N C E S:

2 D'AMATO LAW FIRM
3 2900 Fire Road, Suite 200
4 Egg Harbor Township, New Jersey 08234
5 BY: PAUL R. D'AMATO, ESQUIRE
6 For the Plaintiffs

7 BARKER, GELFAND & JAMES
8 210 New Road
9 Linwood, New Jersey 08221
10 (609) 601-8677
11 BY: WILL ROZELL, ESQUIRE
12 For the Defendant, North Wildwood

13 STATE OF NEW JERSEY
14 DEPARTMENT OF LAW AND PUBLIC SAFETY
15 DIVISION OF LAW
16 R.J. Hughes Justice Complex
17 25 Market Street
18 Trenton, New Jersey 08625
19 (609) 777-4872
20 BY: BRIAN HUNKINS, DAG
21 For the State of New Jersey

22 Also present: Lou DiJoseph

23 Videographer: Tom Zanaras

WORD FOR WORD REPORTING, LLC

1 (Copy of Photograph, received and
2 marked for identification as Exhibit P-48.)
3 VIDEOGRAPHER: Today is February the
4 18th, 2016. This is the videotaped deposition of
5 Louis Belasco. We're going on the record, and the
6 time is 12:13 p.m. The appearance of counsel will be
7 noted in the transcript.

8 Will the court reporter please swear
9 in the witness.

10 LOUIS BELASCO,
11 having been first duly sworn, testified as follows:

12 EXAMINATION BY MR. D'AMATO:
13 Q. Mr. Belasco, with your permission, I will
14 call you Lou.

15 A. Um-hum.

16 Q. And please call me Paul. I said to you off
17 the record, I'm not really sure what you know, and
18 what you don't know. And to save a lot of time
19 today, if you know the answer, I'm sure you'll give
20 me a truthful answer. But to save your time, if I
21 ask you a question, and you feel that there's
22 somebody else, other than yourself, that, within the
23 government of North Wildwood, that it would be more
24 appropriate to ask that question, I would appreciate
25 it if you would tell me. Okay? This way, we can --

WORD FOR WORD REPORTING, LLC

48?

2 **A. Oh, man. That would be really tough. That**
3 **would -- it probably when I was away at college, late**
4 **'90s, early 2000s.**

5 **Q.** Okay. When you were in high school, during
6 the spring or summertime, or September -- and wait.
7 Let's define those years.

8 From the time you started at Wildwood
9 Catholic, until the time you graduated, would have
10 been?

11 **A. '93 to '97. I graduated in '97. I might be**
12 **doing the math backwards wrong.**

13 **Q.** Okay. All right.

14 Was there any type of a beach in that
15 blue circle on Exhibit 48?

16 **A. Not that I remember.**

17 **Q.** Okay. So, it's your recollection that when
18 you were in college, this beach that is --

19 **A. Yeah. I -- I mean, like, I couldn't nail**
20 **down a year for you.**

21 **Q.** That's all right. But some time when you're
22 in college at Drexel, a beach begins to develop in
23 the area of that blue -- I keep calling it a circle.

24 **A. Um-hum.**

25 **Q.** It's a configuration. Okay?

WORD FOR WORD REPORTING, LLC

14

1 **A. Um-hum.**

2 **Q.** On Exhibit 48.

3 All right. Now, when you were in
4 college, where were you living in North Wildwood; on
5 what street?

6 **A. 21st.**

7 **Q.** All right. When you went to the beach, where
8 would you typically go to the beach?

9 **A. 10th.**

10 **Q.** All right.

11 **A. Or 21st.**

12 **Q.** Just taking you during your college years,
13 what frequency would you ever have to go to the beach
14 area that was beginning to develop in the blue circle
15 on Exhibit 48?

16 **A. None.**

17 **Q.** All right. In your entire adult life, did
18 you, before July 27, 2012, ever have occasion to walk
19 on the, what we're going to call the inlet beach,
20 which includes Moore's Beach; just walk?

21 **A. In this circle here?**

22 **Q.** Yes.

23 **A. Yeah, I'm sure I have.**

24 **Q.** Okay. I was raised in Atlantic City and
25 Margate. And I could -- if you took my deposition

WORD FOR WORD REPORTING, LLC

1 about beaches in Margate, I could tell you. There
2 was actually a boardwalk that used to run down for
3 about a good part of Margate, that was long gone
4 because of a hurricane when I was a kid.

5 **Being a resident of North Wildwood, and**
6 **as you're maturing through grammar school and high**
7 **school and college, were there any dangers to the**
8 **inlet beach area, and including the inlet that runs**
9 **adjacent to it, that you became aware of, as someone**
10 **living here?**

11 MR. HUNKINS: Object to the form.

12 MR. ROZELL: Join in the objection.

13 **Q.** Go ahead.

14 **A. Well, all inlets are inherently dangerous,**
15 **mostly due to the currents that run through them.**

16 **Q.** Right.

17 **A. That would be -- that would be the main**
18 **danger that I would see in an inlet. Any inlet. And**
19 **Hereford, included in that.**

20 **Q.** Were you one of the guys that would try to
21 swim from the inlet beach, including Moore's Beach,
22 over to Champagne Island?

23 **A. No.**

24 **Q.** And why not?

25 **A. Because of the currents that run through**
WORD FOR WORD REPORTING, LLC

16

1 **Hereford Inlet.**

2 **Q.** Okay. When we took the deposition of Chief
3 Cavalier of the North Wildwood Beach Patrol, I had
4 asked him questions dealing with a Dr. Stewart
5 Farrell --

6 **A. Um-hum.**

7 **Q.** -- of Stockton. And you know who he is;
8 don't you?

9 **A. Yes.**

10 **Q.** All right. I'm going to get to certain
11 documents that were authored for the City of North
12 Wildwood by the Stockton University Coastal Research
13 Center in a second. But Mr. Lou DiJoseph -- I don't
14 know. Did you meet him?

15 **A. Just briefly before we started.**

16 **Q.** Okay. He's retired from the intelligence
17 bureau of the New Jersey State Police, and now is a
18 licensed private investigator. He interviewed Dr.
19 Farrell, and we provided a copy of that interview to
20 everyone.

21 And Dr. Farrell was talking about a
22 whirlpool or a vortex that is created when the back
23 bays are coming out and going into the ocean. All
24 right?

25 Is this the first time you ever heard
WORD FOR WORD REPORTING, LLC





EXIT
4-4
9

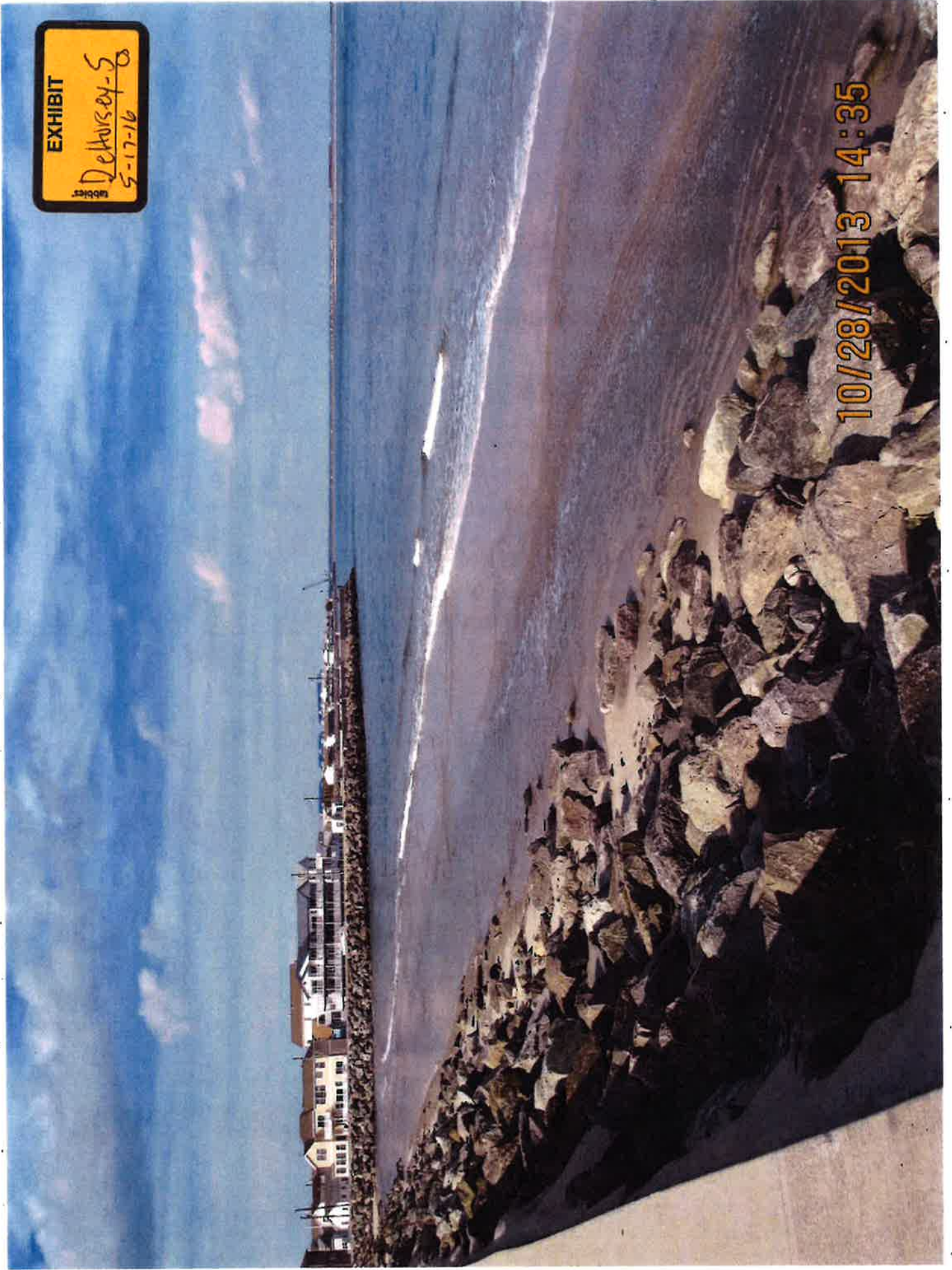
06/16/2014 14:24



EXHIBIT

DeHorsey-5
5-17-16

10/28/2013 14:35

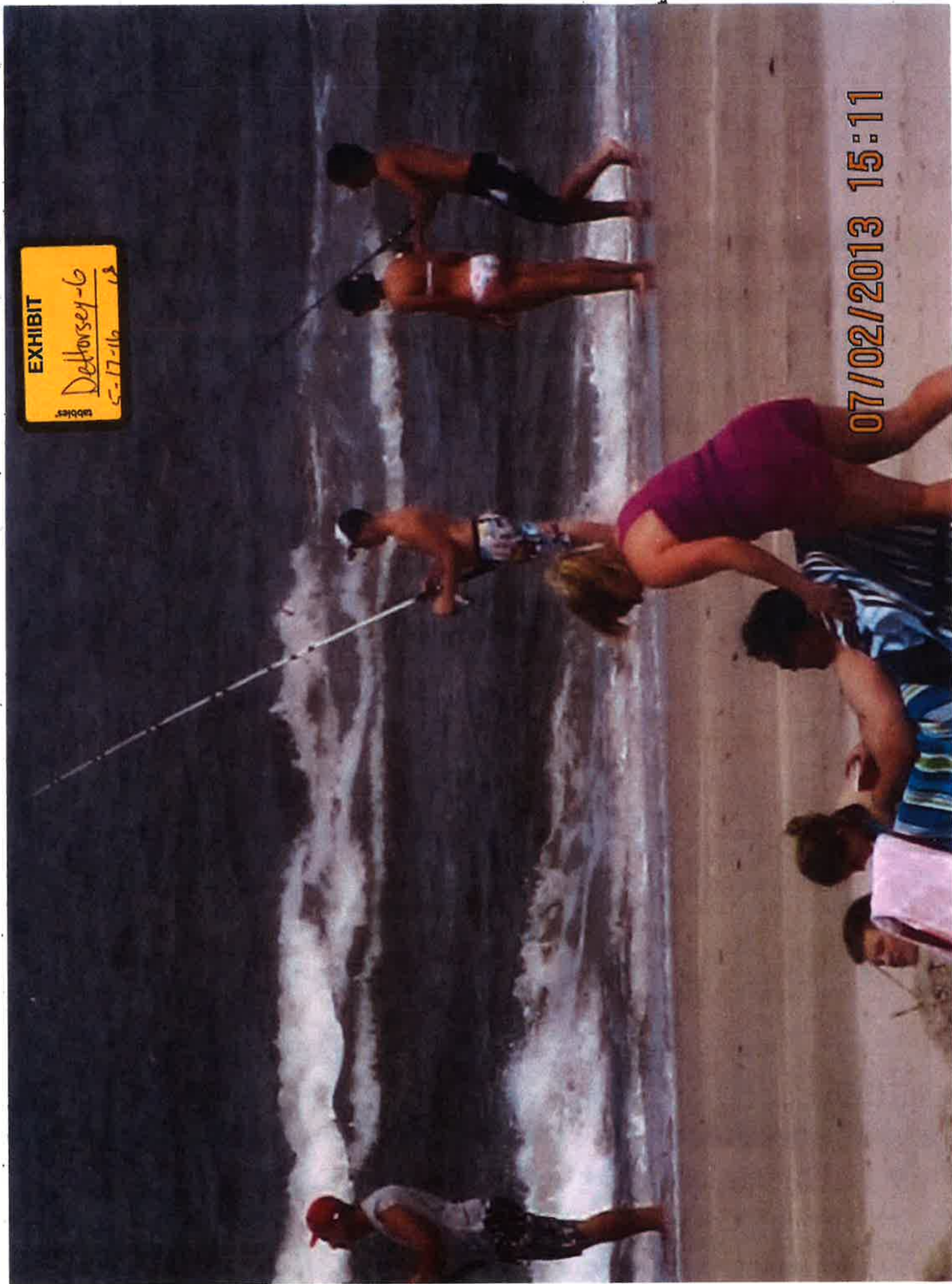


EXHIBIT

Defensory-6

5-17-16 13

07/02/2013 15:11



IBIT
vser-7
6



WELCOME TO NORTH WILDWOOD INLET
SWIMMING PROHIBITED
THE BEACH IS UNPROTECTED AT ALL TIMES
WHEN UNPROTECTED SWIMMING IS PROHIBITED

CITY ORDINANCE 139-1 et seq. PROHIBITS
ALCOHOLIC BEVERAGES;
OBSCENE LANGUAGE;
VEHICLES;
LITTERING;
ANIMALS;
FIRES OR FEEDING SEAGULLS

BEACH CLOSED DUSK TO DAWN

MORE INFORMATION AT WWW.NORTHWILDWOODNJ.NJ

10/28/2013 14:38

HIGH RISK

1 SUPERIOR COURT OF NEW JERSEY
2 LAW DIVISION - CAPE MAY COUNTY
3 DOCKET NO. CPM-L-331-14
4 SANDY SMITH,
5 INDIVIDUALLY AND AS
6 EXECUTRIX OF THE ESTATE
7 OF HER LATE HUSBAND
8 GEORGE BRADLEY SMITH,
9
10 Plaintiff,
11
12 vs.
13
14 CITY OF NORTH WILDWOOD,
15 STATE OF NEW JERSEY,
16 JOHN DOE, MARY DOE, ABC
17 PARTNERSHIPS and XYZ
18 CORPORATIONS,
19
20 Defendants.
21
22
23
24
25
TAKEN BEFORE: LYNN SMITH, a Certified Court
Reporter of the State of New Jersey, License No.
X101520, at the North Wildwood City Hall, 901
Atlantic Avenue, North Wildwood, New Jersey, on
Tuesday, May 17, 2016, commencing at 10:26 a.m.
WORD FOR WORD REPORTING, LLC
CERTIFIED COURT REPORTERS & VIDEOGRAPHERS
6 NORTH BROAD STREET, SUITE 202
WOODBURY, NEW JERSEY 08096
Ph. (856) 384-2770 Fax. (856) 384-2779

WORD FOR WORD REPORTING, LLC

APPEARANCES:

D'AMATO LAW FIRM
2900 Fire Road, Suite 200
Egg Harbor Township, New Jersey 08234
609-926-3300
BY: PAUL R. D'AMATO, ESQUIRE
For the Plaintiffs

BARKER, GELFAND & JAMES
210 New Road
Linwood, New Jersey 08221
(609) 601-8677
BY: WILL ROZELL, ESQUIRE
For the Defendant, North Wildwood

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF LAW
R.J. Hughes Justice Complex
25 Market Street
Trenton, New Jersey 08625
(609) 777-4872
BY: BRIAN HUNKINS, DAG
For the State of New Jersey

Also present: Lou DiJoseph
Videographer: Tom Zanaras

WORD FOR WORD REPORTING, LLC

INDEX

| <u>WITNESS</u> | <u>PAGE</u> | |
|------------------------------|-----------------------|------------|
| CARL DELINSKI, JR. | | |
| Examination By Mr. D'Amato | 4 | |
| <u>EXHIBITS</u> | | |
| <u>NUMBER</u> | <u>DESCRIPTION</u> | <u>ID.</u> |
| Delinski-1 | Printout of North | 6 |
| Delinski-2 | Wildwood Public Works | |
| Delinski-4 | website | |
| Delinski-4 | Photographs | 19 |
| Delinski-5 | Photographs | 20 |
| Delinski-18 | | |
| Delinski-19 | Photograph | 30 |
| WORD FOR WORD REPORTING, LLC | | |

WORD FOR WORD REPORTING, LLC

VIDEOGRAPHER: Today is May 17th, 2016.
This is the videotaped deposition of Carl Delinski.
Going on the record, and the time is 10:26 a.m.
The appearance of counsel will be
noted in the transcript.
Would the court reporter please swear
in the witness.
CARL DELINSKI, JR.,
having been first duly sworn, testified as follows:
EXAMINATION
BY MR. D'AMATO:
Q. Carl, before we began today, I told you my
name is Paul D'Amato. And we're here today for a
deposition. That's a fancy legal term for the fact
that I'm going to be asking you questions, and
perhaps my colleagues will ask you some questions.
It looks like it's a lot more formal, because you
have a videographer, you have a stenographer.
A. Right.
Q. The stenographer, she makes a booklet of all
the questions and all your answers. The videographer
does what a videographer does. Actually, it's -- we
don't even use video, it's DVD, but we call it a
videographer. We also call him a lot of other
things, but we're not going to get into it right now.

WORD FOR WORD REPORTING, LLC

good detail.

Have you ever seen this vortex?

MR. HUNKINS: Object to the form.

A. Sure.

Q. Okay. And does it typically occur when the back bays are going into the ocean?

A. I would think, yeah, on the outgoing tides.

Q. Yeah. Outgoing from the bay to the ocean?

A. From the bay into the ocean, yeah.

Q. And is it there every day when the back bays are going into the ocean?

A. I would think in spots, yes.

Q. And what does it look like?

A. Whirlpool. Just a big vortex, like you said. You could actually see the water spinning.

Q. And if you -- you know, I watched a lot of football. If you had to tell me how many yards wide this vortex is that you have seen?

A. Oh, I couldn't even guess. I mean, not even a little. Couple -- couldn't even tell you. It would be a guess. I never really paid too much attention. Sorry.

Q. Okay, okay. Before July 27, 2012, did you ever hear of where this vortex would eat out some of the beach when it was spinning around?

WORD FOR WORD REPORTING, LLC

18

MR. HUNKINS: Object to the form.

A. Sure. I mean, yeah, it would.

Q. Have you ever seen that happening?

MR. HUNKINS: Object to the form.

MR. ROZELL: Same objection. You can answer.

A. Not really. I mean, I've been up on the rock pile fishing, down the -- all the way down at the end here, and you can just see it if you're there. I've never seen it -- don't spend too much time that -- down that part of the beach, so.

Q. Okay. I want to show you DeHorsey-6, which is some people doing some surf fishing.

You mentioned that you do fishing.

Have you ever done surf fishing at the Moore's Inlet Beach?

A. No. Never -- no. Always out front, or off the rock pile, down around the --

Q. Okay. I'm going to show you DeHorsey-7, where there's some signs there. Does the Public Works Department -- is it that department's responsibility to put signs up like that which you see in DeHorsey-7?

A. Beach patrol, as far as I can remember, would put all the signs up.

WORD FOR WORD REPORTING, LLC

Q. Okay.

A. On the beach.

(Discussion off the record.)

(Photographs, received and marked for identification as Exhibits Delinski-2 through Delinski-4.)

Q. We've had certain photographs marked for identification with your last name. They are Exhibits 2, 3, and 4. Okay?

A. Um-hum.

Q. And these were taken on August 16, 2012. All right?

Now, you'll see in the first one, there's that red balloon?

A. Right.

Q. Okay? If you look at all the photographs, you'll see that red balloon in there?

A. Right.

Q. Okay. Were you involved in any way in positioning those pieces of concrete with the chain next to the ball after July 27, 2012?

A. No, I wasn't.

Q. Do you remember seeing them?

A. After they were placed, yeah. I possibly could have been off the day that --

WORD FOR WORD REPORTING, LLC

20

Q. Okay.

A. Yeah. I mean, I remember seeing them there, but I didn't have anything to do with them.

Q. Why were they placed there?

A. That, I couldn't tell you. I was never told.

Q. No?

A. I mean, they -- like I said, I came to work, and I went down the beach to check, and they were there.

Q. Okay. Are they there every summer?

A. No.

Q. What happened to them?

A. Good question. I don't know if the tide took them away. Pretty sure that -- that it swept them away.

Q. Okay.

(Photographs, received and marked for identification as Exhibits Delinski-5 through Delinski-18.)

(Discussion off the record.)

BY MR. D'AMATO:

Q. Okay. Thank you for your patience.

A. Um-hum.

Q. I'm now going to hand you --

A. That's my phone.

WORD FOR WORD REPORTING, LLC



511 West Oak Avenue

North Wildwood, NJ 08260 Phone: 609-522-4646 Fax: 609-522-1141

Department Hours: Monday – Friday 7 a.m. to 2:30 p.m.

Gary Sloan, DPW Director gsloan@northwildwood.com

Timothy Chester, Supervisor, Oversees Parking and Street Maintenance
tchester@northwildwood.com

Carl Delinski, Supervisor, Oversees Beaches and Fleet Maintenance
cdelinski@northwildwood.com

"Our mission is to safely, efficiently and professionally enhance the quality of life in North Wildwood, regardless of time, weather and situation"

Office Staff: Bonnie O'Kane, Executive Assistant
bokane@northwildwood.com

Maureen Chambers, Front Desk and contact for Service Requests and Work Orders

Department Functions

The North Wildwood Department of Public Works strives to satisfy its residents, businesses, tourists, and other City organizations and departments. We welcome the opportunity to serve them. We value their opinions and concerns. Each division works hard to help build and maintain North Wildwood's reputation as a clean, attractive, safe and well-respected place for people to live, work and visit. The department will answer any question and respond to any complaint in a timely manner. These are the responsibilities we handle daily:

- Maintain Streets
- Maintain City Properties



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Public Works

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 - North Wildwood

North Wildwood Municipal Court

North Wildwood Municipal Court, 10th & Atlantic Avenues, North Wildwood, NJ 00001
Cape May County

FREE PUBLIC RECORDS SEARCH



| First Name | Last Name |
|----------------------|----------------------|
| <input type="text"/> | <input type="text"/> |

Court System Type:

DWI / DUI., Traffic infractions., Exclusive Parking., Ordinance violations.

Division:

Contact Information:

Phone Number: 609-729-3818

Website: <http://www.judiciary.state.nj.us/directory/munctadr.pdf>

County Clerk and Other Info:

Judge or Clerk: Louis J. Belasco, Jr.

[+] **General Jury Duty Information**

[+] **Court Records, Ticket Payment, and other Info**

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Metuchen Municipal Court, 500 Main Street

1.3 miles away

Penns Grove Municipal Court

Penns Grove Municipal Court, West Main & State Street

2.3 miles away

Edison Township Municipal Court

Edison Township Municipal Court, 100 Municipal Boulevard

2.3 miles away

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•

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EXHIBIT

Delinski - 2
5-17-16

08/16/2012 13:35



08/16/2012 13:44

3/8

EXHIBIT

Dehnski-4

5-17-16 03

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08/16/2012 13:35



EXHIBIT

Dehinski-5

5-17-16

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Exhibit

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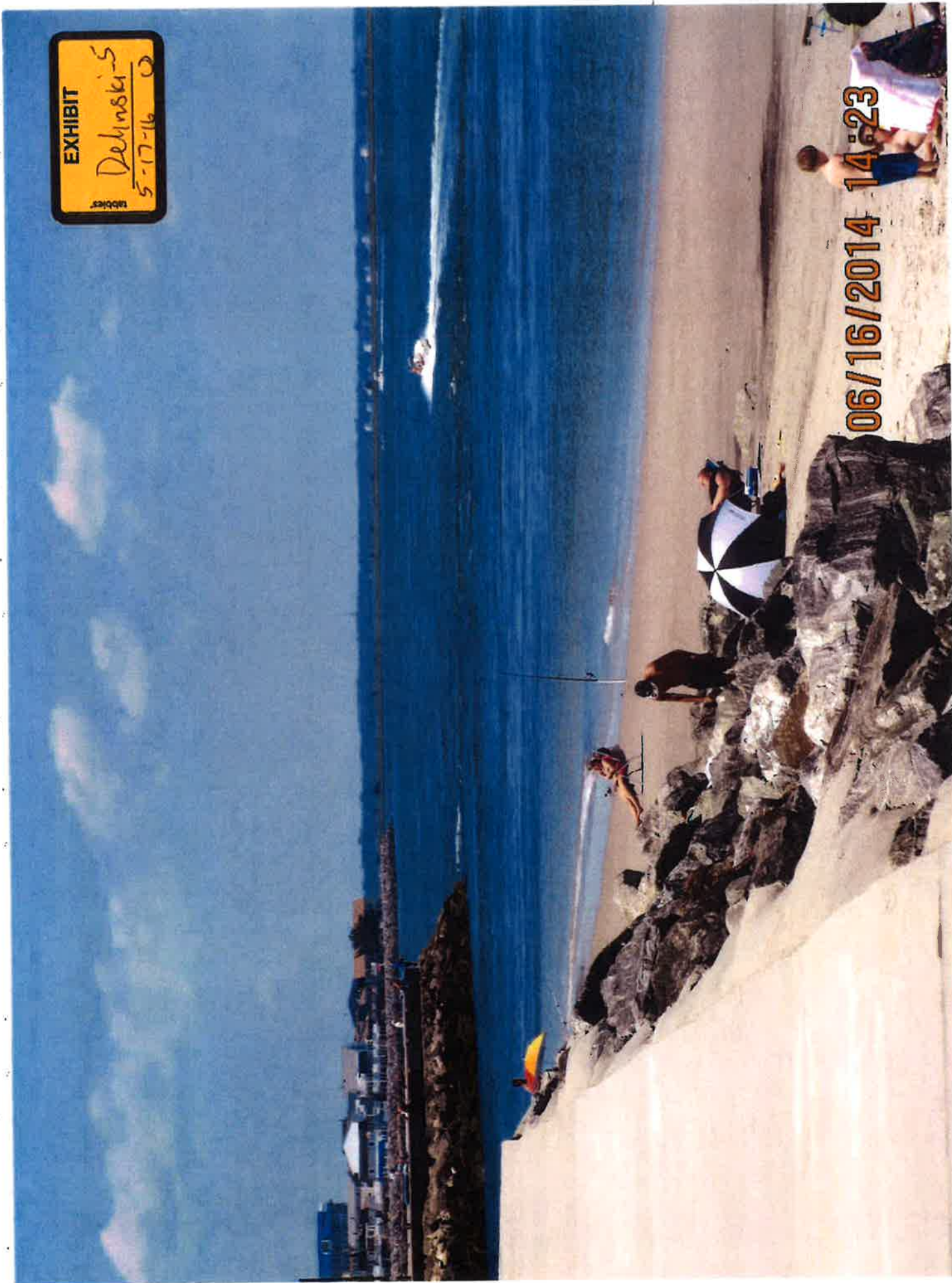


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EXHIBIT
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EXHIBIT

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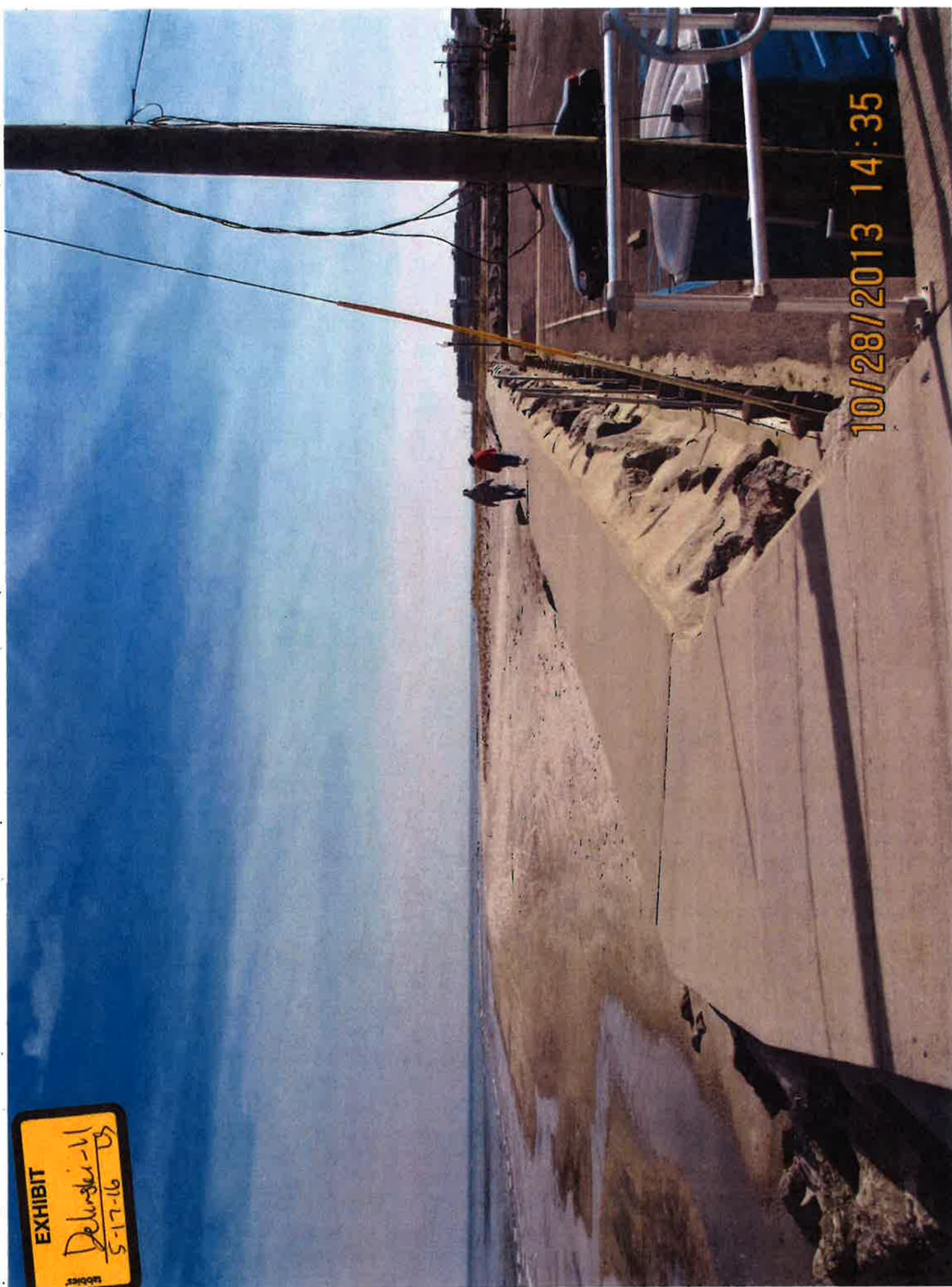


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FLORIDA BEACHES
SWIMMING PROHIBITED
The State of Florida, with the
and substantial damage to property
and the lives of the people
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of the State of Florida
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HIGH-RISK
RIP CURRENT
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EXHIBIT

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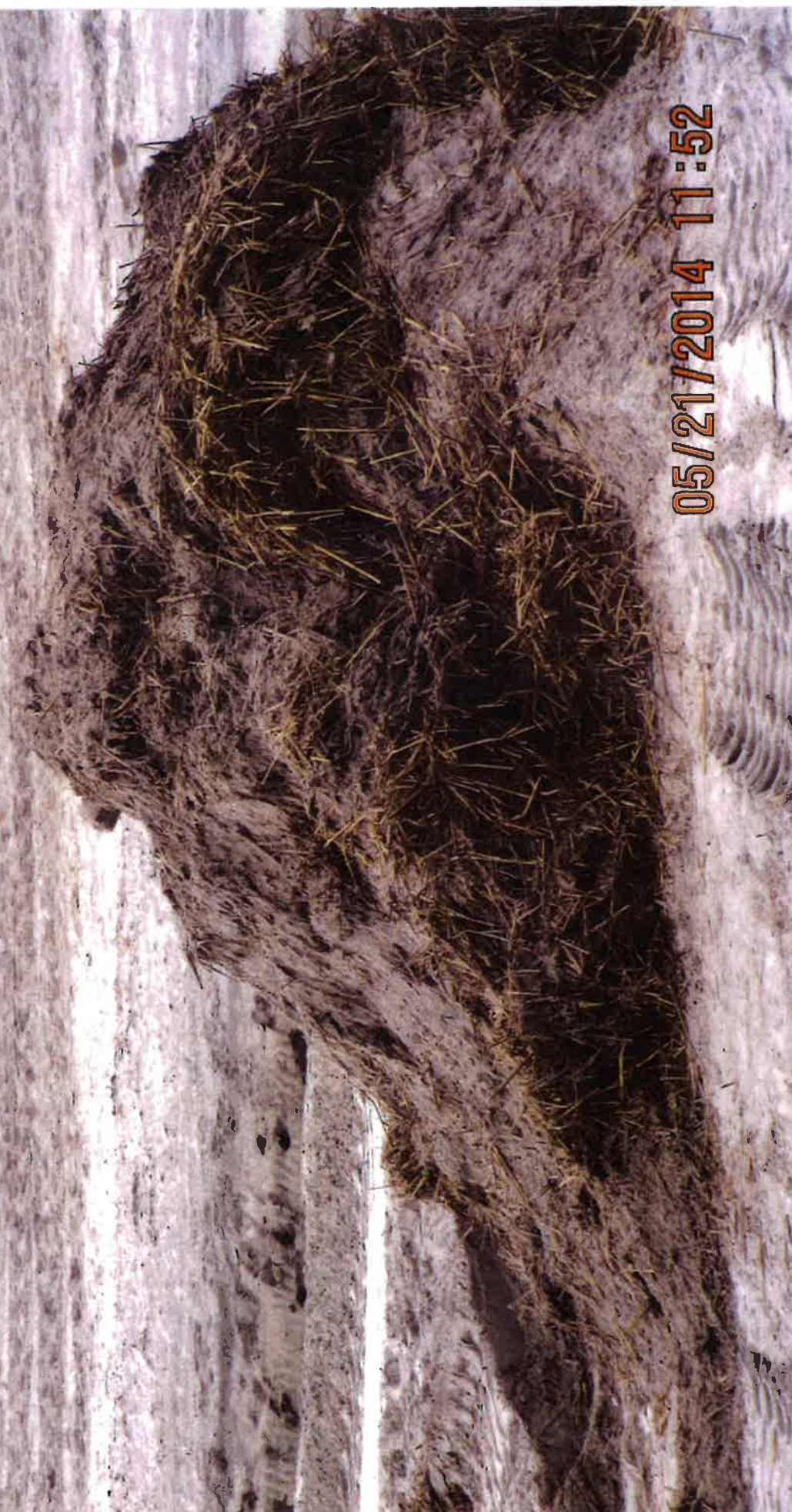


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EXHIBIT

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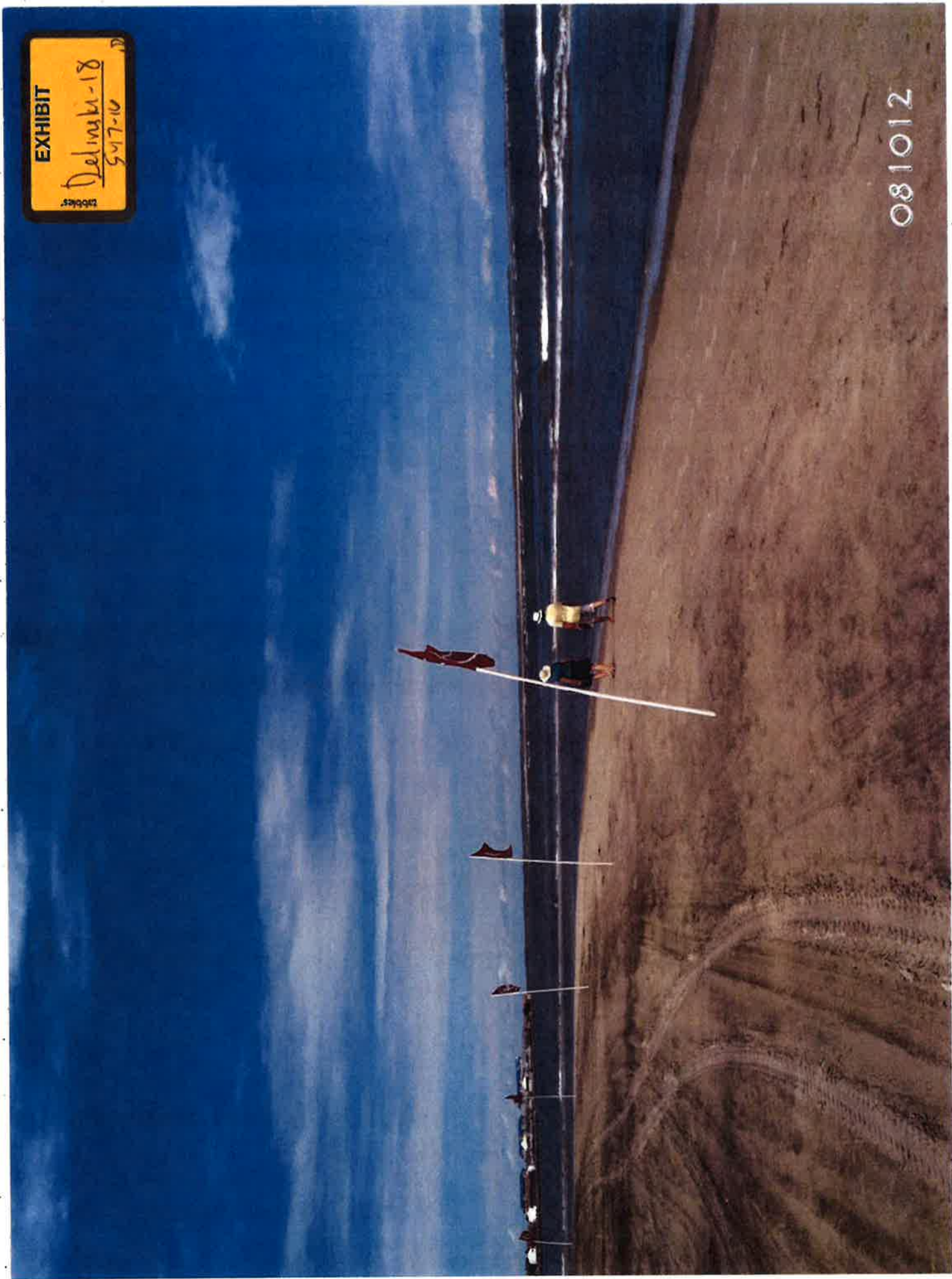
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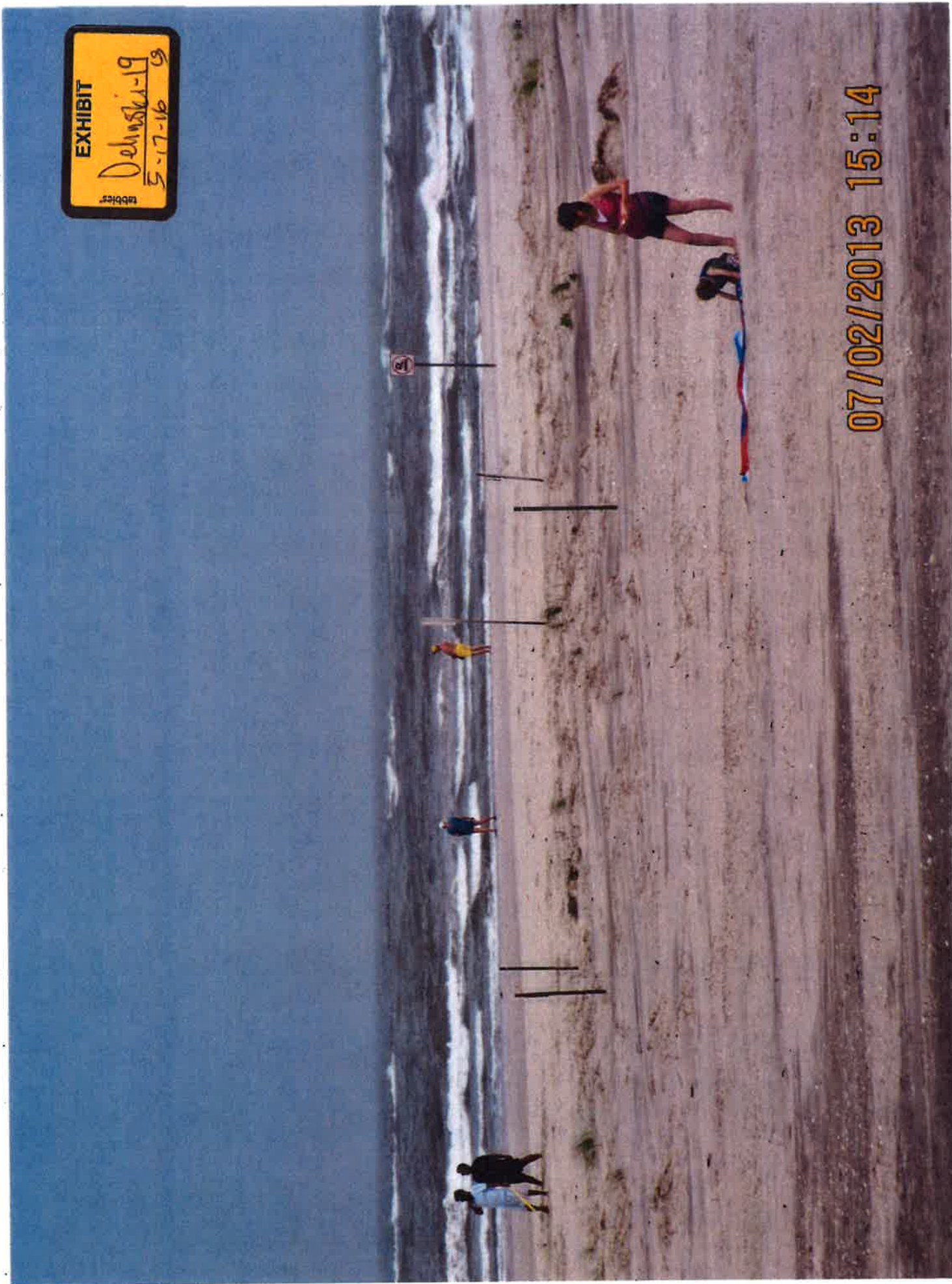
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1 SUPERIOR COURT OF NEW JERSEY
2 LAW DIVISION - CAPE MAY COUNTY
3 DOCKET NO. CPM-L-331-14
4
5 SANDY SMITH, :
6 INDIVIDUALLY AND AS : CIVIL ACTION
7 EXECUTRIX OF THE ESTATE :
8 OF HER LATE HUSBAND : DEPOSITION
9 GEORGE BRADLEY SMITH, : TESTIMONY OF:
10 : MATTHEW GALLAGHER
11 Plaintiff, :
12 :
13 vs. :
14 :
15 CITY OF NORTH WILDWOOD, :
16 STATE OF NEW JERSEY, :
17 JOHN DOE, MARY DOE, ABC :
18 PARTNERSHIPS and XYZ :
19 CORPORATIONS, :
20 Defendants. :
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1 INDEX 3

2 WITNESS PAGE

3

4 MATTHEW GALLAGHER

5 Examination By Mr. D'Amato 4

6

7

8 EXHIBITS

9 NUMBER DESCRIPTION Id.

10 P-58 Aerial Photograph 8

11 P-59 Photograph 24

12 P-60 Photograph 25

13

14

15 (Exhibits retained)

16

17

18

19

20

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22

23

24

25

1 APPEARANCES: 2

2 D'AMATO LAW FIRM
3 2900 Fire Road, Suite 200
4 Egg Harbor Township, New Jersey 08234
5 BY: PAUL R. D'AMATO, ESQUIRE
6 For the Plaintiffs
7
8 BARKER, GELFAND & JAMES
9 210 New Road
10 Linwood, New Jersey 08221
11 (609) 601-8677
12 BY: A. MICHAEL BARKER, ESQUIRE
13 For the Defendant, North Wildwood
14
15 STATE OF NEW JERSEY
16 DEPARTMENT OF LAW AND PUBLIC SAFETY
17 DIVISION OF LAW
18 R.J. Hughes Justice Complex
19 25 Market Street
20 Trenton, New Jersey 08625
21 (609) 777-4872
22 BY: BRIAN HUNKINS, DAG
23 For the State of New Jersey
24
25 Also present: Lou DiJoseph
26 Videographer: Tom Zanaras

1 VIDEOGRAPHER: Today is February 25th,
2 2016. This is the videotaped deposition of Chief
3 Matthew Gallagher. We're going on the record, and
4 the time is 11:12. The appearance of counsel will be
5 noted in the transcript.
6 Will the court reporter please swear
7 in the witness.
8 MATTHEW GALLAGHER,
9 having been first duly sworn, testified as follows:
10 EXAMINATION BY MR. D'AMATO:
11 Q. Good morning, sir.
12 A. Good morning.
13 Q. Have you gone through this process of a
14 deposition before?
15 A. Yes.
16 Q. Give me your best estimate as to how many
17 times you've done that.
18 A. Two.
19 Q. And did any of those depositions relate to
20 your present position as being chief of the North
21 Wildwood Police Department?
22 A. No.
23 Q. Okay. When is the last time you had a
24 deposition taken?
25 A. It was a couple years ago.

1 discussion of closing what people call Moore's Beach
2 or Moore's Inlet Beach?

3 **A. No.**

4 **Q.** All right. Have you, from the time you
5 became a police officer, until today, saw anything in
6 writing which addressed the concept of closing
7 Moore's Beach?

8 **A. No.**

9 **Q.** Okay. Do you have an opinion as to whether
10 an ordinance should be entered closing Moore's Beach
11 or what you call The Inlet Beach on Exhibit 58?

12 **A. Do I have an opinion?**

13 **Q.** Yeah.

14 **A. Yes.**

15 **Q.** And what's that opinion?

16 **A. It shouldn't be closed.**

17 **Q.** And why not?

18 **A. I don't think it's dangerous.**

19 **Q.** Okay. And you're saying this by virtue of
20 being the chief of police of the North Wildwood
21 Police Department?

22 **A. For being a police officer employed in the**
23 **City of North Wildwood for the last 29 years.**

24 **Q.** Okay. Are you familiar with any dangerous
25 conditions associated with the ebb tide running along

1 the beach as shown in Exhibit 58?

2 **A. No.**

3 **Q.** Okay. Are you aware of any dangerous
4 conditions relative to the beach that we circled in
5 red on Exhibit 58 regarding the collapsing of the
6 beach?

7 **A. No.**

8 **MR. HUNKINS:** Object to the form.

9 **MR. BARKER:** Which one was the one
10 circled in red?

11 **MR. D'AMATO:** Which I circled in red.
12 It's the entire area.

13 **Q.** Your answer is no. Right?

14 **A. Could you re --**

15 **Q.** Yeah.

16 **A. Say the question again, please.**

17 **MR. D'AMATO:** You want to ask him
18 again?

19 (Record read.)

20 **A. No.**

21 **Q.** Okay. Are you aware of any dangers of what
22 -- of the beach that you circled in blue, which was
23 Moore's Beach, on Exhibit 58, of the beach
24 collapsing?

25 **MR. HUNKINS:** Object to the form.

1 **A. I was called down to Moore's Beach, I don't**
2 **remember the year, where they actually did close off**
3 **that beach for a little while, because there was --**
4 **sand was collapsing into the ocean.**

5 **Q.** Okay. And what year or years was that?

6 **A. I don't recall.**

7 **Q.** Best estimate?

8 **A. Within the last five years.**

9 **Q.** Okay. And when the beach was closed, why
10 would you be notified, by virtue of your being a
11 member of the North Wildwood Police Department?

12 **A. I believe public works called us for caution**
13 **tape.**

14 **Q.** Okay. Do you remember what time of the year
15 that was?

16 **A. No.**

17 **MR. D'AMATO:** Okay. I think I'm
18 finished. Let's go off the record. I just need to
19 talk to Mr. DiJoseph.

20 **VIDEOGRAPHER:** Going off the record,
21 and the time is 11:37.

22 (Discussion off the record.)

23 **VIDEOGRAPHER:** We're back on the
24 record, 11:39.

25 **MR. D'AMATO:** All right. You know

1 what, here. Let's have this marked for
2 identification.

3 **I'm sorry. I have a couple more**
4 **questions.**

5 **THE WITNESS:** That's okay. That's
6 fine.

7 **MR. D'AMATO:** I just found something.
8 Okay. Thank you.

9 (Photograph, received and marked for
10 identification as Exhibit P-59.)

11 **Q.** I'm going to show you what's been marked for
12 identification as Exhibit 59. Okay? This is the
13 photograph I was telling you about where there's two
14 police officers.

15 **Now, as you look at that photograph,**
16 **would you say, keeping in mind what you marked on**
17 **Exhibit 58, is that The Inlet Beach, Second Beach, or**
18 **Moore's Beach?**

19 **A. It's tough from the angle. I can't see where**
20 **the parking lot is.**

21 **Q.** Okay.

22 (Discussion off the record.)

23 **A. If it was over top, I could see.**

24 **MR. D'AMATO:** That's not going to help.

25 **A. If it's directly down from the parking lot, I**

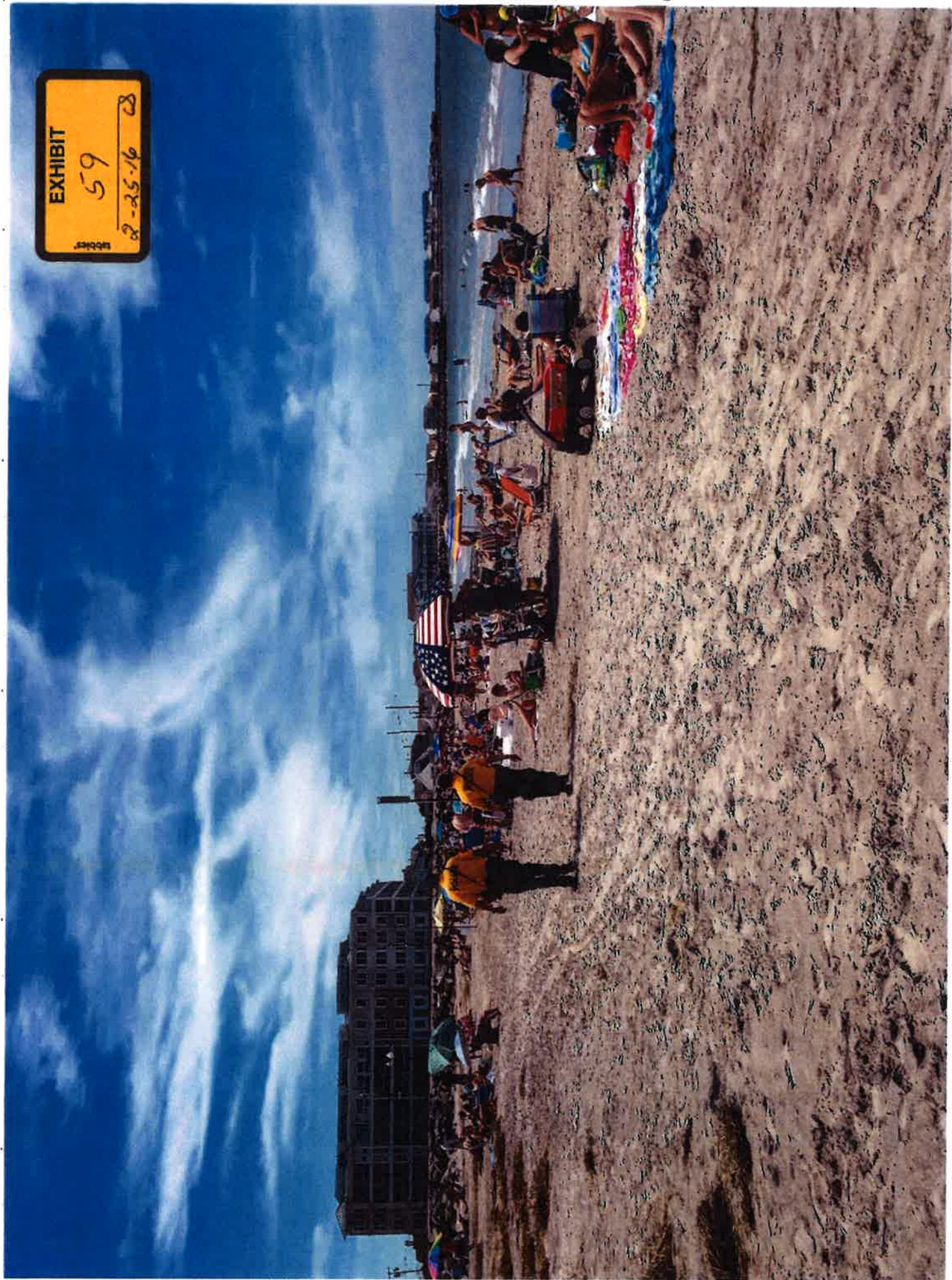
March 14, 2012



1 inch = 500 feet

Provided by the Cape May County Planning Department
Aerial Flown by the State of NJ

EXHIBIT
59
8-25-16 CB





WELCOME TO NORTH WILDWOOD INLET

SWIMMING PROHIBITED

**THE BEACH IS UNPROTECTED AT ALL TIMES
WHEN UNPROTECTED SWIMMING IS PROHIBITED**

CITY ORDINANCE 139.1 et seq PROHIBITS

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LITTERING;

ANIMALS;

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BEACH CLOSED DUSK TO DAWN

MORE INFORMATION AT

www.NORTHWILDWOOD.com

**HIGH-RISK
RIP CURRENT
AREA**





Exhibits 13-25

1 SUPERIOR COURT OF NEW JERSEY
2 LAW DIVISION - CAPE MAY COUNTY
3 DOCKET NO. CPM-L-331-14

4 SANDY SMITH, :
5 INDIVIDUALLY AND AS : CIVIL ACTION
6 EXECUTRIX OF THE ESTATE :
7 OF HER LATE HUSBAND : DEPOSITION
8 GEORGE BRADLEY SMITH, : TESTIMONY OF:
9 : PATRICK ROSENELLO
10 Plaintiff, :
11 :
12 vs. :
13 :
14 CITY OF NORTH WILDWOOD, :
15 STATE OF NEW JERSEY, :
16 JOHN DOE, MARY DOE, ABC :
17 PARTNERSHIPS and XYZ :
18 CORPORATIONS, :
19 Defendants. :
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15 TAKEN BEFORE: LYNN SMITH, a Certified Court
16 Reporter of the State of New Jersey, License No.
17 XIO1520, at the D'Amato Law Firm, 2900 Fire Road,
18 Suite 200, Egg Harbor Township, New Jersey 08234, on
19 Tuesday, March 1, 2016, commencing at 2:28 p.m.
20
21
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23 WORD FOR WORD REPORTING, LLC
24 CERTIFIED COURT REPORTERS & VIDEOGRAPHERS
25 6 NORTH BROAD STREET, SUITE 202
WOODBURY, NEW JERSEY 08096
Ph. (856) 384-2770 Fax. (856) 384-2779

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1 APPEARANCES:

2 D'AMATO LAW FIRM
3 2900 Fire Road, Suite 200
4 Egg Harbor Township, New Jersey 08234
5 BY: PAUL R. D'AMATO, ESQUIRE
6 For the Plaintiffs
7
8
9

10 BARKER, GELFAND & JAMES
11 210 New Road
12 Linwood, New Jersey 08221
13 (609) 601-8677
14 BY: A. MICHAEL BARKER, ESQUIRE
15 For the Defendant, North Wildwood
16
17
18

19 STATE OF NEW JERSEY
20 DEPARTMENT OF LAW AND PUBLIC SAFETY
21 DIVISION OF LAW
22 R.J. Hughes Justice Complex
23 25 Market Street
24 Trenton, New Jersey 08625
25 (609) 777-4872
BY: BRIAN HUNKINS, DAG
For the State of New Jersey

Videographer: Tom Zanaras

WORD FOR WORD REPORTING, LLC

1 INDEX

2 WITNESS

PAGE

3 PATRICK ROSENELLO

4 Examination By Mr. D'Amato 4
5 Examination By Mr. Hunkins 92

6 EXHIBITS

| 7 NUMBER | DESCRIPTION | ID. |
|-----------------|--------------------------------|-----|
| 8 P-63 | Aerial Photograph | 10 |
| 9 P-64 | Photograph | 33 |
| 10 P-65 | 2016 Tourism Brochure | 43 |
| 11 P-66 | Photograph | 59 |
| 12 P-67 | Photograph | 61 |
| 13 P-68 | Photograph | 64 |
| 14 P-69 | Photographs | 66 |
| 15 through P-71 | | |
| 16 P-72 | Photograph | 67 |
| 17 P-73 | Photograph | 77 |
| 18 P-74 | Cape May County Herald Article | 79 |
| 19 P-75 | Press of Atlantic City Article | 80 |
| 20 | | |
| 21 P-76 | E-mail (Exhibits attached) | 86 |
| 22 | | |

23 REQUESTS

24 Page 37, Line 12 - Photographs from Stewart Farrell

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1 VIDEOGRAPHER: Today's March the 1st,
2 2016. This is the videotaped deposition of Patrick
3 Rosenello. Going on the record. The time is 2:28
4 p.m. The appearance of counsel will be noted in the
5 transcript.

6 Would the court reporter please swear
7 in the witness.

8 PATRICK ROSENELLO,
9 having been first duly sworn, testified as follows:
10 EXAMINATION BY MR. D'AMATO:

11 Q. Mayor, have you gone through this process
12 before of a deposition?

13 A. One -- one other time, yes.

14 Q. Did it relate to the City of North Wildwood?

15 A. No.

16 Q. Oh, okay. You have sitting next to you one
17 of the most competent attorneys I know. He has a
18 right, after I ask you a question, to say that he
19 objects to the form of the question. I doubt he's
20 ever going to say to you, do not answer the question.

21 A. Okay.

22 Q. It could happen, it could happen. The reason
23 I'm telling you that is, you have to pause for a
24 second after I finish the question to give Mike the
25 opportunity, or Brian, who represents the State of

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1 New Jersey, to say they object to the form of the
2 question.

3 **A. Okay.**

Q. I'm not going to ask them what their
objection is. And unless they instruct you
6 otherwise, you just go ahead and answer the question.

7 **A. Okay.**

8 **Q.** I know you're the mayor, and I know about
9 your background, because I went to the website. And
10 as I told you, I've spoken to others about you. Just
11 because you're the mayor doesn't mean that you're
12 necessarily going to know the answer to each and
13 every question.

14 For the benefit of all of us, if you
15 don't know the answer, just say you don't know.

16 **A. Okay.**

17 **Q.** Okay? And what I'll probably do is ask you
18 who, in your judgement, would know the answer to a
19 question.

20 **A. Right.**

21 **Q.** Okay? So, let's get started.

22 As I understand it, you grew up in
23 North Wildwood?

24 **A. That's correct.**

25 **Q.** Right. And you moved there in 1977?

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1 **A. Correct.**

2 **Q.** Right. And how old were you?

3 **A. Four.**

4 **Q.** Okay. Okay. And have you resided in North
5 Wildwood from the time, say, 1977, up until the
6 present, other than going to college or living in
7 Washington or something?

8 **A. Right. So, I went to school in Washington,
9 and I lived there for two years after graduation.**

10 **Q.** Right. Okay.

11 **A. Other than that, I've lived in North
12 Wildwood.**

13 **Q.** Fine. The -- you went to what I call Bob
14 Sandman School, Wildwood Catholic. Right?

15 **A. Correct.**

16 **Q.** I say that, because he acts as if he's the
17 only guy that ever went there, you know? I think I
18 told you that.

19 And then you graduated from Catholic
20 University in 1995 with a degree in what?

21 **A. American government and philosophy.**

22 **Q.** Okay. And then you decided to stay in
23 Washington to do good, and you were a legislative
24 aide to Congresswoman Sue Kelly?

25 **A. Correct.**

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1 **Q.** From what district was she from?

2 **A. The 19th district of New York.**

3 **Q.** Okay. All right. And for how long did you
4 serve as a communications director for Senator Nick
5 Asselta?

6 **A. Approximately two years. And then I went
7 part-time for his campaign.**

8 **Q.** Okay. You were elected to North Wildwood
9 City Council in 2004?

10 **A. That's -- I believe I was elected in '3 and
11 sworn in in '4, if I'm not mistaken.**

12 **Q.** Got it. And you -- you were there for 10
13 years on council?

14 **A. Correct.**

15 **Q.** All right. Let's stop right there.

16 The -- I understand that the form of
17 government for North Wildwood is what I call a weak
18 mayor, nothing personal, strong council. Correct?

19 **A. That's incorrect.**

20 **Q.** Incorrect. Go ahead.

21 **A. City of North Wildwood has the city form of
22 government.**

23 **Q.** What does that mean in terms of the powers of
24 the mayor?

25 **A. I don't know in detail. It's a pre-Faulkner**

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1 **Act form of government.**

2 **Q.** Okay.

3 **A. I don't know -- as far as the exact powers, I
4 don't know that I could enumerate them all right now.**

5 **Q.** Do you vote on resolutions?

6 **A. No.**

7 **Q.** And I gather you don't vote on the passing of
8 an ordinance?

9 **A. No.**

10 **Q.** Okay.

11 **A. The mayor only votes in the event of a tie.**

12 **Q.** All right. When you were on council, for 10
13 years, were there certain departments that you were
14 assigned to that you were your responsibility?

15 **A. They had liaisons, but they're not your
16 direct responsibility.**

17 **Q.** Okay. Can you explain that?

18 **A. Sure. So, in our form of government, the**

19 **council is, I think the easiest description for me
20 is, it's the legislative body. So, the mayor is the**

21 **executor or administrative body, the council is the
22 legislative body. And so, the council has no direct**

23 **authority over any city employees. And so, what they
24 had previously were liaisons, where, because there's**

25 **seven members of council, they would make each member**

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1 a liaison to different departments in the city. And
2 that was simply, really, a means of communication, so
3 that a department had had one person that they could
4 go to, and speak with, if they wanted to, and that
5 person could carry information back to council.

6 Q. Okay. So, I understand -- I want to be
7 really clear on this. A particular councilperson did
8 not have the responsibility of running the particular
9 department?

10 A. They did not.

11 Q. Did not. Okay.

12 During the time that you were city
13 administrator, was there a city -- excuse me. Let me
14 rephrase that.

15 I'm trying to get you out of here --

16 A. That's fine.

17 Q. -- quickly, and I'm going too quick, so I got
18 to slow down.

19 During the time that you were on
20 council, was there a city administrator?

21 A. There was, yes.

22 Q. And who was that?

23 A. When I was first elected, it was Ray
24 Townsend. And then, after he left, it was a
25 gentleman by the name of Lou Belasco. And then
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1 during my last year on council, prior to becoming
2 mayor, it was Kevin Yecco.

3 Q. Okay. Okay. And you became mayor, it says
4 here, on January 7, 2014, you were sworn in?

5 A. That's correct.

6 Q. All right. Now, since becoming mayor, are
7 there particular departments that you're responsible
8 for?

9 A. Technically, the only department that reports
10 directly to the mayor is the police department.

11 Q. Okay.

12 A. The other departments report to the city
13 administrator.

14 Q. Got it. Okay.

15 Now, I don't know if you were there for
16 that part of the deposition of Chief Cavalier of the
17 beach patrol, but I started off by telling him that,
18 when you do your homework to try to understand how
19 this event took place involving Mr. Smith, you see
20 various names, such as Moore's Beach, Moore's Inlet
21 Beach, the inlet. All right. I am going to hand to
22 you an exhibit marked as 63.

23 (Aerial Photograph, received and marked
24 for identification as Exhibit P-63.)

25 Q. It's an aerial photograph that was taken by
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1 the Engineer's Office of Cape May County on March 14,
2 2012. And do you -- before coming here today, have
3 you used the phrase Moore's Beach?

4 A. Yes.

5 Q. All right. If you were to get that red
6 marker, could you, on that aerial, delineate what you
7 refer to as Moore's Beach.

8 A. (Witness complies.)

9 Q. All right. Now, I think practically every
10 city employee whose deposition we've taken, we've had
11 them mark this aerial photograph. Now, could you
12 mark for us what is the inlet beach, if you use that
13 phrase? And why don't you use the orange marker.

14 A. I'm going to do a starting point and an
15 ending point.

16 Q. May I see that?

17 A. Sure.

18 Q. Okay. So, in other words, Moore's Beach is
19 part of the inlet beach, as far as you're concerned?

20 A. Yes.

21 Q. Okay. Here.

22 MR. HUNKINS: Thank you.

23 MR. D'AMATO: He went like that.

24 MR. HUNKINS: Yeah.

25 MR. D'AMATO: Mike, are these yours?
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1 MR. BARKER: Thank you.

2 BY MR. D'AMATO:

3 Q. Is there any other phrase that you,
4 personally, have used to describe any of the beaches,
5 or the beach area that you bracketed off as the inlet
6 beach? In other words, you have Moore's Beach, you
7 have inlet beach. Any other phrases?

8 A. Some -- some people may refer to it as Second
9 Street. Which it's kind of a strange geographic
10 designation. Because Second Street runs parallel to
11 the southern end of it. So, some people will refer
12 to that as Second Street.

13 Q. Okay. So then, here, why don't you get the
14 green marker, and -- yeah, use blue, and delineate
15 what some people refer to as the Second Street beach.

16 (Dominic Speziali enters the room.)

17 A. I just have to get my --
18 And then it wraps out of this picture,
19 as well.

20 Q. All right.

21 A. So.

22 Q. Now, given your personal experience with this
23 inlet beach area, and then your experience as a city
24 official, my question to you is, any of the beach
25 area that you have delineated as the inlet beach, or

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1 the Second Avenue Beach --

2 **A. Second Street Beach.**

3 **Q.** -- were any beach replenishment projects ever
4 done for those beaches?

A. No.

6 **Q.** Okay. And is the reason that there was no
7 beach replenishment is that the understructure of the
8 actual inlet, the water inlet, is such that it is
9 always changing, because of the currents?

10 **A. I think -- no. My understanding of why we've**
11 **never done beach replenishment there is because when**
12 **we first went for a beach replenishment -- I**
13 **shouldn't say first, the most recent one when I was**
14 **involved was in 2006. And as part of the permitting**
15 **for the 2006 beach replenishment, which was really**
16 **the first complete engineered beach in North**
17 **Wildwood, we were prohibited from doing any**
18 **replenishment on that area, because of piping**
19 **plovers, and other endangered species.**

20 **Q.** Okay. When you talk about the piping plover.
21 Right? I read an article about your predecessor,
22 Mayor Henfey. Right?

23 **A. Yes, correct.**

24 **Q.** How closely did you work with Mayor Henfey
25 when you were on city council?

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1 **A. Fairly closely.**

2 **Q.** Okay. I could be wrong with this, but
3 someone said that he was like a mentor to you --

4 **A. Yeah.**

5 **Q.** -- in terms -- is that correct?

6 **A. That is correct.**

7 **Q.** All right. Did you ever have any
8 conversations with Mayor Henfey about any hazardous
9 conditions that existed on what you have referred to
10 as the inlet beach on Exhibit 63?

11 **A. Only one that I recall was after the Smith**
12 **drowning. Discussions about -- about the Smith**
13 **drowning.**

14 **Q.** Okay. And this was you and the -- Mayor
15 Henfey?

16 **A. I don't know that it was exclusively us. But**
17 **I do recall being in his presence during**
18 **conversations after that drowning regarding what had**
19 **occurred, and if -- if -- what, if anything, the city**
20 **could do moving forward.**

21 **Q.** Okay. I believe that you were sitting in for
22 part of Chief Cavalier's deposition when he was
23 talking about the vortex or the whirlpool. Were you
24 sitting in on that?

25 **A. I don't recall that.**

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1 **Q.** Okay. Do you recall -- were you sitting in
2 on the part of his deposition where he was describing
3 how the vortex located in the inlet, that is, the
4 body of water, eats away at the beach?

5 MR. HUNKINS: Object to the form.

6 **A. I don't recall being there for that part.**

7 **Q.** Okay. I had asked the chief, and I'm
8 referring to page 41 of his deposition, and I said,
9 "If I said to you what is your understanding of what
10 happened to Mr. Smith, do you have one?"

11 And he said -- actually, I said to
12 him -- he said, yes, he has an opinion. I'm trying
13 to do this quickly. He said, yes, he has an opinion.
14 And I said, What -- What do you base that opinion on?
15 And he said, Being down there all the time.

16 And here's what he said. "At certain
17 times of the day, when the tide is in or out, there's
18 a drop off along that section of the beach.

19 "What do you mean by a drop off?

20 "It literally drops off.

21 "And how long has that particular
22 condition existed, as far as you know?

23 "The inlet's changing all the time.

24 Every year, it changes."

25 Then I said to him, "Given the number
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1 of years that you have been on the beach patrol, is
2 that vortex or whirlpool created every time the back
3 bay moves out to the ocean?

4 "Answer: Yes."

5 And here's the last thing I asked him.

6 "And I know you're not a research
7 scientist, but what is your understanding what causes
8 the whirlpool or vortex?

9 "Answer: I believe it's the bay
10 hitting the ocean at that point."

11 Then here's one more.

12 "How large is this whirlpool or vortex
13 that you have seen in the past in the inlet?

14 "Twenty-five yards.

15 "And does it appear circular?

16 "Yes."

17 Were you there for that part of it?

18 **A. I --**

19 **Q.** Okay.

20 **A. I don't --**

21 **Q.** You don't remember. Okay?

22 **A. I don't remember that.**

23 **Q.** All right. Putting that aside. Before
24 coming here today, had you ever heard of a whirlpool
25 or a vortex existing at certain points in time in the

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1 body of water that is called the inlet?

2 MR. HUNKINS: Object to the form.

3 MR. BARKER: Objection.

4 A. I -- a whirlpool or a vortex, no.

5 Q. Okay. What have you heard as to what this
6 condition of water is referred to?

7 A. A current.

8 MR. HUNKINS: Object to the form.

9 A. I'm sorry. A current.

10 Q. Okay. And could you be more descriptive as
11 to what type of current?

12 A. When the tide is coming in, there's a current
13 coming from the ocean, pulling -- pushing you into
14 the back bay. And when the tide is -- and
15 interestingly, at high tide, for a period, there is
16 -- the current's very little, because it's called a
17 slack tide. And then on the outgoing current, the
18 current's running from the bay out towards the ocean,
19 and again, at dead low tide, there's another period
20 of what's called slack tide where there's very little
21 current.

22 Q. Okay. Were you involved in any way relative
23 to the rescue of Mr. Smith?

24 A. No.

25 Q. Okay. Did you go to the beach when you
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1 became aware that he was missing?

2 A. Yes.

3 Q. Was it on the day that he was --

4 A. Yes.

5 Q. -- that it was known that he was missing?

6 A. Yes, yes.

7 Q. Okay. And what role, if any, did you have,
8 or to say, better yet, why were you there?

9 A. I knew that they were conducting a -- a
10 search, and I just went down to check -- I'm not sure
11 if the mayor was there or not. I don't recall. But
12 I just went down to check in with the mayor, to see
13 if, you know, what was happening.

14 Q. Okay. Since the drowning of Mr. Smith, do
15 you have a better understanding of what he and his
16 daughter and Mr. Smith's friend, Scott Sunderland and
17 his daughter, were doing at the time that Mr. Smith
18 went into the water?

19 A. I've heard various things. Some from -- in
20 the media, and the little bit, I think, during your
21 deposition of Chief Tony Cavalier. So, I've heard
22 various explanations of what they were doing
23 immediately prior to that occurring.

24 Q. Okay. And what are those explanations?

25 A. One explanation I had heard was that the sand
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1 had -- they were walking on dry sand, the sand had
2 actually given way underneath them. Another
3 explanation I believe I had heard was that they --
4 some -- some number of them were walking in the
5 water, ankle deep. I've also heard something along
6 the lines of, they were walking at knee deep. And
7 again, I'm not exactly sure how big or small the
8 group was. I'm not sure of any of those things. But
9 those were the different scenarios that I've heard.

10 Q. Okay. Did anyone tell you that Brad Smith
11 and his daughter were actually swimming in the inlet
12 at the time that he -- he was not able to return to
13 land?

14 A. When you say swimming, do -- could you --

15 Q. That is, you know, in water that is up to
16 your neck, and you're moving your arms, and --

17 A. No, I did not hear that.

18 Q. Okay. Would you agree that walking -- well,
19 first of all, do you have an understanding of where
20 this event took place?

21 A. I believe -- I'm not sure if the dot on the
22 map is representative of that or not.

23 Q. Well --

24 MR. HUNKINS: Let me just object.

25 Yeah, the basis of what he's about to say is my
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1 objection.

2 MR. D'AMATO: Yes.

3 Q. Just looking at that aerial photograph that
4 you marked up, do you have just a general idea of
5 where it took place?

6 A. I do. I believe it was somewhere between
7 Moore's Beach and Second Street, where the guarded
8 area down here. So, somewhere in front of the lagoon
9 and the wilderness area.

10 Q. Got it. Okay. Good.

11 And on the date of this incident, July
12 27, 2012, that beach, which you just described as the
13 area where, I'll call it, the Smith event took place,
14 that was an unguarded area?

15 A. That is correct.

16 Q. Okay. Was it a violation of any ordinance
17 for a person to be walking in ankle deep water in the
18 area that you have indicated was where -- is where
19 you think the Smith event took place?

20 MR. BARKER: Objection. You may answer
21 the question, however.

22 A. I don't know the answer to that question.

23 Q. Okay. All right. Now, let's talk about the
24 particular activities that take place on that beach.

25 We supplied Mr. Barker with certain
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- 1 photographs showing police officers walking on what
2 you would call Moore's Beach, okay, in the
3 summertime. And there's some testimony that you
4 instituted -- was it you or Mayor Henfey that
5 instituted that procedure?
- 6 **A. The walking beats?**
- 7 **Q.** Yeah.
- 8 **A. That was something that I instituted.**
- 9 **Q.** Okay. And that would have been the summer of
10 what season; '14, '13?
- 11 **A. '14.**
- 12 **Q.** Okay. And why did you institute these
13 patrols, if you will?
- 14 **A. We instituted walking patrols on our entire**
15 **beach, primarily to address the issue of the open**
16 **display of alcoholic beverages.**
- 17 **Q.** Okay.
- 18 **A. And --**
- 19 **Q.** Okay. Before July 27, 2012, did you,
20 personally, ever observe police officers of the North
21 Wildwood Police Department patrolling the beaches of
22 North Wildwood? Just walking?
- 23 **A. Not walking.**
- 24 **Q.** Okay.
- 25 **A. No.**

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- 1 **Q.** Were they on quads?
- 2 **A. They were usually in some type of a vehicle,**
3 **yes.**
- 4 **Q.** Okay. And was it customarily one officer, or
5 two officers?
- 6 **A. Customarily -- I would say it would be two.**
- 7 **Q.** Okay. And would they patrol on quads to what
8 you have called the inlet beach area on that exhibit?
- 9 **A. I witnessed police officers on quads in this**
10 **guarded area. I can't definitively say that I saw**
11 **them anywhere else prior to that.**
- 12 **Q.** Okay. And when you're saying the guarded
13 area, you're referring to the Second Avenue --
- 14 **A. Correct. Between --**
- 15 **Q.** Right. All right. Now, you're aware that
16 North Wildwood issues mercantile licenses to ice
17 cream vendors. Correct?
- 18 **A. Yes.**
- 19 **Q.** All right. And what person or persons within
20 city government are responsible for administering the
21 issuance of those mercantile license for the ice
22 cream vendors?
- 23 **A. The city clerk.**
- 24 **Q.** Okay. Have you had any involvement with
25 these licenses as councilman, as mayor?

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- 1 **A. We changed the policy -- previously, when a**
2 **license became vacant, if a person moved out of the**
3 **area, or passed away, they maintained a list in the**
4 **city clerk's office, and they would automatically**
5 **offer the license to the next person on the list. We**
6 **stopped that after I became mayor, with the intent**
7 **long term of looking at possibly bidding these**
8 **licenses out.**
- 9 **Q.** Has that been done yet?
- 10 **A. It has not.**
- 11 **Q.** Okay. The persons to whom mercantile
12 licenses are issued, as ice cream vendors, they're
13 allowed to sell ice cream on all of the beaches of
14 North Wildwood?
- 15 **A. That is correct.**
- 16 **Q.** Okay. Now, if I want to go fishing on the
17 beaches of North Wildwood, do I have to get a permit?
- 18 **A. You don't have to get a local permit. But I**
19 **believe the state may require a salt water fishing**
20 **permit now. I -- but I --**
- 21 **Q.** Okay.
- 22 **A. I'm pretty sure they do, actually. But North**
23 **Wildwood does not.**
- 24 **Q.** Okay. As a councilman and as a mayor, have
25 you had any interaction with the Public Works

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- 1 Department?
- 2 **A. Yes.**
- 3 **Q.** Okay. Would you agree that the Public Works
4 Department, before July 27, 2012, cleaned what you
5 have referred to as the Moore's Beach and the inlet
6 beach?
- 7 **A. They -- so, our public works rakes the beach**
8 **every morning with large mechanical rakes. We are**
9 **prohibited from going -- I'm just going to use north**
10 **and west, so, even though it's not technically.**
- 11 **The mechanical equipment is not allowed**
12 **west of the guarded area, again, due to the**
13 **permitting and restrictions in the permit that we**
14 **have.**
- 15 **Q.** All right.
- 16 **A. So. And we also, to my knowledge, do not**
17 **place any -- to put it in context. So on the guarded**
18 **areas of the beach, we have trash containers,**
19 **recycling containers, things of that nature. So, the**
20 **Public Works Department will come down, rake the**
21 **beach. They also have a machine that goes down and**
22 **empties the trash cans. Those are mechanicals. We**
23 **don't have any mechan -- we don't have any trash cans**
24 **on this beach. We're not allowed to rake it. But**
25 **occasionally, guys will go down and clean up, and**

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1 it's primarily sea grass and stuff like that, that
2 accumulates in large -- and starts to -- starts to
3 smell.

Q. Right. Did you see any of the photographs
that I provided Mr. Barker with as part of what we
6 lawyers call discovery?

A. I think I saw them during Chief Cavalier's,
8 yes.

Q. Okay. Okay. I'll show you some of these
before we finish. There are public works people
11 working down there at Moore's Beach.

What involvement as a councilman did
13 you have, if any, with the North Wildwood Beach
14 Patrol?

A. I was, as we spoke about earlier, I was the
16 counsel liaison to the beach patrol during most of
17 the time I was on city council.

Q. Okay. Now, did you ever have any discussion
19 with Chief Cavalier when you were the liaison person
20 about any hazardous conditions existing along what we
21 have called, or what you have called the inlet beach
22 because of the body of water referred to as the
23 inlet?

A. Not that I recall.

Q. Okay. Did you have any discussion with Chief
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1 Cavalier, before July 27, 2012, about the posting of
2 lifeguards in the area which you have referred to as
3 Moore's Beach and the inlet beach, before Second
4 Avenue?

A. No. Any -- any of that discussion would have
6 been precluded in 2006 by the permit. We were not
7 allowed to place any lifeguards in that area.

Q. Okay. Now, when you say that area, does that
9 include Moore's Beach?

A. I don't know the answer to that question. I
11 always took it as any area what I'm calling west of
12 where Surf Avenue comes in to the inlet. We were not
13 -- that was my understanding was, we were not allowed
14 -- we're not allowed to do any guarding or raking or
15 anything mechanical west of that area.

Q. You had your pen over a blue line there.

A. Um-hum.

Q. So, your pen was over -- you were trying to
19 --

A. I believe -- yeah, so that's -- this street
21 coming in here is Surf Avenue. So, if you -- and
22 there's a beach entrance at Surf Avenue. If you go
23 straight out that beach entrance, immediately to your
24 left, the -- it's either the state or the federal
25 fish and wildlife, fairly shortly, usually it's from

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1 about early March until about late August, will erect
2 either a snow fence or rope fencing immediately to
3 your left. And they'll take that out almost to the
4 high tide line. And so, we don't do anything with
5 mechanical cleaning or guarding when you -- when you
6 enter on Surf Avenue, to the left. So, the last
7 lifeguard stand is straight ahead a little bit to the
8 right. And that's where the guarded and clean --
9 protected beaches end.

Q. Okay. I've seen the area that has been
11 cordoned off for the birds. Can you take the black
12 marker, and could you define for us where that
13 designated area is for the birds?

A. Sorry.

Q. That's okay. That's all right.

A. This. Roughly.

Q. Okay. Now, is there a diagram, a piece of
18 paper in city hall that we could look at that would
19 support your opinion as to where this designated area
20 is?

A. I believe there is a document called Beach --
22 Beach Management, perhaps. It was a document that
23 was, as I understand it, agreed to -- signed by North
24 Wildwood, the state, and the federal government, as a
25 condition of our 2006 beach replenishment permit.

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1 And I believe that document spells out this area,
2 what can and can't be done there. Among many other
3 things.

Q. Okay. Who's the person Mr. Barker could ask
5 in city hall to get that document for us, the
6 complete document?

A. Mr. Jett, the city clerk.

MR. BARKER: We did send it to you. If
9 I'm not mistaken, I'm almost sure, within the last
10 month, I think we sent it to you.

MR. D'AMATO: Yeah, I think you did. I
12 think you did. So, I stand corrected. I'm not sure,
13 though. Let's see. I'll be honest with you, I read
14 it, and I didn't see anything about what could or
15 could not be done in that area, but I could have
16 missed it. That's okay.

Q. Were you involved in the installation of any
18 safety measures, such as the installation of warning
19 signs, after the Smith incident?

A. Me, personally?

Q. Yeah.

A. I was not, no.

Q. Okay. Was that handled by Mayor Henfey?

A. Pri -- I would assume it would have been,
25 yes. Or the Public Works Department.

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1 Q. Okay. Let me show you an exhibit that was
2 marked for identification on February 9, 2016, as
3 Exhibit 1. And this was actually marked up by the
4 chief. And this is an aerial photograph which shows
5 the body of water that I'm going to call the inlet.
6 All right?

7 Now, I've said that -- I've used that
8 phrase several times today. I said the body of water
9 referred to as the inlet.

10 Is that what you call it, too?

11 A. Yes.

12 Q. All right. This is kind of a follow-up
13 question to something I asked you about 15 minutes
14 ago: Looking at that body of water called the inlet,
15 and given the fact that you started living in North
16 Wildwood at age four. Right? Up until July 27,
17 2012, the drowning of Mr. Smith, what have you,
18 personally, observed about the inlet, itself, the
19 body of water, relative to the -- I'll be a little
20 bit more specific -- relative to how the actual
21 channel moves?

22 A. Right. It changes on an almost daily basis.
23 There are what I call shoals or sand bars that come
24 and go. This large piece of sand you see up here
25 coming off the bottom of Stone Harbor didn't exist

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1 five years ago, and it might not exist tomorrow. The
2 inlet beach that we're talking of didn't exist until
3 probably the late '80s, maybe, mid to late '80s.
4 There was no sand accumulated there. So, it -- it --
5 the whole -- the whole area changes on a -- I say on
6 a daily basis. I still live in an area where I can
7 see the inlet. And literally on a daily basis.

8 Q. Yeah. We all know the sea wall that was
9 built.

10 A. Um-hum.

11 Q. I have the date someplace here. What year
12 was that?

13 A. I think it was around 2006.

14 Q. Yeah. 2006. Right. Why was that sea wall
15 built?

16 A. There was a sea wall in some way, shape, or
17 form almost the entire area where the current sea
18 wall is. But it was built in pieces. Some in
19 different stages, over -- over many, many years. I
20 don't know how -- when the first piece was built.
21 So, that sea wall was part of a U.S. Army Corps of
22 Engineer project to basically protect the northeast
23 side of the island from storms.

24 Q. Okay. Did the building of that sea wall have
25 any effect on changing the channel in the inlet?

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1 MR. HUNKINS: Objection.

2 A. Not to my --

3 MR. BARKER: Join.

4 A. Not to my knowledge.

5 Q. Okay. You know what, can I have that back?

6 A. Sure. Both of them, Paul?

7 Q. Yeah.

8 A. Okay.

9 Q. Okay. Now, let me show you what's been
10 marked for identification as Exhibit 3 on February 9,
11 2016. That's a photograph that was made by a drone.

12 As you're getting your orientation in
13 that photograph --

14 MR. BARKER: When did you say it was,
15 Paul?

16 A. "Indicating."

17 MR. BARKER: That's when it's marked.
18 But did you say when it was taken? I'm sorry, if you
19 didn't. I'm just -- oh, yes, it's -- no, I don't
20 know. There's a date at the bottom, says July 31,
21 2000 -- 2014.

22 MR. D'AMATO: That's when it was taken.

23 MR. BARKER: Okay.

24 BY MR. D'AMATO:

25 Q. You see the beach there?

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1 A. Yes.

2 Q. All right. Is any of that beach, in your
3 judgement, the protected beach relative to what was
4 established by the -- is it New Jersey Department of
5 Wildlife?

6 A. The agreement that I've referenced?

7 Q. Yeah.

8 A. I believe it was between the city and the
9 state DEP. I -- but I don't want to --

10 Q. All right. But does -- does that --

11 A. No. This isn't -- this is not a protected
12 area.

13 Q. Okay. When we say protected, we're not
14 talking about lifeguards, we're talking about --

15 A. I'm sorry. Sorry. I thought you meant
16 lifeguards.

17 Q. No.

18 A. So, yes, a piece of this, I believe, would be
19 in the restricted environmental area.

20 Q. Okay. With the black marker, could you
21 delineate that.

22 MR. BARKER: Okay. Wait one second.

23 If he writes on this now, this is already Exhibit 3
24 from 2/9/2016.

25 MR. D'AMATO: Okay. We'll go off the
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1 record, we'll get a clean copy.
2 VIDEOGRAPHER: Going off the record,
3 3:05.

(Discussion off the record.)

VIDEOGRAPHER: We're back on the

6 record, 3:07.

7 BY MR. D'AMATO:

8 Q. Okay. As was noted on the record, this is
9 Exhibit 3, marked for identification on February 9,
10 2016. And as Michael has suggested, I'm going to
11 remark it as Exhibit 64 with today's date, and ask
12 you, with the black marker, if you could delineate
13 the area that's supposed to be protected relative to
14 the birds.

15 (Photograph, received and marked for
16 identification as Exhibit P-64.)

17 A. I don't want to digress too much.

18 Q. Okay. Go ahead.

19 A. But --

20 Q. No. Go ahead.

21 A. There is a physical fenced off area, where
22 they don't want pedestrians, or anybody to access.
23 However, my understanding is that the nature of the
24 piping plover is that it goes down to the ocean. And
25 so, I believe the entire area is protected. But what

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1 I depicted on that was my recollection of the fenced
2 area. Is that what you want me to --

3 Q. Okay.

4 A. Because I believe that the area mentioned in
5 the agreement, I don't know if there's a map, or if
6 it's just verbally stated.

7 Q. Okay. It's helpful what you just said. Let
8 me tell you what I'm struggling with.

9 In all the times I went down there, and
10 I saw that fenced off area, it wasn't, candidly, as
11 large as you have made it on Exhibit 63. The fenced
12 off portion, I'm talking about, for the birds. And
13 that's why I'm -- I'm trying to explore with you --

14 A. Yeah.

15 Q. -- the basis of how you arrived at this --

16 A. Can I -- may I see that again? I want to
17 make sure I got the landmarks proper. My -- my --

18 Q. Yeah. Would it help if I showed you some
19 photographs that were taken that show the fence?
20 Would that help you?

21 A. You can, if you'd like. My recollection is
22 that when you come down the stairs from this Moore's
23 Inlet parking lot --

24 Q. All right.

25 A. -- there's a fence almost 10 or 15 feet in

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1 front of you, and that fence line kind of goes out
2 towards the ocean, and then turns, which is what I
3 believe I depicted on this photograph here.

4 MR. BARKER: 63?

5 THE WITNESS: Yeah.

6 A. And the only -- the only reason I'm second
7 guessing myself on that, is because I'm looking at
8 where the outfall pipe is now, and I can't recollect
9 what side of the -- so I may have went a little bit
10 too far over here.

11 MR. BARKER: On 63.

12 THE WITNESS: On 63. I'm sorry.

13 MR. D'AMATO: Hold on.

14 Dominic --

15 A. And I believe -- I believe that 64 is
16 actually showing, if I'm not mistaken, the -- in the
17 bottom left-hand corner there, I believe they may be
18 the posts that I was trying to -- so, I may have gone
19 a little bit too far on this one here --

20 MR. BARKER: 63.

21 A. -- 63. Maybe I should have come in a little
22 closer.

23 MR. D'AMATO: There are two or three
24 more of these, numbered one, two, three. Okay?

25 Q. I'm going to get you the photographs that we
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1 have that show the wooden fence. So, let's -- I'll
2 move on from this point.

3 A. Sure.

4 Q. Okay. Before Mr. Smith's drowning, were you
5 aware that people would get married on what is
6 referred to as Moore's Beach?

7 A. I don't know that I have any specific
8 recollection of that, or knowledge of -- or witness,
9 or seeing that. I have -- and so, no, I do not
10 recall that.

11 Q. Okay. We obtained a series of aerial
12 photographs of Hereford's Inlet that goes from 1920
13 up to February 22, 2013. Did you ever see these?

14 A. I believe I have. Well, I don't -- I don't
15 know that I've seen your pictures. I have seen
16 aerial photographs going back quite awhile, though,
17 on Hereford Inlet.

18 Q. And those photographs would be located in
19 city hall?

20 A. I believe that we -- I saw them courtesy of
21 Dr. Stewart Farrell, from the Stockton coastal
22 research --

23 Q. Okay.

24 A. -- I believe.

25 Q. All right. And when did Dr. Farrell show you

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1 these photographs?

2 MR. D'AMATO: Just leave them right
3 there. You can leave them right there. Yeah.

4 Q. When -- when did he show you these
5 photographs?

6 A. I believe that he provided me with those
7 photographs since I have been mayor, is my best
8 recollection.

9 Q. Okay. And did he give those photographs to
10 you?

11 A. I believe it was an e-mail.

12 Q. Okay. Could you e-mail those photographs to
13 Mr. Barker, so he can e-mail them to us?

14 A. I'll probably ask Dr. Farrell to send them.

15 Q. Okay.

16 MR. HUNKINS: Before you do that,
17 please consult with your attorney. Reason is, he's
18 account acting as an expert in the case, so.

19 THE WITNESS: Okay.

20 MR. HUNKINS: And just so I'm clear,
21 these are photos he'll be looking for are what?

22 MR. D'AMATO: Photos that Dr. Farrell
23 e-mailed him of the Hereford Inlet.

24 MR. HUNKINS: And specifically what of
25 the inlet do they show?

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1 MR. D'AMATO: They're just aerial
2 photographs like the ones we obtained from the
3 county.

4 MR. HUNKINS: Okay.

5 BY MR. D'AMATO:

6 Q. Take a look at the ones that we obtained from
7 the county. And you'll see at the top, it gives the
8 date.

9 A. I think this is the same -- these are the
10 same ones I've seen in the past.

11 Q. Okay.

12 A. Yeah.

13 Q. All right.

14 A. I think this is the same set of pictures that
15 Dr. Farrell provided me.

16 Q. Okay. As you're going through those
17 photographs that have the different years at the top
18 of them --

19 A. Um-hum.

20 Q. -- is the changing of the actual Hereford
21 Inlet consistent with what you observed over the
years, as you see in those aerial photographs?

23 A. My perspective, obviously, starts about 10
24 pages in.

25 Q. Okay.

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1 A. So, there's a big -- so, again, there's a big
2 gap here from 1970 to 1995, which is what I would
3 have observed most of Hereford Inlet, because we
4 moved here in 1977. So, from a personal standpoint,
5 I would be familiar with, basically, the pictures
6 from 1995 on.

7 Q. Yeah. Did you ever operate a boat through
8 the Hereford Inlet?

9 A. Yes.

10 Q. Do you own a boat?

11 A. Yes.

12 Q. All right. And before July of 2012, what
13 type of boat or boats have you owned?

14 A. I -- same one. I have a 20-foot outboard.

15 Q. Okay. Is the Hereford Inlet -- strike that.

16 You know that strike that means I'm
17 going to start over again.

18 A. Okay.

19 Q. Has the Hereford Inlet ever been marked by
20 the United States Coast Guard, the New Jersey State
21 Marine Police, to delineate those areas where boats
22 should, in fact, operate?

23 A. It was, many years ago, when I was younger,
24 it -- there were buoys that would take you in -- you
25 would follow those buoys to get in and out of the

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1 inlet, yes.

2 Q. And when you say -- because you're still
3 young, when did that practice stop?

4 A. Oh, I would have to say it was at least 25
5 years ago.

6 Q. Why did it stop?

7 A. I don't know. I don't know the answer to
8 that question.

9 Q. Okay. Okay. I'll take those back from you.

10 A. Sure.

11 Q. And for the record, I just -- I showed the
12 mayor Exhibit 4, marked at a deposition on February
13 9, 2016. And it was also marked as Exhibit 5 at the
14 deposition of the county engineer on July 23, 2015.

15 Okay. Let me show you Exhibit 7,
16 marked for identification on February 9, 2016. This
17 photograph came from a -- I'll call it blog, or
18 blog/website of -- that you can go on line, and it's
19 Moore's Beach. And you'll see chairs that are set up
20 there for a wedding.

21 Have you ever seen chairs like that
22 before July 2012?

23 A. The only reason I'm hesitating is because I
24 have seen a wedding set up. I'm not sure what this
25 location is. It's hard for me to tell by the view.

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1 **I have seen chairs set up in the -- in the guarded**
 2 **area of the inlet beach. But I believe it was after**
 3 **2012. I want to say it was probably -- it wasn't**
 4 **last summer. Maybe '13 or '14, as I recall.**

5 **Q.** Okay. Before July 27, 2012, do you know of
 6 any law that prevented a person from standing in
 7 ankle deep water in the area that you have called
 8 Moore's Beach?

9 **A. I don't know the answer --**

10 MR. BARKER: Objection.

11 **A. Oh, I'm sorry. I don't know the answer to**
 12 **that. I'm not aware of -- of such a law.**

13 **Q.** Okay. Before July 27, 2012, did you have any
 14 understanding as to the depth of the channel, which
 15 we call Hereford Inlet, as shown in Exhibit 2?

16 **A. Yes.**

17 **Q.** Okay. So, why don't you share with me what
 18 that understanding was.

19 **A. Well, from being in the channel on my boat, I**
 20 **have a depth finder, so it varies from one or two**
 21 **feet to maybe 28 feet, I believe, I want to say is --**
 22 **28 to 35, perhaps, in certain spots.**

23 **Q.** Okay. I can show you an article where Dr.
 24 Farrell says that there are certain parts of that
 25 Hereford Inlet that are 50, 60 feet deep.

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1 **A. I don't think my depth finder goes that deep.**

2 **Q.** Oh.

3 **A. I don't doubt that. I don't doubt that. But**
 4 **from my personal experience, that's what I've**
 5 **witnessed.**

6 **Q.** Oh, all right. Now, let me show you a
 7 photograph that's been marked for identification as
 8 Exhibit 9 that was taken the -- by Lou DiJoseph, who
 9 was that licensed private investigator --

10 **A. Yes.**

11 **Q.** -- I think you met at the deposition, of
 12 people in the water adjacent to Moore's Beach. This
 13 is Exhibit 9.

14 And my question is, before July 2012,
 15 did you ever see people wading in the water off of
 16 Moore's Beach?

17 **A. Yes.**

18 **Q.** Okay. Now, were those individuals that you
 19 saw in violation of any city ordinance?

20 MR. BARKER: Objection. You may answer
 21 the question.

22 **A. I don't know.**

23 **Q.** Okay. When you saw those people wading off
 24 the Moore's Beach, before July 2012, did you call the
 25 North Wildwood Police Department, or the North

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1 Wildwood Beach Patrol?

2 **A. No.**

3 **Q.** Okay. When you saw those people wading in
 4 the water off of Moore's Beach before July 2012, did
 5 you think that they were exposing themselves to any
 6 hazardous conditions existing in the water that
 7 constitutes Hereford Inlet?

8 MR. HUNKINS: Object to the form.

9 **A. I believe that if you're not swimming in**
 10 **front of a lifeguard, you are subjecting yourself to**
 11 **a hazardous condition in the ocean.**

12 **Q.** Okay.

13 **A. So, the answer is yes.**

14 **Q.** I'll take that back.

15 Okay. All right. I'm going to have
 16 marked for identification as Exhibit 65 what I'm
 17 going to call a tourism brochure for 2016 for North
 18 Wildwood that comes off of the city's website. And I
 19 want to direct you to page 8.

20 (2016 Tourism Brochure is received and
 21 marked for identification as Exhibit P-65.)

22 **Q.** Okay. And for the benefit of my colleagues,
 23 you will -- I just want to tell them what we're
 24 looking at. It says at the top, on page 8, Beach and
 25 Fishing Information.

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1 MR. BARKER: Yes.

2 **Q.** Then it talks about handicap surf chairs.
 3 You see that part? And --

4 **A. Yes.**

5 **Q.** -- before you get to accessible restrooms, it
 6 says "three are located on the inlet beach." Do you
 7 see that?

8 **A. Yes.**

9 **Q.** Now, were you aware of this entry in this
 10 document before I showed it to you?

11 **A. I -- I did review this document. I can't**
 12 **guarantee that I saw that particular line item.**

13 **Q.** Okay. So, when did the city, North Wildwood,
 14 that is, offer handicap surf chairs to persons using
 15 the North Wildwood beach?

16 **A. Many years. I can't tell you exactly how**
 17 **many years, but for many years.**

18 **Q.** Okay. Now, given your definition of the
 19 inlet beach, it says "three are located on the inlet
 20 beach." What beach?

21 **A. The guard -- that -- the guarded beach.**

22 **Q.** The guarded beach?

23 **A. Yes.**

24 **Q.** Okay.

25 **A. They are provided by the lifeguards at**

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1 **guarded beaches.**

2 **Q.** Okay. All right. I'll take that back.

3 Thank you.

4 **A. Sure.**

5 **Q.** Now, let me show you what's been marked for
6 identification as Exhibit 29. All right? I'm going
7 to hand this to you.

8 As you look at it, the beach that we're
9 looking at, and you can use the buildings as
10 landmarks, is covering what area?

11 **A. I would refer to this to the Moore's Inlet
12 Beach, because it's directly adjacent to the Moore's
13 Inlet parking lot.**

14 **MR. HUNKINS:** And can we get a date
15 that that was taken?

16 **MR. BARKER:** 2/9 --

17 **THE WITNESS:** No.

18 **MR. BARKER:** I don't know the date it's
19 taken. It's Exhibit 29 marked 2/9/16. That's all we
20 know.

21 **MR. D'AMATO:** I could tell you, it was
22 taken the September after the -- September 2012, I'm
23 pretty sure.

24 **MR. HUNKINS:** Thank you.

25 **MR. D'AMATO:** Okay.

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1 **Q.** All right. I have some other photographs I
2 want to show you in a moment.

3 With respect to the area that you call
4 the inlet beach, excluding the Second Avenue beach,
5 all right, have you witnessed, growing up, and after
6 you came back here, after, you know, working in
7 Washington, D.C., parts of that inlet beach,
8 including Moore's Beach, just falling away?

9 **MR. HUNKINS:** Object to the form.

10 **A. I have not -- I have seen what this picture
11 describes. I have seen what this picture depicts,
12 which is, in my belief, the result of a storm event
13 that scarped -- we call it scarping, when you have
14 those types of -- like, a drop off like that. We had
15 a lot of them after Jonas, we have this scarping,
16 where this -- where a violent storm takes away a lot
17 of sand at one time; as opposed to a gentle slope,
18 you'll have something like this.**

19 **Q.** Okay. I'll take that back.

20 **A. Sure.**

21 **Q.** Okay. We established earlier in your
deposition that no one had told you that Mr. Smith
23 and his daughter were actually swimming at an
24 unprotected beach. Right?

25 **A. I don't --**

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1 **Q.** Or maybe -- I'm sorry, I didn't mean to
2 misstate your testimony. I --

3 **A. No.**

4 **Q.** Go ahead.

5 **A. What -- my -- my -- the three different
6 scenarios that I had heard about Mr. Smith and the
7 other folks involved were that they were in ankle
8 deep water, that they were in knee deep water, or
9 that they were walking on dry land.**

10 **Q.** Okay.

11 **A. I don't know -- again, we had discussed a
12 little bit -- I had asked you the definition of --
13 your definition of swimming, and my definition of
14 swimming are not the same.**

15 **Q.** Okay.

16 **A. So, I want to be clear on that.**

17 **Q.** Okay. Well, what's your definition of
18 swimming?

19 **A. As it relates to my children, if I tell my
20 kids don't go swimming in the ocean, and they're knee
21 deep in water, they're in trouble.**

22 **Q.** Okay.

23 **A. So, I mean, very rarely do you see people
24 doing what you described as swimming in the ocean.
25 People rarely -- first of all, the lifeguards don't**

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1 **let you go out neck deep. And rarely do people go
2 out there and do free style and breast stroke. I
3 mean, to me, once you're calf, knee deep, you know,
4 you're swimming in the ocean.**

5 **Q.** Okay. Now, using your definition, do you
6 have any personal evidence that Mr. Smith and his
7 daughter were swimming as the mayor uses the term?

8 **A. I've -- I have no personal knowledge of what
9 they were doing prior to the incident. Only what
10 I've heard in the media, or heard through some of
11 these depositions.**

12 **Q.** Okay. Good.

13 Was it at any time before July 2012
14 part of your responsibilities as a councilperson to
15 ensure that any signs warning of dangers associated
16 with the beach and the water were in good order, so
17 that persons could understand what the warning was?

18 **A. As a council member?**

19 **Q.** Yeah.

20 **A. No.**

21 **Q.** Okay. When you were the liaison to the beach
22 patrol, was that part of your responsibility?

23 **A. No, no.**

24 **Q.** This would have been strictly the
25 responsibility of the beach patrol and the chief?

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1 **A. Signs are typically made by the Public Works**
2 **Department. And different departments can request**
3 **signs be made.**

4 **Q. Okay.**

5 **A. And they would typically be installed by the**
6 **Public Works Department.**

7 **Q. Let me show you what's been marked for**
8 **identification as Exhibit 12. You're going to see**
9 **some white poles with signs.**

10 **Okay? Before Mr. Smith's drowning, did**
11 **you ever see white poles with signs like that?**

12 **A. Yes.**

13 **Q. Okay. And they were posted at what beaches?**

14 **A. These are very -- these are standard -- the**
15 **lifeguards use these at a variety of locations on the**
16 **beach to demark the end of a guarded section of**
17 **beach.**

18 **So, for instance, at that Surf Avenue,**
19 **where the last chair is, you'll see some of these**
20 **right at the wet line, so people know -- the red sign**
21 **is a person swimming with an arrow through it.**

22 **Q. All right.**

23 **A. So, these are used pretty frequently around**
24 **outfall pipes, or any other area where it's not**
25 **designated for swimming.**

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1 **Q. Okay. Brian and Mike heard the testimony of**
2 **Mrs. Smith, that they had gone to the first protected**
3 **beach, where I'm going to say Surf.**

4 **A. Yes, that would be Surf Avenue.**

5 **Q. And that -- and that her husband and daughter**
6 **and Scott Sunderland, who is Mr. Smith's best friend,**
7 **and his daughter, decided to take a walk towards**
8 **Moore's Beach.**

9 **A. Okay.**

10 **Q. Do you know if, on the date of this incident,**
11 **there were any signs that Mr. Smith and Mr.**
12 **Sunderland would have had the opportunity to observe**
13 **relative to any dangers associated with walking on**
14 **the beach?**

15 **A. If they were there during the guarded hours,**
16 **which I'm not sure if they were or not, they would**
17 **have encountered those signs that you just showed me**
18 **in that last exhibit at the water's edge, during**
19 **guarded hours. However, lifeguards would usually**
20 **remove them at the end of the guarded hours, because**
21 **they wouldn't make it through a tide cycle.**

22 **Q. Okay. Given your history as a resident, as a**
23 **councilman, and a mayor, have you ever seen any signs**
24 **on the area that you delineated as the inlet beach,**
25 **warning anyone about the dangers of walking on -- in**

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1 ankle deep water?

2 **A. Not specifically referencing ankle deep**
3 **water, no.**

4 **Q. Okay. Now, let me show you Exhibit 14. We**
5 **took testimony about that.**

6 **Was the establishment of these concrete**
7 **boulders and the balls with the warning the idea of**
8 **Mayor Henfey?**

9 **A. I don't know.**

10 **Q. Okay. Do you know how many seasons these**
11 **boulders and no swimming balls were used?**

12 **A. To my knowledge, they were placed there after**
13 **the Smith drowning, and they didn't -- I don't think**
14 **they made it until the end of that summer. I think**
15 **just natural forces removed them.**

16 **Q. Okay. Now, let me show you Exhibit 16. And**
17 **I want you to get your orientation. And you could**
18 **see the date's in the right-hand lower corner there.**
19 **Do you see that?**

20 **A. (Witness nods.)**

21 **Q. And what's the date for the record?**

22 **A. August 16th, 2012.**

23 **Q. Now, looking at the homes and the landmarks**
24 **there, can you describe for us the beach that we're**
25 **looking at?**

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1 **A. You would be heading, again, what I call west**
2 **from -- and again, I don't know what -- I don't know**
3 **how far away this was taken. But you'd be heading**
4 **west towards the Moore's Beach from this picture.**

5 **Q. Okay. Would you agree that the people that**
6 **we see on the beach and those people in the water,**
7 **that that is -- that they are at what you call**
8 **Moore's Beach?**

9 **A. Yes.**

10 **Q. Okay. Prior to July 2012, were you involved**
11 **in any conversation, or any discussion, or any**
12 **communication about closing Moore's Beach?**

13 **A. No.**

14 **Q. Okay. Now, let me show you what's been**
15 **marked for identification as Exhibit 19. And for the**
16 **benefit of my colleagues, there -- one of the signs**
17 **is no dogs, cats, or any other domestic animals on**
18 **beach. No animals on boardwalk.**

19 **Okay. Now, given your involvement with**
20 **city government, you were aware of that ordinance,**
21 **generally. Correct?**

22 **A. The animals on the beach?**

23 **Q. Yes.**

24 **A. Yes.**

25 **Q. All right. Now, again, going back to your**

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1 definition of the inlet beach, which includes Moore's
2 Beach, but stops at the Second Avenue Beach, were
3 animals allowed on the inlet beach, as defined by
4 you?

**A. I would think that they were allowed --
6 they're not allowed on the guarded sections. I mean,
7 I've never thought about the question before. But as
8 I think of it now, I would connect that with the
9 guarded beach. So, in other words, when the
10 lifeguards are there, and the area that's raked,
11 those are the areas that the animals -- that we would
12 not allow animals to be.**

13 **Q. Okay. So --**

14 **A. Or for lack of a -- again, just for
15 definitions, a managed beach, which is an area that
16 we clean, provide trash receptacles, lifeguards,
17 things of that nature. So, I never thought about the
18 question before. But if you're asking me now, I
19 would think that an unguarded, unprotected area, we
20 probably wouldn't necessarily prohibit animals.**

21 **Q. Okay. You can leave that there. Okay.**

22 **Now, let me show you Exhibit 23. And**
23 **as you look at that particular photograph, do you**
24 **have your orientation?**

25 **A. Yes.**

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1 **Q. Okay. So, what would you call the beach that**
2 **is shown in that photograph?**

3 **A. You are standing more out on the inlet beach,**
4 **looking towards Moore's -- Moore's Beach over here.**

5 **Q. Okay. But this is an unguarded, unprotected**
6 **beach. Correct?**

7 **A. Correct.**

8 **Q. And would you agree that we see a -- we see**
9 **public works employees on a quad?**

10 **A. Yes.**

11 **Q. In that area?**

12 **A. Yes.**

13 **Q. Okay. Have you ever seen, before July 2012,**
14 **public works employees on that type of vehicle in**
15 **that area?**

16 **A. Yes.**

17 **Q. Okay. And what were they doing when you saw**
18 **them?**

19 **A. I have seen, as recently as last summer,**
20 **public works employees -- if you see, there's a set**
21 **of stairs over here, and sometimes what will happen**
22 **is a tide will come in and all this grass type of**
23 **material would gather at the bottom of the stairs,**
24 **making the stairs impassable. And so, they'll go in**
25 **and move that material off the stairs.**

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1 **Q. Okay. Now, let me show you, I'll call it an**
2 **adjunct photograph to the one you just saw, Exhibit**
3 **24. And would you agree that that is one of the**
4 **unguarded beaches that is part of what you call the**
5 **inlet beach, which includes Moore's Beach?**

6 **A. I would, yes.**

7 **Q. All right. And do you know the gentleman**
8 **that's operating that machine?**

9 **A. I do not.**

10 **Q. Okay. Do you -- can you tell by looking at**
11 **that photograph what activity he and the coemployee**
12 **are involved in?**

13 **A. If I were to take a guess, it looks like**
14 **there is a high trash bag in the cart. So, my guess**
15 **is that they emptied a full trash can down on the**
16 **guarded beach, and were heading down towards the**
17 **Moore's Inlet Beach.**

18 **Q. Okay. And why would they be heading to the**
19 **Moore's Inlet Beach?**

20 **A. Again, I don't know. To -- I don't know.**
21 **Other than to maybe get some debris off the stairs.**
22 **That would be a reason.**

23 **Q. Okay. All right. Now, let me show you**
24 **what's been marked for identification as Exhibit 25**
25 **and 26. These photographs were taken on May 21,**

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1 2014. You'll see a front end loader. I think the
2 next one's bigger. You can see it better.

3 **A. Yes.**

4 **Q. Okay. Now, would you agree that that's what**
5 **we call the unguarded, unprotected beach --**

6 **A. I would.**

7 **Q. -- of the inlet beach?**

8 **A. Yes.**

9 **Q. Okay. Have you ever seen that before July**
10 **2012?**

11 **A. Yes.**

12 **Q. Okay. And were you able to determine, before**
13 **July 2012, why the -- why was the front end loader**
14 **down there?**

15 **A. Yes. He would have been -- he would have**
16 **just dug out the outfall line that's located adjacent**
17 **to the Moore's Inlet parking lot, and taken the**
18 **material to move it somewhere else, probably put it**
19 **up against a dune somewhere.**

20 **Q. Okay. You can put those down. Thank you.**

21 **I'm going to show you an exhibit marked**
22 **for identification as 28 on February 9, 2016. This**
23 **is an interview of Patricia Posey, which my**
24 **colleagues have. And I want -- I want you to tell me**
25 **if you've ever seen that interview before.**

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1 **A. I don't believe I've ever seen this document.**

2 **Q.** Okay. Can you -- would you please read the
3 interview, and tell me when you're finished.

4 **A. Sure.**

5 MR. BARKER: Can I take a five-minute
6 break? Okay.

7 MR. D'AMATO: Okay, sure. Can he read
8 that while he's doing that?

9 MR. BARKER: Sure, he can.

10 MR. D'AMATO: Okay.

11 VIDEOGRAPHER: This is the end of tape
12 number 1. Off the record. 3:37.

13 (There was a brief recess.)

14 VIDEOGRAPHER: This is the beginning
15 tape of number 2. Back on the record, 3:46.

16 BY MR. D'AMATO:

17 **Q.** Mayor, did you read Exhibit 28, which is the
18 interview of Patricia Posey, P-O-S-E-Y?

19 **A. I did, yes.**

20 **Q.** All right. Let me show you a photograph that
21 was made from the video that she references, which
22 was posted on the Internet on May 27, 2012, a couple
23 months before the Smith drowning. And when you look
24 at that particular photograph, have you ever seen the
25 condition of the beach and water as shown in that

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1 particular photograph at what you have defined as the
2 inlet beach, including Moore's Beach, and excluding
3 the Second Avenue Beach?

4 MR. HUNKINS: Object to the form.

5 **A. I --**

6 MR. BARKER: No, I -- you may answer.

7 **A. I saw this after this aired, in whatever year**
8 **that was, on -- on the news. I went down and looked**
9 **and saw this.**

10 **Q.** Okay. Did you ever have occasion, when you
11 saw it on the Internet, to go to the beach and see if
12 the condition still existed?

13 **A. I did. I -- I went down there the day -- I**
14 **believe the day it aired.**

15 **Q.** Okay. And did you see the condition that's
16 shown in that particular exhibit?

17 **A. I don't -- it looked very similar, yes.**

18 **Q.** Okay.

19 MR. HUNKINS: What's that exhibit
20 number? I'm sorry.

21 THE WITNESS: I'm sorry. 27.

22 MR. BARKER: Just -- 27. And the
23 statement itself was 28, I think.

24 MR. HUNKINS: Oh, okay.

25 MR. BARKER: Is that right, Paul?

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1 MR. D'AMATO: Yes.

2 (Photograph is received and marked for
3 identification as Exhibit P-66.)

4 **Q.** Okay. Now, let me show you what I've had
5 marked for identification as Exhibit 66, which is a
6 photograph that was taken of the beach in North
7 Wildwood on July 2, 2013. It would be the summer
8 after the drowning of Mr. Smith. And I want to hand
9 that to you, and ask you to get your orientation.
10 Okay.

11 Do you see those signs that are --

12 **A. Yes.**

13 **Q.** -- posted in the ground?

14 It's my understanding that those signs
15 are -- in fact, here, better yet, I can show you a
16 close-up of the sign. Exhibit 30.

17 That the signs that you see in the
18 photograph that you're holding in your left hand,
19 which is exhibit?

20 **A. 66.**

21 **Q.** 66.

22 MR. BARKER: And Exhibit --

23 **A. 20.**

24 MR. BARKER: -- 20 is in his right
25 hand, not 30.

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1 MR. D'AMATO: Oh, wait. Yes. I'm
2 sorry. You're right. Okay.

3 **Q.** Here's my point: What's in your right hand
4 is Exhibit 20. The sign that you see there is the
5 sign that's on those posts delineating the endangered
6 bird area. Correct?

7 **A. I believe that to be the case, yes.**

8 **Q.** Okay. Now, have you seen where this delin --
9 this area that is delineated, you know, relative to
10 endangered birds, doesn't have the snow fence around
11 it?

12 **A. Not at this location, it does not, no.**

13 **Q.** Okay. And the location that you're looking
14 at in the exhibit in your left hand is -- what would
15 you describe that as?

16 **A. It's -- I don't know. I think -- I don't**
17 **know. I think -- I don't know. I think it could**
18 **possibly be coming down the stairs from the Moore's**
19 **Inlet parking lot.**

20 **Q.** Okay.

21 **A. Looking in a northerly, northeasterly**
22 **direction.**

23 **Q.** The people that you see in the photograph
24 there, okay, you would agree that they're not sitting
25 or standing in the endangered bird area. Correct?

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1 **A. I agree.**

2 **Q.** All right. But where they're standing is an
3 unguarded beach.

4 **A. I agree.**

(Photograph is received and marked for
6 identification as Exhibit P-67.)

7 **Q.** Okay. Now, let me hand you what I'm going to
8 have marked for identification as Exhibit 67. Okay.

9 And this is a photograph where the photographer is
10 standing back more, and the photograph that you now
11 have in your hand includes the photograph that was in
12 Exhibit 66. Correct?

13 **A. I'm sorry. Can you repeat that question?**

14 **Q.** Yeah. Exhibit --

15 **A. 67.**

16 **Q.** -- 67 shows the area that is in Exhibit 66,
17 in part?

18 **A. I can't be sure. It looks like, perhaps, 66**
19 **was taken further down here and out. But I can't say**
20 **for sure. But that's my assumption.**

21 **Q.** Okay. All right. Hand me those two for a
22 second.

23 **A. Sure.**

24 **Q.** Because I don't want to confuse this. Okay.

25 In looking at Exhibit 67, do you see
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1 the area for the endangered birds?

2 **A. Yes, I believe I do.**

3 **Q.** You see the signs there sticking up.
4 Correct?

5 **A. Yes, um-hum.**

6 **Q.** And nobody's standing or sitting behind those
7 signs?

8 **A. That is correct.**

9 **Q.** Okay. So, that would lead you to believe
10 that's the endangered bird area. Correct?

11 **A. That's the roped off area, yes.**

12 **Q.** Okay. Is it -- before we leave today, I need
13 to nail this thing down. Are you absolutely sure
14 that you have a clear understanding of the dimensions
15 of that endangered bird area?

16 **A. I -- I think that is a good point of**
17 **clarification. So, the -- as I understand it,**
18 **according to our agreement with the state and the**
19 **federal environmental folks, the entire area west of**
20 **Surf Avenue, down to the water's edge, is an area --**
21 **well, piping plover area.**

My further understanding is a piping
23 **plover -- and I'm not a wildlife expert. Piping**
24 **plovers nest up beach, and they spend the day running**
25 **from their nest down to the water's edge to feed.**

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1 **So, the area that's roped off is the nesting area.**

2 **They don't want people stepping on the nests.**

3 **The entire area, though, is -- that's**
4 **why we're not allowed to rake that beach front,**
5 **that's why they don't want heavy vehicles down there,**
6 **because they don't want vehicular traffic to hit a**
7 **piping plover as it goes down to the ocean.**

8 **So, I -- I believe the entire area down**
9 **to the water's edge is a -- is an environmentally**
10 **sensitive area.**

11 **Again, I'm not the expert on that. And**
12 **I can't quote directly from that agreement -- from**
13 **that permit.**

14 **Q.** We asked you to delineate with a marker where
15 this endangered bird area was, but let's do this by
16 words now. At what street does the endangered bird
17 area begin, and where does it end? And if you want,
18 you could go north to south, or south to north,
19 whatever's easier.

20 **A. So, let me go east to west.**

21 **Q.** Okay.

22 **A. So, to the east --**

23 MR. BARKER: You know what, Mayor,
24 rather than point to this aerial photograph of March
25 14, 2012 to describe your testimony, it's going to be

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1 helpful if you mark that document up, which you may.

2 That's a photocopy. You can create a document to
3 help you in your --

4 MR. D'AMATO: So, we'll mark it for
5 identification.

6 (Photograph is received and marked for
7 identification as Exhibit P-68.)

8 MR. BARKER: He'll mark on it whatever
9 he's going to say, I think.

10 MR. D'AMATO: Yeah.

11 MR. BARKER: He can put east, west,
12 north, south.

13 MR. D'AMATO: Yeah.

14 MR. BARKER: Anything else he wants on
15 it.

16 MR. D'AMATO: That's fine.

17 BY MR. D'AMATO:

18 **Q.** I just wanted you to verbalize --

19 **A. Yeah.**

20 **Q.** -- in terms of street addresses, and not a
21 configuration.

22 **A. So --**

23 **Q.** And that exhibit that you're going to be
24 using is exhibit number?

25 **A. 68.**

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1 Q. Right.

2 A. So, my understanding, there are two
3 components of the endangered bird area. One
4 component is a physically fenced off area that has,
5 sometimes there's a snow fence, and then it turns
6 into posts with strings. There is a physically
7 fenced off area, where I believe they feel that the
8 piping plovers may nest.

9 Q. All right.

10 A. My understanding, however, from the city's
11 standpoint, as far as an area where we are restricted
12 from conducting any activities with heavy machinery,
13 raking, guarding, things of that nature, is the area
14 west of Surf Avenue.

15 Q. Okay.

16 A. So, would you like me to --

17 Q. Ending where?

18 A. I'm not sure about that.

19 Q. Okay.

20 A. I -- from a practical standpoint, there is no
21 other access, as you go west. The only vehicular
22 access is at Surf Avenue. So, from a practical
23 standpoint, my understanding is that we are
24 restricted from heavy equipment, raking, any of those
25 activities west of Surf -- Surf Avenue entrance to

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1 the beach.

2 Q. Okay.

3 A. During -- let me further clarify that. There
4 is a certain window of time in that agreement, as
5 well. And again, I would -- I can't give you the
6 exact dates off the top of my head.

7 MR. BARKER: If there's no objection,
8 may I have the mayor mark on this exhibit what he is
9 pointing to as west?

10 THE WITNESS: That's a good point.

11 Q. Sure.

12 A. So -- well, it's --

13 MR. BARKER: That arrow designates
14 west.

15 THE WITNESS: Yes, for the purposes of
16 this picture.

17 Q. Okay. Let me see. There we go. Now, I'm
18 going to have three photographs marked for
19 identification. The first one will be Exhibit 69.
20 It was taken on May 21, 2014. Just get your
21 orientation on that one. Then the next one will be
22 Exhibit 70. And the next one will be 71.

23 (Photographs are received and marked
24 for identification as Exhibits P-69, P-70 and P-71.)

25 A. Okay.

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1 Q. And here, I represent to you, and I'm sure
2 you would agree, that all three photographs are
3 showing the same activity.

4 A. I would --

5 Q. Now, given -- given your personal and
6 governmental experience with this -- the beaches that
7 we've been talking about, do you know what those men
8 are doing?

9 A. Looks like they are constructing a small
10 protective dune in front of the vehicle access at
11 either Ocean Avenue or Surf Avenue.

12 Q. Okay.

13 A. There are two entrances -- there are two
14 vehicular accesses to the inlet beach, one's at Ocean
15 Avenue, one's at Surf, and it's hard -- I believe,
16 because of where the picture is taken from, it's most
17 likely the Ocean Avenue access to the inlet beach is
18 what that is a picture being taken of.

19 (Photograph is received and marked for
20 identification as Exhibit P-72.)

21 Q. Let me show you what's been marked for
22 identification as Exhibit 72. And you would agree
23 that this is the parking lot that's located near the
24 sea wall near Moore's Beach?

25 A. Yes.

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1 Q. Okay. When was that parking lot built?

2 A. It was there my whole life. So, from at
3 least 1977. I don't -- before that, I don't know.

4 Q. Okay. Given your governmental experience,
5 why was a parking lot built there?

6 A. Primarily, it was to service what is known as
7 the entertainment district, which is a couple blocks
8 of bars and restaurants in that area.

9 Q. Okay. Let me show you what's been marked for
10 identification as Exhibit 72, a photograph taken on
11 June 16, 2014.

12 Would you agree that the beach shown in
13 there, that photograph, is all of it is Moore's
14 Beach?

15 A. Yes.

16 Q. We took the deposition of Lieutenant --
17 Lieutenant Lindsay, who's retired from the North
18 Wildwood Beach Patrol. Michael and Brian and Dominic
19 were there, Tom was there, Lynn was there. And he
20 recited to us, in his opinion, the dangers with
21 Hereford Inlet with the currents and the tides.

22 If I had gone up to you before Brad
23 Smith's drowning on July 27, 2012, and asked you if
24 you think Moore's Beach, for whatever reason, should
25 be closed, in the sense that nobody should be

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1 permitted to go on the beach, winter and summer, what
2 would you have said to me?

3 MR. BARKER: Objection. But you may
4 answer the question.

A. I wouldn't have agreed with you.

6 Q. Okay. And why not?

7 A. Exhibit 72 is probably the best depiction. I
8 mean, people fish, they sit, they relax on the beach,
9 they play games on the beach. You know, and I -- I
10 think keeping the beaches open to the public is
11 important for --

12 Q. Okay. If that's being the -- if that's the
13 case, just in light of what you testified, why wasn't
14 there a lifeguard on Moore's Beach before July 27,
15 2012?

16 MR. BARKER: Objection.

17 A. There's still not a -- I'm sorry.

18 MR. BARKER: I just want to enter an
19 objection. But you can answer the question.

20 A. We have a -- North Wildwood's an island,
21 literally, and we have many areas of tidal areas that
22 aren't guarded by lifeguards. As a matter of fact,
23 if you go further west, there's areas where small
24 beaches develop along the sea wall frequently. And
25 we don't guard them all. We have a certain number of

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1 designated guarded lifeguard beaches that we guard,
2 and we -- it would simply be impossible to place a
3 lifeguard at every place where the public has access
4 to the ocean or bay.

5 Q. Okay. When we took the deposition of Chief
6 Cavalier of the North Wildwood Beach Patrol, I asked
7 him why he hadn't posted lifeguards, with lifeguard
8 stands, on what you call the inlet beach, excluding
9 the Second Avenue Beach, Moore's and the other area.

10 A. Right.

11 Q. And he said -- he simply said that we don't
12 -- we didn't have the manpower.

13 Would you be adverse now, in light of
14 anything that you learned as a result of the Smith
15 drowning, about posting lifeguards in what you call
16 the inlet beach, minus Second Avenue, because it does
17 -- at Second Avenue, there is a guard?

18 MR. BARKER: Objection. But you may
19 answer the question.

20 A. I believe that we are prohibited from doing
21 that, under our permit with the state and federal
government.

23 Q. Okay. Now, what's that belief based on?

24 A. My understanding is that we are not allowed
25 to add any recreational beach or swimming beach past

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1 Surf Avenue. Again, I don't -- I can't testify to
2 the exact language of that agreement. But my
3 understanding is that agreement says, you cannot
4 place any more lifeguards west, for lack of a better
5 direction, of the Surf Avenue lifeguard stand.

6 Q. And what you read is in that agreement with
7 the state?

8 A. I believe it is. And again, that agreement,
9 to my recollection, was signed in 2006. So, it's a
10 significant number of years ago, since I've had the
11 opportunity to --

12 Q. Okay.

13 A. But that was my -- that's been my
14 understanding since then, which is why we don't guard
15 it, we can't rake it, we don't have trash cans down
16 there, or anything of that nature.

17 Q. Before you leave, I'm going to show you what
18 Mr. Barker says he sent to me, and I didn't see any
19 reference --

20 A. All right.

21 Q. -- in that document. It may be an exhibit
22 that wasn't attached --

23 A. All right.

24 Q. -- for what that's worth. All right?

25 But given what you know, as you sit
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1 here today, if that document that you're referring to
2 does not say that you can't post a lifeguard past
3 Surf Avenue, would you post a lifeguard or lifeguards
4 in that inlet beach area that we've been talking
5 about?

6 MR. BARKER: Objection. You may answer
7 the question.

8 A. I would have to ask the -- the beach patrol
9 chief makes recommendations on that. However, it's a
10 -- depending on the year, it's a very, very large
11 area. It's probably, from our last lifeguard stand,
12 to the sea wall at Moore's Beach, might be another
13 half a mile or more.

14 Q. Right.

15 A. And then again, there's areas further west
16 down the sea wall where small in front of some of the
17 Anglesea beach colonies, where beaches develop, and I
18 don't think I would. I think that we have a pretty
19 well established guarded beach inventory. And I
20 think that it suits the needs of -- of our
21 vacationers and residents. So, I wouldn't
22 necessarily advocate trying to guard any additional
23 waterways in the city.

24 Q. Okay. Let me see if I understand the answer.
25 Because you have enough beaches that are guarded, is

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1 that what you're saying?

2 **A. Because we have enough beaches that are**
3 **guarded.**

4 **Q. Yeah.**

5 **A. And I think it's simply impossible to guard**
6 **every public access to tidal waters in the city. And**
7 **that's --**

8 **Q. Okay. I thought you said that. I'm not**
9 **talking about all of the tidal waters in North**
10 **Wildwood. I'm talking about what you, as the mayor,**
11 **have defined as the inlet beach, which includes**
12 **Moore's Beach and stops at Surf and First Avenue**
13 **there.**

14 **A. Right, um-hum.**

15 **Q. I'm just talking about that area.**

16 **A. Right.**

17 **Q. So, can you just tell me what your reason or**
18 **reasons are, in your mind, as the mayor of the city,**
19 **why lifeguards should be posted in that specific**
20 **area?**

21 **A. Why they should not?**

22 **MR. BARKER: Objection, objection.**

23 **Q. Should not -- why they should not.**

24 **MR. BARKER: Yeah. That, okay. I'm**
25 **glad you clarified that. Because I didn't hear it**

WORD FOR WORD REPORTING, LLC

1 either.

2 **A. Right.**

3 **MR. BARKER: Also, I object to the**
4 **question, and you may answer it, if you're able.**

5 **A. That area is a large expanse, and it would**
6 **probably require upwards of 10 additional lifeguard**
7 **stands, which during the summer would be at least 20**
8 **additional lifeguards, plus supervision, which would**
9 **be a very large increase to the size of our beach**
10 **patrol. So, it would be from -- from a resource**
11 **standpoint, and a recruitment standpoint of getting**
12 **qualified guards, that would be a very large increase**
13 **in our -- in our -- in our enforce -- in our beach**
14 **patrol.**

15 **Q. Okay. Before July 27, 2012, is it your**
16 **position, based upon your experience as a**
17 **governmental official, that North Wildwood simply**
18 **didn't have the money to put those additional**
19 **lifeguards posted in the area that you have defined**
20 **as the inlet beach, which includes Moore's Beach?**

21 **MR. BARKER: Objection. But you may**
answer the question.

23 **A. No. I think the city, if we chose to**
24 **allocate resources there, we could have -- we could**
25 **certainly afford to put lifeguard stands there. But**

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1 **another -- another reason, and I only think of it,**
2 **because I looked at this, we also want to provide**
3 **people with areas where they can fish, and engage in**
4 **other things that do not involve lifeguarding. And**
5 **you can't have guarded -- you can't allow people to**
6 **fish at guarded areas. That's a very popular fishing**
7 **area, as well. And so, that would be another reason**
8 **why I would not support that. Because, again, we try**
9 **to accommodate swimmers, surfers, fishermen, a lot of**
10 **different activities that happen on the beach.**

11 **Q. Well --**

12 **A. Or the ocean.**

13 **Q. Okay. Let's define those activities. Again,**
14 **I'm just using your definition of the inlet beach.**

15 **Moore's to First and Surf.**

16 **A. Um-hum.**

17 **Q. Right?**

18 **So, people are permitted to fish in**
19 **that area?**

20 **A. Yes.**

21 **Q. All right.**

22 **A. They're -- I'm sorry. People are pretty much**
23 **permitted to fish anywhere in the city where it's an**
24 **unguarded beach, including -- we have a couple spots**
25 **down around Second and Kennedy, where we don't guard**

WORD FOR WORD REPORTING, LLC

1 **because of a groin there, and again, people are**
2 **allowed to fish in that area.**

3 **Q. Okay. People use Jet Skis to depart from**
4 **that -- that beach area, and that's permissible;**
5 **isn't it?**

6 **A. I don't know that it's permissible or not.**
7 **We're not quite sure. A lot of times, those Jet Skis**
8 **don't act -- sometimes they do come up onto the dry**
9 **land. The majority of them stay in the water, or**
10 **they anchor up in shallow water, and so that is --**
11 **and also on Champagne Island across the way. So, I**
12 **am not sure whether that would be for us, on an**
13 **unguarded beach, to permit or not permit.**

14 **But since it is an unguarded beach, we**
15 **don't interfere with that activity.**

16 **Q. I see. Okay. Let me get rid of this one**
17 **here. Just give me a second.**

18 **Who would be the most knowledgeable**
19 **person that works in city hall to be able to provide**
20 **us with the area that has been designated as the**
21 **endangered bird area?**

22 **A. I believe it would be in the -- in that**
23 **permit document that I've referenced. I don't know**
24 **that there would be an individual at city hall who**
25 **would have that knowledge.**

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1 **Q.** Okay. Got you. Okay.
 2 Were you -- do you remember if when you
 3 were sitting in on Chief Cavalier's deposition, when
 4 I was asking him about a recorded statement of
 5 Lieutenant Lindsay, which we had marked for
 6 identification as Exhibit 31 on February 9, 2016.
 7 Does that ring a bell?

8 **A.** It does not.

9 **Q.** Okay. Let me -- I'm going to hand this to
 10 you. And I've highlighted the portions that I would
 11 like you to look at. It's -- it goes from pages 4 --
 12 you can read the entire page. I don't care. But the
 13 ones I'm going to ask you about go from 4 to 7.

14 **A.** Sure.

15 VIDEOGRAPHER: Going off the record,
 16 4:12.

17 MR. D'AMATO: Let me just put this on
 18 the steno record. When I showed the mayor the
 19 photograph of the parking lot, I did not put a
 20 sticker on it. So, I'm going to put a sticker on it
 21 now as Exhibit 73.

22 (Photograph is received and marked for
 23 identification as Exhibit P-73.)

24 (Discussion off the record.)

25 VIDEOGRAPHER: We're back on the
 WORD FOR WORD REPORTING, LLC

1 record, 4:15.

2 BY MR. D'AMATO:

3 **Q.** You read portions of this interview of
 4 Lieutenant Lindsay. Correct?

5 **A.** I did.

6 **Q.** Did you ever meet with Lieutenant Lindsay, or
 7 were you ever in a room where someone was discussing
 8 with him what he had said in this interview?

9 **A.** No.

10 **Q.** Okay. Before coming here today, had you been
 11 apprised of what was said by Lieutenant Lindsay in
 12 this interview?

13 **A.** I -- I don't -- I don't remember that.

14 **Q.** Okay. How well did you know Lieutenant
 15 Lindsay before he retired from the North Wildwood
 16 Beach Patrol?

17 **A.** I knew him to say hello to, talk to casually.
 18 We didn't spend any, you know -- I wouldn't have met
 19 with him in my elected capacity, or we didn't really
 20 spend any time together socially. But we have -- my
 21 oldest son and his son are about the same age, so
 22 we've, you know, seen quite a bit of each other.

23 **Q.** Your oldest son?

24 **A.** My oldest son is twelve. My youngest is
 25 eight.

WORD FOR WORD REPORTING, LLC

1 **Q.** Okay. And his son --

2 **A.** His son is around 12 or 13.

3 **Q.** Oh, okay. I got it.

4 **A.** They're about the same age.

5 **Q.** Okay. Let's get this out of the way here.

6 Okay. Good. Thank you. Thanks.

7 Here we go, thanks, Lynn. I was

8 looking for this.

9 (Cape May County Herald Article, is
 10 received and marked for identification as Exhibit
 11 P-74.)

12 Let me show you what's been marked
 13 for identification as Exhibit 74. And this is an
 14 article that appeared in the Cape May County Herald
 15 on September 26, 2012. And I've highlighted certain
 16 portions of that in yellow. And just tell me when
 17 you're finished reading that article, which was
 18 written by Deborah McGuire.

19 **A.** I've finished the highlighted pieces. Is
 20 that what you had asked me to read?

21 **Q.** Well, you know, you can read the entire
 22 article. Just, you know --

23 MR. BARKER: May I see?

24 THE WITNESS: Sure.

25 BY MR. D'AMATO:

WORD FOR WORD REPORTING, LLC

1 **Q.** Okay. Do you recall reading this particular
 2 article that came out on September 26, 2012?

3 **A.** I do not.

4 **Q.** Okay. I want to reference a quote of Mayor
 5 William Henfey. "There's a vortex that's created in
 6 our inlet. We have competing inlets coming out of
 7 Hereford Inlet, and it's causing a whirlpool effect
 8 there."

9 Did you ever hear the mayor say that?

10 **A.** I did not.

11 **Q.** Okay. You can leave it there. That's good.

12 (Press of Atlantic City Article, is
 13 received and marked for identification as Exhibit
 14 P-75.)

15 **Q.** Okay. Now, let me show you what's been
 16 marked for identification as Exhibit 75. One for
 17 you, and one for Mr. Barker. And this is an article
 18 that we obtained off the Internet.

19 Are you familiar with Staff Writer
 20 Michael Miller?

21 **A.** I am.

22 **Q.** And what paper or papers does he work for?

23 **A.** The Press of Atlantic City.

24 **Q.** Correct. Do you remember reading this
 25 particular article?

WORD FOR WORD REPORTING, LLC

1 **A. Could you tell me when this article was from?**
2 **I don't see a date on it.**

3 **Q.** My recollection is it was with -- at the time
that the lawsuit was filed.

A. Last summer --

6 MR. BARKER: When was that?

7 Oh, hold on. I'll tell you.

8 MR. D'AMATO: No, in 2014.

9 (Discussion off the record.)

10 **A. Paul, I believe this was from the summer of**
11 **2015. Because it talks about the police officers who**
12 **were hurt, which was at an incident that occurred**
13 **last year.**

14 **Q.** Okay. I stand corrected. Sorry.
15 Now, having had the opportunity to scan
16 it, do you remember this article?

17 **A. I remember the incident. I -- so, yes, I**
18 **will say -- I mean, I certainly remember the**
19 **incident. I don't specifically remember this**
20 **article, but.**

21 **Q.** Okay. You can see on page 2 it refers to
22 Sandra Smith?

23 **A. Yes.**

24 **Q.** Okay. The first sentence I've highlighted
25 says, "North Wildwood Mayor Patrick Rosenello said
WORD FOR WORD REPORTING, LLC

1 closing the inlet beach to beachgoers would send the
2 wrong message to the public when all unguarded
3 beaches can be dangerous."

4 Do you stand by that?

5 **A. Yes.**

6 **Q.** Okay. Okay. The second sentence I've
7 highlighted says, "'There's no gray area. If there's
8 not a lifeguard on duty, you should not be in the
9 ocean,' he said. 'It's such a dynamic environment,
10 to say you were only so deep, that's not the issue.
11 There's no room for equivocation.'"

12 Do you stand by that?

13 **A. Yes.**

14 **Q.** All right. As it relates to the activity of
15 Mr. Smith and his daughter, and Scott Sunderland and
16 his daughter, in walking in ankle deep water, would
17 you say -- would you agree with me that this quote
18 that I just referenced does not apply to that
19 activity?

20 **A. I would say that the ocean is a wilderness,**
21 **and if I were not familiar with the area I'm in, and**
22 **there was no lifeguards there, I would not advise**
23 **someone to be -- to go into that water.**

24 **Q.** Even in ankle deep water?

25 **A. Even in ankle deep water.**

WORD FOR WORD REPORTING, LLC

1 **Q.** Okay. And were you aware -- no, no. Excuse
2 me. You've established earlier that you were not
3 aware of the vortex that Chief Cavalier talked about.
4 Correct?

5 MR. HUNKINS: Object to the form.

6 MR. BARKER: Objection. Objection. I
7 think -- were you talking about Cavalier, or that
8 quote from Henfey?

9 MR. D'AMATO: No, no. Cavalier.

10 MR. BARKER: Okay. Well, anyway, I
11 object.

12 MR. D'AMATO: Go ahead.

13 MR. BARKER: You can answer, though.

14 **A. I mean, I had never heard the terminology**
15 **vortex or whirlpool.**

16 **Q.** Okay.

17 **A. What I had -- in my mind, it's a current.**
18 **Tide or current.**

19 **Q.** Okay.

20 **A. Now, it could -- it could merely be a play or**
21 **-- you know, a difference of wording. I'm not sure**
22 **exactly what they're referring -- whirlpool seems to**
23 **denote something entirely different to me.**

24 **Q.** All right. The next quote, "If you choose
25 to enter the water on an unguarded beach, you do so
WORD FOR WORD REPORTING, LLC

1 at great risk to yourself,' he said, 'no swimming,
2 swimming, if there's no lifeguards, you should not be
3 wet. It's very simple."

4 So, is it your position, again, in
5 light of this particular statement, that Mr. Smith
6 and his daughter were exposing themselves to
7 hazardous conditions by walking in ankle deep water
8 at a beach that there was no lifeguard?

9 MR. BARKER: Objection. You may answer
10 the question, if you're able.

11 **A. Again, I think it's incredibly unfortunate**
12 **what happened to Mr. Smith. I think that people have**
13 **the mistaken impression that the ocean is similar to**
14 **their neighborhood pool, and they're not familiar**
15 **with currents and tides and things of that nature.**
16 **And I think, in this context, now, at this time, I'm**
17 **the mayor of North Wildwood, I'm the Director of**
18 **Public Safety, I think it's very important for me to**
19 **very, very clearly take the public position that if**
20 **there is not a lifeguard, you should not be wet. And**
21 **I stand by that answer.**

22 **Q.** Okay. I'd just like the stenographer to read
23 back the question. I'd like you to listen carefully.

24 **A. Sure.**

25 (Record read.)

WORD FOR WORD REPORTING, LLC

1 Q. Can you answer that yes or no?

2 MR. BARKER: And I object.

3 A. Is it my position they were exposing
themselves to hazardous conditions? I think -- I
think the best answer I can give you is that, being
6 interviewed for this newspaper article, as the
7 spokesperson for the City of North Wildwood, an
8 article that's coming out in the middle of the
9 summer, I believe it was my obligation to make a
10 statement that, do not go in the water at an
11 unguarded beach. That's what -- that's the message I
12 was trying to send with that quote. So that there --
13 and again, I stand by that, that I don't think that
14 there is room for, well, I was ankle deep, I was knee
15 deep, I was thigh deep. You should not enter the
16 ocean unless there is a lifeguard on duty on that
17 beach.

18 Q. Okay. I'm going to ask you this: And I'll
19 only read back the question, if you want me to.

20 The question that I'm asking you, I've
21 asked you twice, is, can you, and you could say no,
22 if you want, that's perfectly fine. Can you answer
23 yes or no to the question that I posed to you? You
24 want it read back one more time?

25 A. I don't think it's a yes or no question.

WORD FOR WORD REPORTING, LLC

1 Q. Okay. So, you can't answer yes or no?

2 A. Correct.

3 Q. That's what you're saying?

4 A. Yes.

5 Q. Okay. All right. One second.

6 (E-mail, is received and marked for
7 identification as Exhibit P-76.)

8 Q. Now, the next exhibit will be 76. I'm going
9 to hand you a copy. Here, for Mr. Barker, and one
10 for Brian.

11 MR. HUNKINS: Thank you. Off the
12 record real quick.

13 MR. D'AMATO: Yeah.

14 MR. HUNKINS: Do you have a guesstimate
15 of how long you might be?

16 MR. D'AMATO: I would say five minutes,
17 ten minutes, I'll be finished.

18 BY MR. D'AMATO:

19 Q. This is an e-mail that was sent to me on
20 February 29, 2016. Candidly, I didn't see it until
21 this morning.

22 And this is from Lou DiJoseph, formerly
23 of the intelligence bureau of the New Jersey State
24 Police, and now a licensed private investigator. And
25 I'd like you to read along with me as to what he

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1 says.

2 "Counsel, I interviewed Harry Wozunk,
3 III today. He is the former North Wildwood Director
4 of Public Works. He was asked to leave North
5 Wildwood, or be terminated in December 2015, and did
6 not provide a reason. He currently holds the same
7 position in the Borough of Runnemede, Camden County,
8 New Jersey. Wozunk has not spoken to anyone
9 regarding the Smith drowning, and is not represented
10 by counsel. Wozunk was a good interview, and he
11 doesn't come off as a bitter and former employee.
12 Wozunk recalled the Smith drowning and the remedial
13 actions that followed. He also knew of Dr. Farrell,
14 and the vortex. And said that the outgoing tides
15 that come off the rock jetty near Moore's Beach once
16 caused a 12-foot deep shelf collapse at the beach
17 near the rock wall steps. He was required to have
18 his men with machinery repair and knock down the
19 cliff, so it wouldn't be dangerous to patrons. This
20 occurred in early summer 2010, a few years prior to
21 the Brad Smith drowning. He also said an older white
22 male, who lives directly across from the rock wall
23 steps, told him he saw the vortex prior to the beach
24 collapse, and usually described it as boiling water."

25 MR. HUNKINS: "Visually described it."
WORD FOR WORD REPORTING, LLC

1 MR. D'AMATO: "Visually described it,"
2 thank you very much, "as boiling water."

3 Q. Wozunk believes the area of the inlet beach
4 is dangerous, and recalls discussions with now
5 deceased Mayor Henfey, who called the area of inlet
6 Moore's Beach an attractive nuisance. Henfey told
7 Wozunk that the Moore's Beach and inlet beach was New
8 Jersey state property.

9 "Wozunk also recalls conversations
10 between himself, the State of New Jersey Fish and
11 Game agents, Mayor Henfey, and the former City
12 Administrator Lasco regarding closing the inlet beach
13 area. Wozunk claims that the State of New Jersey
14 wanted the beach closed when the piping plovers were
15 mating during the summer, and they didn't want beach
16 patrons walking near the nesting area or consuming
17 alcoholic beverages. Mayor Henfey told the State of
18 New Jersey representatives that if they wanted to
19 patrol the beach, then they can send their own police
20 to do it.

21 "Mayor Henfey had everyone convinced
22 that the inlet beach and Moore's Beach were owned by
23 the State of New Jersey. Wozunk puts the city line
24 of jurisdiction at the rock wall. This doesn't make
25 sense, because the police officers wouldn't be able

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1 to write summonses on state land. They all have to
2 be deputized as county sheriffs or state wildlife
3 agents.

4 "I will compile a work product report
as soon as possible."

6 And that's the end of that. Now, I
7 gave you what he sent me, which I found this morning.

8 Why was Harry Wozunk terminated?

9 **A. He had met -- well, let me rephrase that. He
10 was not terminated. He chose to resign -- to resign.**

11 **Q. Okay. Do you know why he resigned?**

12 **A. When I took over as mayor, his management
13 style did not match what I thought the management
14 style of that position should be as it related to his
15 interpersonal skills with employees and contractors.**

16 **Q. Okay.**

17 **A. And I think he realized that it wasn't a good
18 fit anymore for him.**

19 **Q. Do you recall this incident about the 12-foot
20 deep shelf collapse?**

21 **A. The only one I recall is the one that we
22 referenced earlier from the NBC story.**

23 **Q. Okay. Do you remember having any
24 conversations with merry -- Mayor Henfey about the
25 beach that is referred to in this statement as being**

WORD FOR WORD REPORTING, LLC

1 an attractive nuisance?

2 **A. I don't.**

3 **Q. Okay. Is there anything in this interview
4 with Harry Wozunk by licensed Private Investigator
5 DiJoseph that you have heard before; anything?**

6 **A. No. I never -- never heard a discussion of
7 this -- about that being state property, or any of
8 those other issues.**

9 **Q. Okay.**

10 **A. I believe there's a -- not a typo. But that
11 City Administrator Lasco, I'm sure, is Belasco.**

12 **Q. All right. Were you aware, before July 27,
13 2012, of the time that no one was permitted to be on
14 the beaches of North Wildwood at night?**

15 **A. I believe it's ten p.m. until six a.m.**

16 **Q. Okay.**

17 **A. That's my best recollection.**

18 **Q. I'm sorry. I didn't mean to speak over you.**

19 **A. That's all right.**

20 **Q. Were you aware, before July 27, 2012, that
21 North Wildwood police officers in the summertime
would patrol the beach to make sure that no one was
23 violating the curfew of ten p.m. until six a.m.?**

24 **A. Yes.**

25 **Q. Okay. Were you aware that it's been**

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1 testified that they also patrolled what you call the
2 inlet beach, including Moore's Beach?

3 **A. That, I cannot specifically say I was aware
4 of.**

5 **Q. Okay. Let me just check my notes. I'm
6 almost done.**

7 **A. Can I make a -- just a -- it may be
8 important, it may not be.**

9 **Q. Go ahead.**

10 **A. In the guarded area of the inlet beach,
11 because of the way it sets up, there's actually
12 street lights that cast lights onto the beach there.
13 A lot of times, people from motels will be playing
14 volleyball and things of that nature at that location
15 in the evening. And I don't know that the police
16 would kick them off the beach at 10 o'clock. Because
17 that area's up by the sea wall.**

18 **That's -- the only reason I mention
19 that is because that's the only recollection I have
20 of people being on that beach later in the evening.**

21 **MR. D'AMATO: Let me just check one
22 thing. I think I'm finished.**

23 **(Discussion off the record.)**

24 **MR. D'AMATO: I have nothing further.**

25 **MR. HUNKINS: I think I just have one.**

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1 EXAMINATION BY MR. HUNKINS:

2 **Q. And you probably already said this, and I
3 apologize if I'm re-asking it.**

4 **But before this lawsuit was filed, what
5 was your best understanding of where the Smiths were
6 walking when the incident occurred?**

7 **A. I -- I was never quite sure of that. I --
8 for some reason, I had initially thought that they
9 had been at the Moore's Beach, and were heading
10 through the inlet beach toward the guarded beach.
11 And then I believe it was during the Cavalier
12 deposition. And then, today, Mr. D'Amato mentioned
13 that they were actually heading in the opposite
14 direction.**

15 **So, my -- I -- I never really had a
16 clear understanding of exactly where they were.**

17 **Q. And regardless of which direction they were
18 heading, in terms of the location where they were
19 when it happened, you're unclear on that, as well?**

20 **A. The -- yes, I'm not exactly sure where that
21 occurred.**

22 **Q. Okay.**

23 **MR. HUNKINS: Thanks. That's all I
24 have.**

25 **THE WITNESS: Sure.**

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1 VIDEOGRAPHER: That's it.

2 MR. D'AMATO: That's it.

3 VIDEOGRAPHER: This concludes the
4 videotaped deposition. Off the record, 4:35.

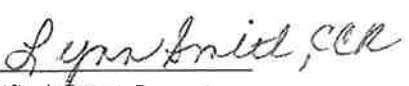
(Deposition concludes at 4:35 p.m.)

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1
2 C E R T I F I C A T E
3

4 I, LYNN SMITH, a Certified Court Reporter of the
5 State of New Jersey, do hereby certify that prior to
6 the commencement of the examination, PATRICK
7 ROSENELLO was duly sworn by me to testify the truth,
8 the whole truth and nothing but the truth.
9

10 I DO FURTHER CERTIFY that I am neither a relative nor
11 employee nor attorney nor counsel of any of the
12 parties to this action, and that I am neither a
13 relative nor employee of such attorney or counsel,
14 and that I am not financially interested in the
15 action.
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| '13 [2] - 21:10, 41:4 '14 [3] - 21:10, 21:11, 41:4 '80s [2] - 30:3 'If [1] - 83:24 'no [1] - 84:1 'There's [1] - 82:7 | 2010 [1] - 87:20 2012 [30] - 11:2, 20:12, 21:19, 24:4, 26:1, 29:17, 39:12, 40:22, 41:3, 41:5, 41:13, 42:14, 42:24, 43:4, 45:22, 48:13, 51:22, 52:10, 54:13, 56:10, 56:13, 57:22, 63:25, 68:23, 69:15, 74:15, 79:15, 80:2, 90:13, 90:20 2013 [2] - 36:13, 59:7 2014 [6] - 10:4, 31:21, 56:1, 66:20, 68:11, 81:8 2015 [3] - 40:14, 81:11, 87:5 2016 [13] - 1:19, 3:10, 4:2, 29:2, 31:11, 33:10, 40:13, 40:16, 43:17, 43:20, 56:22, 77:6, 86:20 202 [1] - 1:24 21 [2] - 55:25, 66:20 210 [1] - 2:7 22 [1] - 36:13 23 [2] - 40:14, 53:22 24 [1] - 55:3 25 [3] - 2:13, 40:4, 55:24 26 [3] - 55:25, 79:15, 80:2 27 [15] - 20:12, 21:19, 24:4, 26:1, 29:16, 41:5, 41:13, 57:22, 58:21, 58:22, 68:23, 69:14, 74:15, 90:12, 90:20 28 [5] - 41:21, 41:22, 56:22, 57:17, 58:23 29 [3] - 45:6, 45:19, 86:20 2900 [2] - 1:17, 2:3 2:28 [2] - 1:19, 4:3 | 3:46 [1] - 57:15 4 4 [5] - 3:4, 7:11, 40:12, 77:11, 77:13 41 [1] - 15:8 43 [1] - 3:10 4:12 [1] - 77:16 4:15 [1] - 78:1 4:35 [2] - 93:4, 93:5 5 5 [1] - 40:13 50 [1] - 41:25 59 [1] - 3:11 6 6 [1] - 1:24 60 [1] - 41:25 601-8677 [1] - 2:8 609 [2] - 2:8, 2:14 61 [1] - 3:12 63 [8] - 10:22, 14:10, 34:11, 35:4, 35:11, 35:12, 35:20, 35:21 64 [3] - 3:13, 33:11, 35:15 65 [1] - 43:16 66 [7] - 3:14, 59:5, 59:20, 59:21, 61:12, 61:16, 61:18 67 [5] - 3:16, 61:8, 61:15, 61:16, 61:25 68 [1] - 64:25 69 [1] - 66:19 7 7 [3] - 10:4, 40:15, 77:13 70 [1] - 66:22 71 [1] - 66:22 72 [3] - 67:22, 68:10, 69:7 73 [1] - 77:21 74 [1] - 79:13 75 [1] - 80:16 76 [1] - 86:8 77 [1] - 3:17 777-4872 [1] - 2:14 79 [1] - 3:18 8 8 [2] - 43:19, 43:24 80 [1] - 3:19 856 [2] - 1:25 | 86 [1] - 3:21 9 9 [9] - 29:2, 31:10, 33:9, 40:13, 40:16, 42:8, 42:13, 56:22, 77:6 92 [1] - 3:4 A a.m [2] - 90:15, 90:23 ABC [1] - 1:9 able [6] - 19:12, 56:12, 74:4, 76:19, 84:10, 88:25 absolutely [1] - 62:13 access [7] - 33:22, 65:21, 65:22, 67:10, 67:17, 70:3, 73:6 accesses [1] - 67:14 accessible [1] - 44:5 accommodate [1] - 75:9 according [1] - 62:18 account [1] - 37:18 accumulated [1] - 30:4 accumulates [1] - 25:2 Act [1] - 8:1 act [1] - 76:8 acting [1] - 37:18 action [2] - 94:12, 94:15 ACTION [1] - 1:4 actions [1] - 87:13 activities [5] - 20:24, 65:12, 65:25, 75:10, 75:13 activity [5] - 55:11, 67:3, 76:15, 82:14, 82:19 acts [1] - 6:16 actual [3] - 13:8, 29:20, 38:20 add [1] - 70:25 additional [4] - 72:22, 74:6, 74:8, 74:18 address [1] - 21:15 addresses [1] - 64:20 adjacent [3] - 42:12, 45:12, 56:16 adjunct [1] - 55:2 administering [1] - 22:20 administrative [1] - 8:21 Administrator [2] - | 88:12, 90:11 administrator [3] - 9:13, 9:20, 10:13 adverse [1] - 70:13 advise [1] - 82:22 advocate [1] - 72:22 aerial [10] - 10:25, 11:6, 11:11, 20:3, 29:4, 36:11, 36:16, 38:1, 38:22, 63:24 Aerial [2] - 3:8, 10:23 afford [1] - 74:25 age [3] - 29:16, 78:21, 79:4 agents [2] - 88:11, 89:3 ago [5] - 29:14, 30:1, 39:23, 40:5, 71:10 agree [13] - 19:18, 24:3, 52:5, 54:8, 55:3, 56:4, 60:24, 61:1, 61:4, 67:2, 67:22, 68:12, 82:17 agreed [2] - 27:23, 69:5 agreement [9] - 32:6, 34:5, 62:18, 63:12, 66:4, 71:2, 71:3, 71:6, 71:8 ahead [8] - 5:6, 7:20, 27:7, 33:18, 33:20, 47:4, 83:12, 91:9 aide [1] - 6:24 aired [2] - 58:7, 58:14 alcoholic [2] - 21:16, 88:17 allocate [1] - 74:24 allow [2] - 53:12, 75:5 allowed [12] - 23:13, 24:11, 24:24, 26:7, 26:13, 26:14, 53:3, 53:5, 53:6, 63:4, 70:24, 76:2 almost [6] - 27:3, 28:9, 29:22, 30:17, 34:25, 91:6 American [1] - 6:21 anchor [1] - 76:10 AND [2] - 1:4, 2:11 Anglesea [1] - 72:17 animals [7] - 52:17, 52:18, 52:22, 53:3, 53:11, 53:12, 53:20 ankle [11] - 19:5, 20:17, 41:7, 47:7, 51:1, 51:2, 82:16, 82:24, 82:25, 84:7, 85:14 answer [29] - 4:20, 5:6, 5:12, 5:15, 5:18, |
| 0 08096 [1] - 1:24 08221 [1] - 2:7 08234 [2] - 1:18, 2:3 08625 [1] - 2:13 | | | | |
| 1 1 [3] - 1:19, 29:3, 57:12 10 [7] - 3:8, 7:12, 8:12, 34:25, 38:23, 74:6, 91:16 12 [3] - 3:23, 49:8, 79:2 12-foot [2] - 87:16, 89:19 13 [1] - 79:2 14 [3] - 11:1, 51:4, 63:25 15 [2] - 29:13, 34:25 16 [2] - 51:16, 68:11 16th [1] - 51:22 19 [1] - 52:15 1920 [1] - 36:12 1970 [1] - 39:2 1977 [4] - 5:25, 6:5, 39:4, 68:3 1995 [3] - 6:20, 39:2, 39:6 19th [1] - 7:2 1st [1] - 4:1 | | | | |
| 2 2 [4] - 41:15, 57:15, 59:7, 81:21 2/9 [1] - 45:16 2/9/16 [1] - 45:19 2/9/2016 [1] - 32:24 20 [4] - 59:23, 59:24, 60:4, 74:7 20-foot [1] - 39:14 200 [2] - 1:18, 2:3 2000 [1] - 31:21 2004 [1] - 7:9 2006 [7] - 13:14, 13:15, 26:6, 27:25, 30:13, 30:14, 71:9 | 3 3 [4] - 7:10, 31:10, 32:23, 33:9 30 [2] - 59:16, 59:25 31 [2] - 31:20, 77:6 33 [1] - 3:9 35 [1] - 41:22 37 [1] - 3:23 384-2770 [1] - 1:25 384-2779 [1] - 1:25 3:05 [1] - 33:3 3:07 [1] - 33:6 3:37 [1] - 57:12 | | | |

| | | | | |
|---|---|--|---|--|
| 16:4, 20:20, 20:22, 26:10, 40:7, 41:9, 41:11, 42:20, 43:13, 58:6, 69:4, 69:19, 70:19, 72:6, 72:24, 74:4, 74:22, 83:13, 84:9, 84:21, 85:1, 85:5, 85:22, 86:1 Answer [1] - 16:9 anyway [1] - 83:10 apologize [1] - 92:3 appear [1] - 16:15 appearance [1] - 4:4 appeared [1] - 79:14 apply [1] - 82:18 apprised [1] - 78:11 area [90] - 12:5, 12:23, 12:25, 13:18, 20:8, 20:9, 20:13, 20:14, 20:18, 22:8, 22:10, 22:13, 23:3, 24:12, 26:2, 26:7, 26:8, 26:11, 26:15, 27:10, 27:13, 27:19, 28:1, 28:15, 30:5, 30:6, 30:17, 32:12, 32:19, 33:13, 33:21, 33:25, 34:2, 34:4, 34:10, 41:2, 41:7, 45:10, 46:3, 49:24, 50:24, 53:10, 53:15, 53:19, 54:11, 54:15, 60:6, 60:9, 60:25, 61:16, 62:1, 62:10, 62:11, 62:15, 62:19, 62:20, 62:21, 63:1, 63:3, 63:8, 63:10, 63:15, 63:17, 65:3, 65:4, 65:7, 65:11, 65:13, 68:8, 70:9, 72:4, 72:11, 73:15, 73:20, 74:5, 74:19, 75:7, 75:19, 76:2, 76:4, 76:20, 76:21, 82:7, 82:21, 88:3, 88:5, 88:13, 88:16, 91:10 area's [1] - 91:17 areas [9] - 24:18, 39:21, 53:11, 69:21, 69:23, 72:15, 75:3, 75:6 arms [1] - 19:16 Army [1] - 30:21 arrived [1] - 34:15 arrow [2] - 49:21, 66:13 article [13] - 13:21, 41:23, 79:14, 79:17, 79:22, 80:2, 80:17, 80:25, 81:1, 81:16, | 81:20, 85:6, 85:8 Article [4] - 3:18, 3:20, 79:9, 80:12 AS [1] - 1:4 aside [1] - 16:23 Asselta [1] - 7:5 assigned [1] - 8:14 associated [2] - 48:15, 50:13 assume [1] - 28:24 assumption [1] - 61:20 Atlantic [3] - 3:19, 80:12, 80:23 attached [2] - 3:21, 71:22 attorney [3] - 37:17, 94:11, 94:13 attorneys [1] - 4:17 attractive [2] - 88:6, 90:1 August [2] - 27:1, 51:22 authority [1] - 8:23 automatically [1] - 23:4 Avenue [27] - 13:1, 22:13, 26:4, 26:12, 26:21, 26:22, 27:6, 46:4, 49:18, 50:4, 53:2, 58:3, 62:20, 65:14, 65:22, 65:25, 67:11, 67:15, 67:17, 70:9, 70:16, 70:17, 71:1, 71:5, 72:3, 73:12 aware [12] - 18:1, 22:15, 36:5, 41:12, 44:9, 52:20, 83:1, 83:3, 90:12, 90:20, 90:25, 91:3 awhile [1] - 36:16 | 69:18, 70:18, 72:6, 73:22, 73:24, 74:3, 74:21, 79:23, 81:6, 83:6, 83:10, 83:13, 84:9, 85:2 Barker [7] - 20:25, 25:5, 28:4, 37:13, 71:18, 80:17, 86:9 bars [2] - 29:23, 68:8 base [1] - 15:14 based [2] - 70:23, 74:16 basis [5] - 19:25, 29:22, 30:6, 30:7, 34:15 bay [5] - 16:3, 16:9, 17:14, 17:18, 70:4 beach [131] - 10:17, 11:12, 11:19, 12:5, 12:6, 12:7, 12:15, 12:23, 12:24, 12:25, 13:3, 13:7, 13:11, 13:12, 13:15, 13:16, 14:10, 15:4, 15:18, 16:1, 17:25, 20:12, 20:24, 21:15, 22:8, 24:6, 24:7, 24:18, 24:21, 24:24, 25:16, 25:21, 26:3, 26:22, 26:23, 27:25, 30:2, 31:25, 32:2, 32:3, 41:2, 44:6, 44:15, 44:19, 44:20, 44:21, 44:22, 45:8, 46:4, 46:7, 46:24, 48:16, 48:21, 48:25, 49:16, 49:17, 50:3, 50:14, 50:24, 51:24, 52:6, 52:18, 52:22, 53:1, 53:3, 53:9, 53:15, 54:1, 54:3, 54:6, 55:5, 55:16, 56:5, 56:7, 57:25, 58:2, 58:11, 59:6, 61:3, 62:24, 63:4, 66:1, 67:14, 67:17, 68:12, 69:1, 69:8, 69:9, 70:8, 70:16, 70:25, 72:4, 72:8, 72:17, 72:19, 73:11, 74:9, 74:13, 74:20, 75:10, 75:14, 75:24, 76:4, 76:13, 76:14, 82:1, 83:25, 84:8, 85:11, 85:17, 87:16, 87:23, 88:3, 88:7, 88:12, 88:14, 88:15, 88:19, 88:22, 89:25, 90:22, 91:2, 91:10, 91:12, 91:16, 91:20, 92:10 | Beach [57] - 10:20, 10:21, 11:3, 11:7, 11:18, 12:6, 13:1, 13:2, 20:7, 21:2, 24:5, 25:11, 25:13, 26:3, 26:9, 27:21, 27:22, 36:6, 40:19, 41:8, 42:12, 42:16, 42:24, 43:1, 43:4, 43:24, 45:12, 46:8, 50:8, 52:4, 52:8, 52:12, 53:2, 54:4, 55:5, 55:17, 55:19, 58:2, 58:3, 67:24, 68:14, 68:18, 68:24, 69:14, 70:6, 70:9, 72:12, 73:12, 74:20, 78:16, 87:15, 88:6, 88:7, 88:22, 91:2, 92:9 beaches [18] - 12:4, 13:4, 21:21, 23:13, 23:17, 27:9, 45:1, 49:13, 55:4, 67:6, 69:10, 69:24, 70:1, 72:17, 72:25, 73:2, 82:3, 90:14 beachgoers [1] - 82:1 beats [1] - 21:6 became [4] - 10:3, 18:1, 23:2, 23:6 becoming [2] - 10:1, 10:6 BEFORE [1] - 1:15 begin [1] - 63:17 beginning [1] - 57:14 behind [1] - 62:6 Belasco [2] - 9:25, 90:11 belief [2] - 46:12, 70:23 believes [1] - 88:3 bell [1] - 77:7 benefit [3] - 5:14, 43:22, 52:16 best [6] - 37:7, 50:6, 69:7, 85:5, 90:17, 92:5 better [5] - 18:8, 18:15, 56:2, 59:15, 71:4 between [4] - 20:6, 22:14, 32:8, 88:10 beverages [2] - 21:16, 88:17 bidding [1] - 23:7 big [3] - 19:7, 39:1 bigger [1] - 56:2 bird [8] - 60:6, 60:25, 62:10, 62:15, 63:15, | 63:16, 65:3, 76:21 birds [6] - 27:11, 27:13, 33:14, 34:12, 60:10, 62:1 bit [7] - 18:20, 27:7, 29:20, 35:9, 35:19, 47:12, 78:22 bitter [1] - 87:11 black [3] - 27:11, 32:20, 33:12 blocks [1] - 68:7 blog [1] - 40:17 blog/website [1] - 40:18 blue [2] - 12:14, 26:16 boardwalk [1] - 52:18 boat [4] - 39:7, 39:10, 39:13, 41:19 boats [2] - 39:13, 39:21 Bob [1] - 6:13 body [10] - 8:20, 8:21, 8:22, 15:4, 17:1, 25:22, 29:5, 29:8, 29:14, 29:19 boiling [2] - 87:24, 88:2 Borough [1] - 87:7 bottom [4] - 29:25, 31:20, 35:17, 54:23 boulders [2] - 51:7, 51:11 bracketed [1] - 12:5 Brad [3] - 19:10, 68:22, 87:21 BRADLEY [1] - 1:5 break [1] - 57:6 breast [1] - 48:2 Brian [4] - 4:25, 50:1, 68:18, 86:10 BRIAN [1] - 2:14 brief [1] - 57:13 BROAD [1] - 1:24 brochure [1] - 43:17 Brochure [2] - 3:10, 43:20 building [1] - 30:24 buildings [1] - 45:9 built [6] - 30:9, 30:15, 30:18, 30:20, 68:1, 68:5 buoys [2] - 39:24, 39:25 bureau [1] - 86:23 BY [14] - 2:4, 2:8, 2:14, 4:10, 12:2, 31:24, 33:7, 38:5, 57:16, 64:17, 78:2, 79:25, 86:18, 92:1 |
|---|---|--|---|--|

| C | | | | |
|--|--|---|---|--|
| calf [1] - 48:3 Camden [1] - 87:7 campaign [1] - 7:7 candidly [2] - 34:10, 86:20 cannot [2] - 71:3, 91:3 cans [3] - 24:22, 24:23, 71:15 capacity [1] - 78:19 CAPE [1] - 1:1 Cape [4] - 3:18, 11:1, 79:9, 79:14 care [1] - 77:12 carefully [1] - 84:23 carry [1] - 9:5 cart [1] - 55:14 case [3] - 37:18, 60:7, 69:13 cast [1] - 91:12 casually [1] - 78:17 Catholic [2] - 6:14, 6:19 cats [1] - 52:17 caused [1] - 87:16 causes [1] - 16:7 causing [1] - 80:7 Cavalier [8] - 10:16, 18:21, 25:19, 26:1, 70:6, 83:3, 83:7, 92:11 cavalier [1] - 83:9 Cavalier's [3] - 14:22, 25:7, 77:3 certain [9] - 8:13, 15:16, 16:25, 20:25, 41:22, 41:24, 66:4, 69:25, 79:15 certainly [2] - 74:25, 81:18 certified [1] - 94:20 CERTIFIED [1] - 1:23 Certified [2] - 1:15, 94:4 certify [1] - 94:5 CERTIFY [1] - 94:10 chair [1] - 49:19 chairs [5] - 40:19, 40:21, 41:1, 44:2, 44:14 Champagne [1] - 76:11 changed [1] - 23:1 changes [3] - 15:24, 29:22, 30:5 changing [4] - 13:9, 15:23, 30:25, 38:20 channel [4] - 29:21, | 30:25, 41:14, 41:19 check [4] - 18:10, 18:12, 91:5, 91:21 Chief [9] - 10:16, 14:22, 18:21, 25:7, 25:19, 25:25, 70:5, 77:3, 83:3 chief [4] - 15:7, 29:4, 48:25, 72:9 children [1] - 47:19 choose [1] - 83:24 chose [2] - 74:23, 89:10 circular [1] - 16:15 City [8] - 3:19, 4:14, 7:9, 80:12, 80:23, 85:7, 88:11, 90:11 CITY [1] - 1:8 city [32] - 7:21, 8:23, 9:1, 9:12, 9:13, 9:20, 10:12, 11:10, 12:23, 13:25, 14:19, 22:20, 22:23, 23:4, 25:17, 27:18, 28:5, 28:7, 32:8, 36:19, 42:19, 44:13, 52:20, 72:23, 73:6, 73:18, 74:23, 75:23, 76:19, 76:24, 88:23 city's [2] - 43:18, 65:10 CIVIL [1] - 1:4 claims [1] - 88:13 clarification [1] - 62:17 clarified [1] - 73:25 clarify [1] - 66:3 clean [4] - 24:25, 27:8, 33:1, 53:16 cleaned [1] - 24:4 cleaning [1] - 27:5 clear [5] - 9:7, 37:20, 47:16, 62:14, 92:16 clearly [1] - 84:19 clerk [2] - 22:23, 28:7 clerk's [1] - 23:4 cliff [1] - 87:19 close [1] - 59:16 close-up [1] - 59:16 closed [2] - 68:25, 88:14 closely [2] - 13:24, 14:1 closer [1] - 35:22 closing [3] - 52:12, 82:1, 88:12 Coast [1] - 39:20 coastal [1] - 36:21 coemployee [1] - 55:11 | collapse [3] - 87:16, 87:24, 89:20 colleagues [3] - 43:22, 52:16, 56:24 college [1] - 6:6 colonies [1] - 72:17 coming [10] - 11:2, 16:24, 17:12, 17:13, 26:21, 29:25, 60:18, 78:10, 80:6, 85:8 commencement [1] - 94:6 commencing [1] - 1:19 communication [2] - 9:2, 52:12 communications [1] - 7:4 competent [1] - 4:17 competing [1] - 80:6 compile [1] - 89:4 complete [2] - 13:16, 28:6 Complex [1] - 2:12 complies [1] - 11:8 component [1] - 65:4 components [1] - 65:3 concerned [1] - 11:19 concludes [2] - 93:3, 93:5 concrete [1] - 51:6 condition [7] - 15:22, 17:6, 27:25, 43:11, 57:25, 58:12, 58:15 conditions [5] - 14:9, 25:20, 43:6, 84:7, 85:4 conducting [2] - 18:9, 65:12 configuration [1] - 64:21 confuse [1] - 61:24 Congresswoman [1] - 6:24 connect [1] - 53:8 consistent [1] - 38:21 constitutes [1] - 43:7 constructing [1] - 67:9 consult [1] - 37:17 consuming [1] - 88:16 containers [2] - 24:18, 24:19 context [2] - 24:17, 84:16 contractors [1] - 89:15 conversation [1] - 52:11 conversations [4] - | 14:8, 14:18, 88:9, 89:24 convinced [1] - 88:21 copy [2] - 33:1, 86:9 cordoned [1] - 27:11 corner [2] - 35:17, 51:18 CORPORATIONS [1] - 1:10 Corps [1] - 30:21 correct [27] - 5:24, 6:1, 6:15, 6:25, 7:14, 7:18, 10:5, 13:23, 14:5, 14:6, 20:15, 22:14, 22:17, 23:15, 52:21, 54:6, 54:7, 60:6, 60:25, 61:12, 62:4, 62:8, 62:10, 78:4, 80:24, 83:4, 86:2 corrected [2] - 28:12, 81:14 Council [1] - 7:9 council [13] - 7:13, 7:18, 8:12, 8:19, 8:21, 8:22, 8:25, 9:5, 9:20, 10:1, 13:25, 25:17, 48:18 councilman [4] - 22:25, 23:24, 25:12, 50:23 councilperson [2] - 9:7, 48:14 counsel [6] - 4:4, 25:16, 87:2, 87:10, 94:11, 94:13 County [5] - 3:18, 11:1, 79:9, 79:14, 87:7 county [4] - 38:3, 38:7, 40:14, 89:2 COUNTY [1] - 1:1 couple [3] - 57:22, 68:7, 75:24 court [1] - 4:6 COURT [2] - 1:1, 1:23 Court [3] - 1:15, 94:4, 94:20 courtesy [1] - 36:20 covering [1] - 45:10 CPM-L-331-14 [1] - 1:2 cream [4] - 22:17, 22:22, 23:12, 23:13 create [1] - 64:2 created [2] - 16:2, 80:5 curfew [1] - 90:23 current [9] - 17:7, 17:9, 17:11, 17:12, | 17:17, 17:21, 30:17, 83:17, 83:18 current's [2] - 17:16, 17:18 currents [3] - 13:9, 68:21, 84:15 customarily [2] - 22:4, 22:6 cycle [1] - 50:21 D D'AMATO [43] - 2:2, 2:4, 4:10, 11:23, 11:25, 12:2, 20:2, 28:11, 31:22, 31:24, 32:25, 33:7, 35:13, 35:23, 37:2, 37:22, 38:1, 38:5, 45:21, 45:25, 57:7, 57:10, 57:16, 59:1, 60:1, 64:4, 64:10, 64:13, 64:16, 64:17, 77:17, 78:2, 79:25, 81:8, 83:9, 83:12, 86:13, 86:16, 86:18, 88:1, 91:21, 91:24, 93:2 D'Amato [3] - 1:17, 3:4, 92:12 D.C [1] - 46:7 DAG [1] - 2:14 daily [3] - 29:22, 30:6, 30:7 dangerous [3] - 82:3, 87:19, 88:4 dangers [4] - 48:15, 50:13, 50:25, 68:20 date [10] - 20:11, 30:11, 31:20, 33:11, 38:8, 45:14, 45:18, 50:10, 51:21, 81:2 date's [1] - 51:18 dates [1] - 66:6 daughter [10] - 18:16, 18:17, 19:11, 46:23, 48:7, 50:5, 50:7, 82:15, 82:16, 84:6 dead [1] - 17:19 Deborah [1] - 79:18 debris [1] - 55:21 deceased [1] - 88:5 December [1] - 87:5 decided [2] - 6:22, 50:7 deep [23] - 19:5, 19:6, 20:17, 41:7, 41:25, 42:1, 47:8, 47:21, 48:1, 48:3, 51:1, 51:2, 82:10, 82:16, 82:24, 82:25, 84:7, |

| | | | | |
|---|--|---|---|---|
| <p>85:14, 85:15, 87:16, 89:20</p> <p>Defendant [1] - 2:9</p> <p>Defendants [1] - 1:11</p> <p>define [2] - 27:12, 75:13</p> <p>defined [4] - 53:3, 58:1, 73:11, 74:19</p> <p>definition [8] - 44:18, 47:12, 47:13, 47:17, 48:5, 53:1, 75:14</p> <p>definitions [1] - 53:15</p> <p>definitively [1] - 22:10</p> <p>degree [1] - 6:20</p> <p>delin [1] - 60:8</p> <p>delineate [6] - 11:6, 12:14, 32:21, 33:12, 39:21, 63:14</p> <p>delineated [3] - 12:25, 50:24, 60:9</p> <p>delineating [1] - 60:5</p> <p>demark [1] - 49:16</p> <p>denote [1] - 83:23</p> <p>DEP [1] - 32:9</p> <p>depart [1] - 76:3</p> <p>Department [9] - 21:21, 24:1, 24:4, 24:20, 28:25, 32:4, 42:25, 49:2, 49:6</p> <p>department [4] - 9:3, 9:9, 10:9, 10:10</p> <p>DEPARTMENT [1] - 2:11</p> <p>departments [5] - 8:13, 9:1, 10:7, 10:12, 49:2</p> <p>depicted [2] - 34:1, 35:3</p> <p>depiction [1] - 69:7</p> <p>depicts [1] - 46:11</p> <p>deposition [17] - 4:2, 4:12, 10:16, 11:10, 14:22, 15:2, 15:8, 18:21, 40:12, 40:14, 42:11, 46:22, 68:16, 70:5, 77:3, 92:12, 93:4</p> <p>Deposition [1] - 93:5</p> <p>DEPOSITION [1] - 1:5</p> <p>depositions [1] - 48:11</p> <p>depth [3] - 41:14, 41:20, 42:1</p> <p>deputized [1] - 89:2</p> <p>describe [4] - 12:4, 51:24, 60:15, 63:25</p> <p>described [5] - 20:12, 47:24, 87:24, 87:25, 88:1</p> <p>describes [1] - 46:11</p> | <p>describing [1] - 15:2</p> <p>description [1] - 8:19</p> <p>DESCRIPTION [1] - 3:7</p> <p>descriptive [1] - 17:10</p> <p>designated [5] - 27:13, 27:19, 49:25, 70:1, 76:20</p> <p>designates [1] - 66:13</p> <p>designation [1] - 12:10</p> <p>detail [1] - 7:25</p> <p>determine [1] - 56:12</p> <p>develop [2] - 69:24, 72:17</p> <p>diagram [1] - 27:17</p> <p>difference [1] - 83:21</p> <p>different [8] - 9:1, 19:9, 30:19, 38:17, 47:5, 49:2, 75:10, 83:23</p> <p>digress [1] - 33:17</p> <p>DiJoseph [3] - 42:8, 86:22, 90:5</p> <p>dimensions [1] - 62:14</p> <p>direct [3] - 8:16, 8:22, 43:19</p> <p>direction [4] - 60:22, 71:5, 92:14, 92:17</p> <p>directly [4] - 10:10, 45:12, 63:12, 87:22</p> <p>director [1] - 7:4</p> <p>Director [2] - 84:17, 87:3</p> <p>discovery [1] - 25:6</p> <p>discussed [1] - 47:11</p> <p>discussing [1] - 78:7</p> <p>discussion [9] - 25:18, 25:25, 26:5, 33:4, 52:11, 77:24, 81:9, 90:6, 91:23</p> <p>discussions [2] - 14:12, 88:4</p> <p>display [1] - 21:16</p> <p>district [3] - 7:1, 7:2, 68:7</p> <p>DIVISION [2] - 1:1, 2:12</p> <p>DO [1] - 94:10</p> <p>DOCKET [1] - 1:2</p> <p>document [13] - 27:21, 27:22, 28:1, 28:5, 28:6, 44:10, 44:11, 57:1, 64:1, 64:2, 71:21, 72:1, 76:23</p> <p>DOE [2] - 1:9</p> <p>dogs [1] - 52:17</p> <p>domestic [1] - 52:17</p> | <p>Dominic [3] - 12:16, 35:14, 68:18</p> <p>done [6] - 13:4, 13:11, 23:9, 28:2, 28:15, 91:6</p> <p>dot [1] - 19:21</p> <p>doubt [3] - 4:19, 42:3</p> <p>down [30] - 9:18, 15:15, 18:10, 18:12, 20:8, 24:20, 24:21, 24:25, 25:11, 33:24, 34:9, 34:22, 55:15, 55:16, 56:14, 56:20, 58:8, 58:13, 60:18, 61:19, 62:13, 62:20, 62:25, 63:5, 63:7, 63:8, 71:15, 72:16, 75:25, 87:18</p> <p>Dr [7] - 36:21, 36:25, 37:14, 37:22, 38:15, 41:23, 87:13</p> <p>drone [1] - 31:11</p> <p>drop [3] - 15:18, 15:19, 46:14</p> <p>drops [1] - 15:20</p> <p>drowning [15] - 14:12, 14:13, 14:18, 18:14, 29:17, 36:4, 49:10, 51:13, 57:23, 59:8, 68:23, 70:15, 87:9, 87:12, 87:21</p> <p>dry [3] - 19:1, 47:9, 76:8</p> <p>due [1] - 24:12</p> <p>dug [1] - 56:16</p> <p>duly [2] - 4:9, 94:7</p> <p>dune [2] - 56:19, 67:10</p> <p>during [13] - 9:12, 9:19, 10:1, 14:17, 18:20, 25:7, 25:16, 50:15, 50:18, 66:3, 74:7, 88:15, 92:11</p> <p>duty [2] - 82:8, 85:16</p> <p>dynamic [1] - 82:9</p> | <p>effect [2] - 30:25, 80:7</p> <p>Egg [2] - 1:18, 2:3</p> <p>eight [1] - 78:25</p> <p>either [4] - 26:24, 27:2, 67:11, 74:1</p> <p>elected [4] - 7:8, 7:10, 9:23, 78:19</p> <p>employee [4] - 11:10, 87:11, 94:11, 94:13</p> <p>employees [5] - 8:23, 54:9, 54:14, 54:20, 89:15</p> <p>emptied [1] - 55:15</p> <p>empties [1] - 24:22</p> <p>encountered [1] - 50:17</p> <p>end [10] - 12:11, 27:9, 49:16, 50:20, 51:14, 56:1, 56:13, 57:11, 63:17, 89:6</p> <p>endangered [11] - 13:19, 60:5, 60:10, 60:25, 62:1, 62:10, 62:15, 63:15, 63:16, 65:3, 76:21</p> <p>ending [2] - 11:15, 65:17</p> <p>enforce [1] - 74:13</p> <p>engage [1] - 75:3</p> <p>Engineer [1] - 30:22</p> <p>engineer [1] - 40:14</p> <p>Engineer's [1] - 11:1</p> <p>engineered [1] - 13:16</p> <p>ensure [1] - 48:15</p> <p>enter [4] - 27:6, 69:18, 83:25, 85:15</p> <p>enters [1] - 12:16</p> <p>entertainment [1] - 68:7</p> <p>entire [8] - 21:14, 30:17, 33:25, 62:19, 63:3, 63:8, 77:12, 79:21</p> <p>entirely [1] - 83:23</p> <p>entrance [3] - 26:22, 26:23, 65:25</p> <p>entrances [1] - 67:13</p> <p>entry [1] - 44:9</p> <p>enumerate [1] - 8:4</p> <p>environment [1] - 82:9</p> <p>environmental [2] - 32:19, 62:19</p> <p>environmentally [1] - 63:9</p> <p>equipment [2] - 24:11, 65:24</p> <p>equivocation [1] - 82:11</p> <p>erect [1] - 27:1</p> <p>ESQUIRE [2] - 2:4, 2:8</p> | <p>established [4] - 32:4, 46:21, 72:19, 83:2</p> <p>establishment [1] - 51:6</p> <p>ESTATE [1] - 1:4</p> <p>evening [2] - 91:15, 91:20</p> <p>event [6] - 8:11, 10:19, 19:20, 20:13, 20:19, 46:12</p> <p>evidence [1] - 48:6</p> <p>exact [3] - 8:3, 66:6, 71:2</p> <p>exactly [5] - 19:7, 44:16, 83:22, 92:16, 92:20</p> <p>examination [1] - 94:6</p> <p>EXAMINATION [2] - 4:10, 92:1</p> <p>Examination [2] - 3:4, 3:4</p> <p>excluding [3] - 46:4, 58:2, 70:8</p> <p>exclusively [1] - 14:16</p> <p>excuse [2] - 9:13, 83:1</p> <p>executor [1] - 8:21</p> <p>EXECUTRIX [1] - 1:4</p> <p>exhibit [17] - 10:22, 22:8, 29:1, 50:18, 56:21, 58:16, 58:19, 59:16, 59:19, 60:14, 61:14, 64:23, 64:24, 66:8, 69:7, 71:21, 86:8</p> <p>Exhibit [50] - 10:24, 14:10, 29:3, 31:10, 32:23, 33:9, 33:11, 33:16, 34:11, 40:12, 40:13, 40:15, 41:15, 42:8, 42:13, 43:16, 43:21, 45:6, 45:19, 49:8, 51:4, 51:16, 52:15, 53:22, 55:2, 55:24, 57:17, 59:3, 59:5, 59:22, 60:4, 61:6, 61:8, 61:12, 61:16, 61:25, 64:7, 66:19, 66:22, 67:20, 67:22, 68:10, 77:6, 77:21, 77:23, 79:10, 79:13, 80:13, 80:16, 86:7</p> <p>Exhibits [2] - 3:21, 66:24</p> <p>exist [3] - 29:25, 30:1, 30:2</p> <p>existed [3] - 14:9, 15:22, 58:12</p> <p>existing [3] - 16:25, 25:20, 43:6</p> |
|---|--|---|---|---|

E

E-mail [2] - 3:21, 86:6

e-mail [4] - 37:11, 37:12, 37:13, 86:19

e-mailed [1] - 37:23

early [2] - 27:1, 87:20

easier [1] - 63:19

easiest [1] - 8:19

east [3] - 63:20, 63:22, 64:11

eats [1] - 15:4

edge [4] - 50:18, 62:20, 62:25, 63:9

| | | | | |
|--|---|--|--|--|
| <p>expanse [1] - 74:5</p> <p>experience [6] - 12:22, 12:23, 42:4, 67:6, 68:4, 74:16</p> <p>expert [3] - 37:18, 62:23, 63:11</p> <p>explain [1] - 8:17</p> <p>explanation [2] - 18:25, 19:3</p> <p>explanations [2] - 18:22, 18:24</p> <p>explore [1] - 34:13</p> <p>exposing [3] - 43:5, 84:6, 85:3</p> | <p>Firm [1] - 1:17</p> <p>first [11] - 4:9, 9:23, 13:12, 13:13, 13:16, 19:19, 30:20, 47:25, 50:2, 66:19, 81:24</p> <p>First [2] - 73:12, 75:15</p> <p>Fish [1] - 88:10</p> <p>fish [7] - 26:25, 69:8, 75:3, 75:6, 75:18, 75:23, 76:2</p> <p>fishermen [1] - 75:9</p> <p>Fishing [1] - 43:25</p> <p>fishing [3] - 23:16, 23:19, 75:6</p> <p>fit [1] - 89:18</p> <p>five [4] - 16:14, 30:1, 57:5, 86:16</p> <p>five-minute [1] - 57:5</p> <p>folks [2] - 47:7, 62:19</p> <p>follow [2] - 29:12, 39:25</p> <p>follow-up [1] - 29:12</p> <p>followed [1] - 87:13</p> <p>follows [1] - 4:9</p> <p>FOR [1] - 1:23</p> <p>forces [1] - 51:15</p> <p>form [14] - 4:19, 5:1, 7:16, 7:21, 8:1, 8:18, 15:5, 17:2, 17:8, 30:17, 43:8, 46:9, 58:4, 83:5</p> <p>former [3] - 87:3, 87:11, 88:11</p> <p>formerly [1] - 86:22</p> <p>forward [1] - 14:20</p> <p>four [2] - 6:3, 29:16</p> <p>free [1] - 48:2</p> <p>frequently [2] - 49:23, 69:24</p> <p>friend [2] - 18:16, 50:6</p> <p>front [8] - 20:8, 35:1, 43:10, 56:1, 56:13, 63:4, 67:10, 72:16</p> <p>full [1] - 55:15</p> <p>FURTHER [1] - 94:10</p> | <p>Given [1] - 15:25</p> <p>given [10] - 12:22, 19:2, 29:15, 44:18, 50:22, 52:19, 67:5, 68:4, 71:25</p> <p>glad [1] - 73:25</p> <p>government [9] - 6:21, 7:17, 7:22, 8:1, 8:18, 22:20, 27:24, 52:20, 70:22</p> <p>governmental [3] - 67:6, 68:4, 74:17</p> <p>graduated [1] - 6:19</p> <p>graduation [1] - 6:9</p> <p>grass [2] - 25:1, 54:22</p> <p>gray [1] - 82:7</p> <p>great [1] - 84:1</p> <p>green [1] - 12:14</p> <p>grew [1] - 5:22</p> <p>groin [1] - 76:1</p> <p>ground [1] - 59:13</p> <p>group [1] - 19:8</p> <p>growing [1] - 46:5</p> <p>guarantee [1] - 44:12</p> <p>Guard [1] - 39:20</p> <p>guard [8] - 44:21, 69:25, 70:1, 70:17, 71:14, 72:22, 73:5, 75:25</p> <p>guarded [26] - 20:7, 22:10, 22:12, 24:12, 24:17, 27:8, 41:1, 44:21, 44:22, 45:1, 49:16, 50:15, 50:19, 50:20, 53:6, 53:9, 55:16, 69:22, 70:1, 72:19, 72:25, 73:3, 75:5, 75:6, 91:10, 92:10</p> <p>guarding [3] - 26:14, 27:5, 65:13</p> <p>guards [1] - 74:12</p> <p>guess [2] - 55:13, 55:14</p> <p>guessing [1] - 35:7</p> <p>guesstimate [1] - 86:14</p> <p>guy [1] - 6:17</p> <p>guys [1] - 24:25</p> | <p>86:9</p> <p>handicap [2] - 44:2, 44:14</p> <p>handled [1] - 28:23</p> <p>Harbor [3] - 1:18, 2:3, 29:25</p> <p>hard [2] - 40:25, 67:15</p> <p>Harry [3] - 87:2, 89:8, 90:4</p> <p>hazardous [6] - 14:8, 25:20, 43:6, 43:11, 84:7, 85:4</p> <p>head [1] - 66:6</p> <p>heading [7] - 52:1, 52:3, 55:16, 55:18, 92:9, 92:13, 92:18</p> <p>hear [3] - 19:17, 73:25, 80:9</p> <p>heard [15] - 16:24, 17:5, 18:19, 18:21, 18:25, 19:3, 19:5, 19:9, 47:6, 48:10, 50:1, 83:14, 90:5, 90:6</p> <p>heavy [3] - 63:5, 65:12, 65:24</p> <p>hello [1] - 78:17</p> <p>help [3] - 34:18, 34:20, 64:3</p> <p>helpful [2] - 34:7, 64:1</p> <p>Henfey [15] - 13:22, 13:24, 14:8, 14:15, 21:4, 28:23, 51:8, 80:5, 83:8, 88:5, 88:6, 88:11, 88:17, 88:21, 89:24</p> <p>HER [1] - 1:5</p> <p>Herald [3] - 3:18, 79:9, 79:14</p> <p>hereby [1] - 94:5</p> <p>Hereford [12] - 36:17, 37:23, 38:20, 39:3, 39:8, 39:15, 39:19, 41:15, 41:25, 43:7, 68:21, 80:7</p> <p>Hereford's [1] - 36:12</p> <p>hesitating [1] - 40:23</p> <p>high [3] - 17:15, 27:4, 55:14</p> <p>highlighted [5] - 77:10, 79:15, 79:19, 81:24, 82:7</p> <p>himself [1] - 88:10</p> <p>history [1] - 50:22</p> <p>hit [1] - 63:6</p> <p>hitting [1] - 16:10</p> <p>hold [2] - 35:13, 81:7</p> <p>holding [1] - 59:18</p> <p>holds [1] - 87:6</p> <p>homes [1] - 51:23</p> | <p>homework [1] - 10:18</p> <p>honest [1] - 28:13</p> <p>hours [3] - 50:15, 50:19, 50:20</p> <p>Hughes [1] - 2:12</p> <p>hum [6] - 26:17, 30:10, 38:19, 62:5, 73:14, 75:16</p> <p>HUNKINS [26] - 2:14, 11:22, 11:24, 15:5, 17:2, 17:8, 19:24, 31:1, 37:16, 37:20, 37:24, 38:4, 43:8, 45:14, 45:24, 46:9, 58:4, 58:19, 58:24, 83:5, 86:11, 86:14, 87:25, 91:25, 92:1, 92:23</p> <p>Hunkins [1] - 3:4</p> <p>hurt [1] - 81:12</p> <p>HUSBAND [1] - 1:5</p> <p>husband [1] - 50:5</p> |
| <p>F</p> <p>fact [4] - 29:15, 39:22, 59:15, 69:22</p> <p>fairly [2] - 14:1, 26:25</p> <p>falling [1] - 46:8</p> <p>familiar [4] - 39:5, 80:19, 82:21, 84:14</p> <p>far [7] - 8:3, 11:19, 15:22, 35:10, 35:19, 52:3, 65:11</p> <p>Farrell [8] - 3:23, 36:21, 36:25, 37:14, 37:22, 38:15, 41:24, 87:13</p> <p>Faulkner [1] - 7:25</p> <p>Fax [1] - 1:25</p> <p>February [9] - 29:2, 31:10, 33:9, 36:13, 40:12, 40:16, 56:22, 77:6, 86:20</p> <p>federal [4] - 26:24, 27:24, 62:19, 70:21</p> <p>feed [1] - 62:25</p> <p>feet [4] - 34:25, 41:21, 41:25</p> <p>fence [7] - 27:2, 34:19, 34:25, 35:1, 36:1, 60:10, 65:5</p> <p>fenced [6] - 33:21, 34:1, 34:10, 34:11, 65:4, 65:7</p> <p>fencing [1] - 27:2</p> <p>few [1] - 87:20</p> <p>filed [2] - 81:4, 92:4</p> <p>financially [1] - 94:14</p> <p>finder [2] - 41:20, 42:1</p> <p>fine [4] - 6:13, 9:16, 64:16, 85:22</p> <p>finish [2] - 4:24, 25:10</p> <p>finished [5] - 57:3, 79:17, 79:19, 86:17, 91:22</p> <p>Fire [2] - 1:17, 2:3</p> <p>FIRM [1] - 2:2</p> | <p>G</p> <p>Game [1] - 88:11</p> <p>games [1] - 69:9</p> <p>gap [1] - 39:2</p> <p>gather [2] - 8:7, 54:23</p> <p>GELFAND [1] - 2:6</p> <p>general [1] - 20:4</p> <p>generally [1] - 52:21</p> <p>gentle [1] - 46:17</p> <p>gentleman [2] - 9:25, 55:7</p> <p>geographic [1] - 12:9</p> <p>GEORGE [1] - 1:5</p> | <p>H</p> <p>half [1] - 72:13</p> <p>hall [5] - 27:18, 28:5, 36:19, 76:19, 76:24</p> <p>hand [14] - 10:21, 35:17, 45:7, 51:18, 59:8, 59:18, 59:25, 60:3, 60:14, 61:7, 61:11, 61:21, 77:9,</p> | <p>I</p> <p>ice [4] - 22:16, 22:21, 23:12, 23:13</p> <p>ID [1] - 3:7</p> <p>idea [2] - 20:4, 51:7</p> <p>identification [32] - 10:24, 29:2, 31:10, 33:9, 33:16, 40:16, 42:7, 43:16, 43:21, 45:6, 49:8, 52:15, 55:24, 56:22, 59:3, 59:5, 61:6, 61:8, 64:5, 64:7, 66:19, 66:24, 67:20, 67:22, 68:10, 77:6, 77:23, 79:10, 79:13, 80:13, 80:16, 86:7</p> <p>Ill [1] - 87:3</p> <p>immediately [3] - 18:23, 26:23, 27:2</p> <p>impassable [1] - 54:24</p> <p>important [3] - 69:11, 84:18, 91:8</p> <p>impossible [2] - 70:2, 73:5</p> <p>impression [1] - 84:13</p> <p>incident [9] - 20:11, 28:19, 48:9, 50:10, 81:12, 81:17, 81:19, 89:19, 92:6</p> <p>include [1] - 26:9</p> <p>includes [5] - 53:1, 55:5, 61:11, 73:11, 74:20</p> <p>including [4] - 46:8,</p> | |

| | | | | |
|--|--|---|---|--|
| <p>58:2, 75:24, 91:2 incorrect [2] - 7:19, 7:20 increase [2] - 74:9, 74:12 incredibly [1] - 84:11 indicated [1] - 20:18 indicating [1] - 31:16 individual [1] - 76:24 INDIVIDUALLY [1] - 1:4 individuals [1] - 42:18 information [1] - 9:5 Information [1] - 43:25 Inlet [21] - 10:20, 34:23, 36:12, 36:17, 37:23, 38:21, 39:3, 39:8, 39:15, 39:19, 41:15, 41:25, 43:7, 45:11, 45:13, 55:17, 55:19, 56:17, 60:19, 68:21, 80:7 inlet [60] - 10:21, 11:12, 11:19, 12:5, 12:7, 12:23, 12:25, 13:8, 14:10, 15:3, 16:13, 17:1, 19:11, 22:8, 24:5, 25:21, 25:23, 26:3, 26:12, 29:5, 29:9, 29:14, 29:18, 30:2, 30:7, 30:25, 37:25, 40:1, 41:2, 44:6, 44:19, 46:4, 46:7, 50:24, 53:1, 53:3, 54:3, 55:5, 56:7, 58:2, 67:14, 67:17, 70:8, 70:16, 72:4, 73:11, 74:20, 75:14, 80:6, 82:1, 88:3, 88:5, 88:7, 88:12, 88:22, 91:2, 91:10, 92:10 inlet's [1] - 15:23 inlets [1] - 80:6 installation [2] - 28:17, 28:18 installed [1] - 49:5 instance [1] - 49:18 institute [1] - 21:12 Instituted [4] - 21:4, 21:5, 21:8, 21:14 instruct [1] - 5:5 intelligence [1] - 86:23 intent [1] - 23:6 interaction [1] - 23:25 interested [1] - 94:14 interestingly [1] - 17:15</p> | <p>interfere [1] - 76:15 Internet [3] - 57:22, 58:11, 80:18 interpersonal [1] - 89:15 interview [9] - 56:23, 56:25, 57:3, 57:18, 78:3, 78:8, 78:12, 87:10, 90:3 interviewed [2] - 85:6, 87:2 inventory [1] - 72:19 investigator [2] - 42:9, 86:24 Investigator [1] - 90:4 involve [1] - 75:4 involved [6] - 13:14, 17:22, 28:17, 47:7, 52:10, 55:12 involvement [3] - 22:24, 25:12, 52:19 involving [1] - 10:19 Island [1] - 76:11 island [2] - 30:23, 69:20 issuance [1] - 22:21 issue [2] - 21:15, 82:10 issued [1] - 23:12 issues [2] - 22:16, 90:8 item [1] - 44:12 itself [2] - 29:18, 58:23</p> | <p>54:13, 56:9, 56:13, 59:7, 68:23, 69:14, 74:15, 90:12, 90:20 June [1] - 68:11 jurisdiction [1] - 88:24 Justice [1] - 2:12</p> | <p>80:11, 87:4 left [7] - 9:24, 26:24, 27:3, 27:6, 35:17, 59:18, 60:14 left-hand [1] - 35:17 legislative [3] - 6:23, 8:20, 8:22 liaison [4] - 9:1, 25:16, 25:19, 48:21 liaisons [2] - 8:15, 8:24 license [3] - 22:21, 23:2, 23:5 License [2] - 1:16, 94:21 licensed [3] - 42:9, 86:24, 90:4 licenses [4] - 22:16, 22:25, 23:8, 23:12 Lieutenant [7] - 68:16, 68:17, 77:5, 78:4, 78:6, 78:11, 78:14 life [1] - 68:2 lifeguard [16] - 27:7, 43:10, 69:14, 70:1, 70:3, 70:7, 71:5, 72:2, 72:3, 72:11, 74:6, 74:25, 82:8, 84:8, 84:20, 85:16 lifeguarding [1] - 75:4 lifeguards [20] - 26:2, 26:7, 32:14, 32:16, 44:25, 47:25, 49:15, 50:19, 53:10, 53:16, 69:22, 70:7, 70:15, 71:4, 72:3, 73:19, 74:8, 74:19, 82:22, 84:2 light [3] - 69:13, 70:13, 84:5 lights [2] - 91:12 likely [1] - 67:17 Lindsay [6] - 68:17, 77:5, 78:4, 78:6, 78:11, 78:15 Line [1] - 3:23 line [8] - 26:16, 27:4, 35:1, 40:18, 44:12, 49:20, 56:16, 88:23 lines [1] - 19:6 Linwood [1] - 2:7 list [2] - 23:3, 23:5 listen [1] - 84:23 literally [3] - 15:20, 30:7, 69:21 live [1] - 30:6 lived [2] - 6:9, 6:11 lives [1] - 87:22 living [2] - 6:6, 29:15 LLC [1] - 1:23</p> | <p>loader [2] - 56:1, 56:13 local [1] - 23:18 located [6] - 15:3, 36:18, 44:6, 44:19, 56:16, 67:23 location [5] - 40:25, 60:12, 60:13, 91:14, 92:18 locations [1] - 49:15 look [6] - 27:18, 38:6, 45:8, 53:23, 57:23, 77:11 looked [3] - 58:8, 58:17, 75:2 looking [15] - 20:3, 23:7, 29:14, 35:7, 37:21, 43:24, 45:9, 51:23, 51:25, 54:4, 55:10, 60:13, 60:21, 61:25, 79:8 looks [3] - 55:13, 61:18, 67:9 Lou [3] - 9:25, 42:8, 86:22 low [1] - 17:19 lower [1] - 51:18 Lynn [2] - 68:19, 79:7 LYNN [2] - 1:15, 94:4</p> |
| | <p>JAMES [1] - 2:6 January [1] - 10:4 JERSEY [4] - 1:1, 1:9, 1:24, 2:11 Jersey [17] - 1:16, 1:18, 2:3, 2:7, 2:13, 2:15, 5:1, 32:4, 39:20, 86:23, 87:8, 88:8, 88:10, 88:13, 88:18, 88:23, 94:5 Jet [2] - 76:3, 76:7 Jett [1] - 28:7 jetty [1] - 87:15 JOHN [1] - 1:9 join [1] - 31:3 Jonas [1] - 46:15 judgement [2] - 5:18, 32:3 July [25] - 20:11, 21:19, 24:4, 26:1, 29:16, 31:20, 39:12, 40:14, 40:22, 41:5, 41:13, 42:14, 42:24, 43:4, 48:13, 52:10,</p> | <p>K</p> <p>keeping [1] - 69:10 Kelly [1] - 6:24 Kennedy [1] - 75:25 Kevin [1] - 10:2 kick [1] - 91:16 kids [1] - 47:20 kind [3] - 12:9, 29:12, 35:1 knee [5] - 19:6, 47:8, 47:20, 48:3, 85:14 knock [1] - 87:18 knowledge [6] - 24:16, 31:4, 36:8, 48:8, 51:12, 76:25 knowledgeable [1] - 76:18 known [2] - 18:5, 68:6</p> | <p>L</p> <p>lack [2] - 53:14, 71:4 lagoon [1] - 20:8 land [4] - 19:13, 47:9, 76:9, 89:1 landmarks [3] - 34:17, 45:10, 51:23 language [1] - 71:2 large [9] - 16:12, 24:8, 25:2, 29:24, 34:11, 72:10, 74:5, 74:9, 74:12 Lasco [2] - 88:12, 90:11 last [11] - 10:1, 16:5, 27:6, 28:9, 41:4, 49:19, 50:18, 54:19, 72:11, 81:5, 81:13 late [3] - 27:1, 30:3 LATE [1] - 1:5 law [2] - 41:6, 41:12 LAW [4] - 1:1, 2:2, 2:11, 2:12 Law [1] - 1:17 lawsuit [2] - 81:4, 92:4 lawyers [1] - 25:6 lead [1] - 62:9 learned [1] - 70:14 least [3] - 40:4, 68:3, 74:7 leave [7] - 37:2, 37:3, 53:21, 62:12, 71:17,</p> | <p>M</p> <p>machine [2] - 24:21, 55:8 machinery [2] - 65:12, 87:18 mail [6] - 3:21, 37:11, 37:12, 37:13, 86:6, 86:19 mailed [1] - 37:23 maintained [1] - 23:3 majority [1] - 76:9 male [1] - 87:22 managed [1] - 53:15 management [2] - 89:12, 89:13 Management [1] - 27:22 manpower [1] - 70:12 map [2] - 19:22, 34:5 March [5] - 1:19, 4:1, 11:1, 27:1, 63:24 Marine [1] - 39:21 mark [6] - 11:11, 11:12, 64:1, 64:4, 64:8, 66:8 marked [39] - 10:22, 10:23, 20:4, 29:2, 29:3, 31:10, 31:17, 33:9, 33:15, 39:19,</p> |

| | | | | |
|--|---|--|--|--|
| <p>40:12, 40:13, 40:16, 42:7, 43:16, 43:21, 45:5, 45:19, 49:7, 52:15, 55:24, 56:21, 59:2, 59:5, 61:5, 61:8, 64:6, 66:18, 66:23, 67:19, 67:21, 68:9, 77:5, 77:22, 79:10, 79:12, 80:13, 80:16, 86:6</p> <p>marker [7] - 11:6, 11:13, 12:14, 27:12, 32:20, 33:12, 63:14</p> <p>Market [1] - 2:13</p> <p>married [1] - 36:5</p> <p>MARY [1] - 1:9</p> <p>match [1] - 89:13</p> <p>material [3] - 54:23, 54:25, 56:18</p> <p>mating [1] - 88:15</p> <p>matter [1] - 69:22</p> <p>MAY [1] - 1:1</p> <p>Mayor [15] - 13:22, 13:24, 14:8, 14:14, 21:4, 28:23, 51:8, 63:23, 80:4, 81:25, 88:5, 88:11, 88:17, 88:21, 89:24</p> <p>mayor [28] - 4:11, 5:8, 5:11, 7:18, 7:24, 8:11, 8:20, 10:2, 10:3, 10:6, 10:10, 18:11, 18:12, 22:25, 23:6, 23:24, 37:7, 40:12, 48:7, 50:23, 57:17, 66:8, 73:10, 73:18, 77:18, 80:9, 84:17, 89:12</p> <p>McGuire [1] - 79:18</p> <p>mean [11] - 5:11, 7:23, 15:19, 47:1, 47:23, 48:3, 53:6, 69:8, 81:18, 83:14, 90:18</p> <p>means [2] - 9:2, 39:16</p> <p>meant [1] - 32:15</p> <p>measures [1] - 28:18</p> <p>mechan [1] - 24:23</p> <p>mechanical [4] - 24:8, 24:11, 26:15, 27:5</p> <p>mechanicals [1] - 24:22</p> <p>media [2] - 18:20, 48:10</p> <p>meet [1] - 78:6</p> <p>member [2] - 8:25, 48:18</p> <p>members [1] - 8:25</p> <p>men [2] - 67:7, 87:18</p> <p>mention [1] - 91:18</p> <p>mentioned [2] - 34:4,</p> | <p>92:12</p> <p>mentor [1] - 14:3</p> <p>mercantile [3] - 22:16, 22:21, 23:11</p> <p>merely [1] - 83:20</p> <p>merry [1] - 89:24</p> <p>message [2] - 82:2, 85:11</p> <p>met [3] - 42:11, 78:18, 89:9</p> <p>MICHAEL [1] - 2:8</p> <p>Michael [3] - 33:10, 68:18, 80:20</p> <p>mid [1] - 30:3</p> <p>middle [1] - 85:8</p> <p>might [3] - 30:1, 72:12, 86:15</p> <p>Mike [3] - 4:24, 11:25, 50:1</p> <p>mile [1] - 72:13</p> <p>Miller [1] - 80:20</p> <p>mind [2] - 73:18, 83:17</p> <p>minus [1] - 70:16</p> <p>minute [1] - 57:5</p> <p>minutes [3] - 29:13, 86:16, 86:17</p> <p>missed [1] - 28:16</p> <p>missing [2] - 18:1, 18:5</p> <p>misstate [1] - 47:2</p> <p>mistaken [4] - 7:11, 28:9, 35:16, 84:13</p> <p>moment [1] - 46:2</p> <p>money [1] - 74:18</p> <p>month [1] - 28:10</p> <p>months [1] - 57:23</p> <p>Moore's [51] - 10:20, 11:3, 11:7, 11:18, 12:6, 20:7, 21:2, 24:5, 25:11, 26:3, 26:9, 34:22, 36:6, 40:19, 41:8, 42:12, 42:16, 42:24, 43:4, 45:11, 45:12, 46:8, 50:8, 52:4, 52:8, 52:12, 53:1, 54:4, 55:5, 55:17, 55:19, 56:17, 58:2, 60:18, 67:24, 68:13, 68:24, 69:14, 70:9, 72:12, 73:12, 74:20, 75:15, 87:15, 88:6, 88:7, 88:22, 91:2, 92:9</p> <p>morning [3] - 24:8, 86:21, 89:7</p> <p>most [6] - 4:17, 13:13, 25:16, 39:3, 67:16, 76:18</p> <p>motels [1] - 91:13</p> | <p>move [3] - 36:2, 54:25, 56:18</p> <p>moved [3] - 5:25, 23:2, 39:4</p> <p>moves [2] - 16:3, 29:21</p> <p>moving [2] - 14:20, 19:16</p> <p>MR [112] - 4:10, 11:22, 11:23, 11:24, 11:25, 12:1, 12:2, 15:5, 17:2, 17:3, 17:8, 19:24, 20:2, 20:20, 28:8, 28:11, 31:1, 31:3, 31:14, 31:17, 31:22, 31:23, 31:24, 32:22, 32:25, 33:7, 35:4, 35:11, 35:13, 35:20, 35:23, 37:2, 37:16, 37:20, 37:22, 37:24, 38:1, 38:4, 38:5, 41:10, 42:20, 43:8, 44:1, 45:14, 45:16, 45:18, 45:21, 45:24, 45:25, 46:9, 57:5, 57:7, 57:9, 57:10, 57:16, 58:4, 58:6, 58:19, 58:22, 58:24, 58:25, 59:1, 59:22, 59:24, 60:1, 63:23, 64:4, 64:8, 64:10, 64:11, 64:13, 64:14, 64:16, 64:17, 66:7, 66:13, 69:3, 69:16, 69:18, 70:18, 72:6, 73:22, 73:24, 74:3, 74:21, 77:17, 78:2, 79:23, 79:25, 81:6, 81:8, 83:5, 83:6, 83:9, 83:10, 83:12, 83:13, 84:9, 85:2, 86:11, 86:13, 86:14, 86:16, 86:18, 87:25, 88:1, 91:21, 91:24, 91:25, 92:1, 92:23, 93:2</p> | <p>necessarily [3] - 5:12, 53:20, 72:22</p> <p>neck [2] - 19:16, 48:1</p> <p>need [1] - 62:12</p> <p>needs [1] - 72:20</p> <p>neighborhood [1] - 84:14</p> <p>nest [3] - 62:24, 62:25, 65:8</p> <p>nesting [2] - 63:1, 88:16</p> <p>nests [1] - 63:2</p> <p>never [8] - 13:11, 53:7, 53:17, 83:14, 90:6, 92:7, 92:15</p> <p>NEW [4] - 1:1, 1:9, 1:24, 2:11</p> <p>New [19] - 1:16, 1:18, 2:3, 2:7, 2:7, 2:13, 2:15, 5:1, 7:2, 32:4, 39:20, 86:23, 87:8, 88:7, 88:10, 88:13, 88:18, 88:23, 94:5</p> <p>news [1] - 58:8</p> <p>newspaper [1] - 85:6</p> <p>next [7] - 4:16, 23:5, 56:2, 66:21, 66:22, 83:24, 86:8</p> <p>Nick [1] - 7:4</p> <p>night [1] - 90:14</p> <p>NO [1] - 1:2</p> <p>nobody [1] - 68:25</p> <p>nobody's [1] - 62:6</p> <p>north [4] - 24:9, 63:18, 64:12</p> <p>North [37] - 2:9, 4:14, 5:23, 6:4, 6:11, 7:8, 7:17, 7:21, 13:16, 21:20, 21:22, 22:16, 23:14, 23:17, 23:22, 25:13, 27:23, 29:15, 42:25, 43:17, 44:13, 44:15, 59:6, 68:17, 69:20, 70:6, 73:9, 74:17, 78:15, 81:25, 84:17, 85:7, 87:3, 87:4, 90:14, 90:21</p> <p>NORTH [2] - 1:8, 1:24</p> <p>northeast [1] - 30:22</p> <p>northeasterly [1] - 60:21</p> <p>northerly [1] - 60:21</p> <p>noted [2] - 4:4, 33:8</p> <p>notes [1] - 91:5</p> <p>nothing [3] - 7:18, 91:24, 94:8</p> <p>nuisance [2] - 88:6, 90:1</p> <p>NUMBER [1] - 3:7</p> <p>number [8] - 15:25,</p> | <p>19:4, 57:12, 57:15, 58:20, 64:24, 69:25, 71:10</p> <p>numbered [1] - 35:24</p> |
| O | | | | |
| <p>o'clock [1] - 91:16</p> <p>object [12] - 5:1, 15:5, 17:2, 17:8, 19:24, 43:8, 46:9, 58:4, 74:3, 83:5, 83:11, 85:2</p> <p>objection [19] - 5:5, 17:3, 20:1, 20:20, 31:1, 41:10, 42:20, 66:7, 69:3, 69:16, 69:19, 70:18, 72:6, 73:22, 74:21, 83:6, 84:9</p> <p>objects [1] - 4:19</p> <p>obligation [1] - 85:9</p> <p>observe [2] - 21:20, 50:12</p> <p>observed [3] - 29:18, 38:21, 39:3</p> <p>obtained [4] - 36:11, 38:2, 38:6, 80:18</p> <p>obviously [1] - 38:23</p> <p>occasion [1] - 58:10</p> <p>occasionally [1] - 24:25</p> <p>occurred [5] - 14:19, 81:12, 87:20, 92:6, 92:21</p> <p>occurring [1] - 18:23</p> <p>Ocean [3] - 67:11, 67:14, 67:17</p> <p>ocean [17] - 16:3, 16:10, 17:13, 17:18, 33:24, 35:2, 43:11, 47:20, 47:24, 48:4, 63:7, 70:4, 75:12, 82:9, 82:20, 84:13, 85:16</p> <p>OF [9] - 1:1, 1:4, 1:5, 1:8, 1:9, 1:6, 2:11, 2:11, 2:12</p> <p>offer [2] - 23:5, 44:14</p> <p>Office [1] - 11:1</p> <p>office [1] - 23:4</p> <p>officer [1] - 22:4</p> <p>officers [7] - 21:1, 21:20, 22:5, 22:9, 81:11, 88:25, 90:21</p> <p>official [2] - 12:24, 74:17</p> <p>old [1] - 6:2</p> <p>older [1] - 87:21</p> <p>oldest [3] - 78:21,</p> | | | | |
| N | | | | |
| <p>nail [1] - 62:13</p> <p>name [1] - 9:25</p> <p>names [1] - 10:20</p> <p>natural [1] - 51:15</p> <p>nature [7] - 24:19, 33:23, 53:17, 65:13, 71:16, 84:15, 91:14</p> <p>NBC [1] - 89:22</p> <p>near [5] - 67:23, 67:24, 87:15, 87:17, 88:16</p> | | | | |

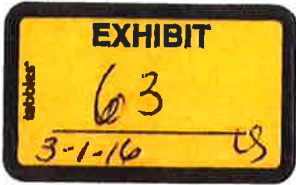
| | | | |
|--|---|---|--|
| <p>78:23, 78:24 once [2] - 48:3, 87:15 one [37] - 4:13, 4:16, 9:3, 13:13, 14:11, 15:10, 16:11, 18:25, 22:4, 32:22, 35:19, 35:24, 39:14, 41:20, 46:17, 46:22, 52:16, 55:2, 55:3, 65:3, 66:19, 66:21, 66:22, 76:16, 80:16, 80:17, 85:24, 86:5, 86:9, 89:21, 90:13, 90:22, 91:21, 91:25 one's [3] - 56:2, 67:14, 67:15 ones [4] - 38:2, 38:6, 38:10, 77:13 open [2] - 21:15, 69:10 operate [2] - 39:7, 39:22 operating [1] - 55:8 opinion [5] - 15:12, 15:13, 15:14, 27:19, 68:20 opportunity [4] - 4:25, 50:12, 71:11, 81:15 opposed [1] - 46:17 opposite [1] - 92:13 orange [1] - 11:13 order [1] - 48:16 ordinance [4] - 8:8, 20:16, 42:19, 52:20 orientation [5] - 31:12, 51:17, 53:24, 59:9, 66:21 otherwise [1] - 5:6 outboard [1] - 39:14 outfall [3] - 35:8, 49:24, 56:16 outgoing [2] - 17:17, 87:14 own [2] - 39:10, 88:19 owned [2] - 39:13, 88:22</p> | <p>P-74 [2] - 3:18, 79:11 P-75 [2] - 3:19, 80:14 P-76 [2] - 3:21, 86:7 p.m [5] - 1:19, 4:4, 90:15, 90:23, 93:5 page [5] - 15:8, 43:19, 43:24, 77:12, 81:21 PAGE [1] - 3:2 Page [1] - 3:23 pages [2] - 38:24, 77:11 paper [2] - 27:18, 80:22 papers [1] - 80:22 parallel [1] - 12:10 parking [8] - 34:23, 45:13, 56:17, 60:19, 67:23, 68:1, 68:5, 77:19 part [15] - 7:7, 10:16, 11:19, 13:14, 14:22, 15:2, 15:6, 16:17, 25:5, 30:21, 44:3, 48:14, 48:22, 55:4, 61:17 part-time [1] - 7:7 particular [13] - 9:7, 9:8, 10:7, 15:21, 20:24, 44:12, 53:23, 57:24, 58:1, 58:16, 80:1, 80:25, 84:5 parties [1] - 94:12 PARTNERSHIPS [1] - 1:10 parts [2] - 41:24, 46:7 passed [1] - 23:3 passing [1] - 8:7 past [4] - 16:13, 38:10, 70:25, 72:2 Patricia [2] - 56:23, 57:18 Patrick [2] - 4:2, 81:25 PATRICK [3] - 1:6, 3:3, 94:6 patrol [11] - 10:17, 16:1, 22:7, 25:16, 48:22, 48:25, 72:8, 74:10, 74:14, 88:19, 90:22 Patrol [5] - 25:14, 43:1, 68:18, 70:6, 78:16 patrolled [1] - 91:1 patrolling [1] - 21:21 patrols [2] - 21:13, 21:14 patrons [2] - 87:19, 88:16 Paul [4] - 31:6, 31:15, 58:25, 81:10</p> | <p>PAUL [1] - 2:4 pause [1] - 4:23 pedestrians [1] - 33:22 pen [2] - 26:16, 26:18 people [27] - 12:8, 12:11, 12:15, 25:10, 36:5, 42:12, 42:15, 42:23, 43:3, 47:23, 47:25, 48:1, 49:20, 52:5, 52:6, 60:23, 63:2, 69:8, 75:3, 75:5, 75:18, 75:22, 76:1, 76:3, 84:12, 91:13, 91:20 perfectly [1] - 85:22 perhaps [3] - 27:22, 41:22, 61:18 period [2] - 17:15, 17:19 permissible [2] - 76:4, 76:6 permit [11] - 23:17, 23:18, 23:20, 24:13, 26:6, 27:25, 63:13, 70:21, 76:13, 76:23 permitted [4] - 69:1, 75:18, 75:23, 90:13 permitting [2] - 13:14, 24:13 person [11] - 9:3, 9:5, 20:17, 22:19, 23:2, 23:5, 25:19, 28:4, 41:6, 49:21, 76:19 personal [7] - 7:18, 12:22, 39:4, 42:4, 48:6, 48:8, 67:5 personally [4] - 12:4, 21:20, 28:20, 29:18 persons [4] - 22:19, 23:11, 44:14, 48:17 perspective [1] - 38:23 Ph [1] - 1:25 philosophy [1] - 6:21 photocopy [1] - 64:2 photograph [26] - 10:25, 11:11, 20:3, 29:4, 31:11, 31:13, 35:3, 40:17, 42:7, 53:23, 54:2, 55:2, 55:11, 57:20, 57:24, 58:1, 59:6, 59:18, 60:23, 61:9, 61:10, 61:11, 63:24, 68:10, 68:13, 77:19 Photograph [14] - 3:8, 3:9, 3:11, 3:12, 3:13, 3:16, 3:17, 10:23, 33:15, 59:2, 61:5, 64:6, 67:19, 77:22 photographer [1] - 61:9 photographs [19] - 21:1, 25:4, 34:19, 35:25, 36:12, 36:16, 36:18, 37:1, 37:5, 37:7, 37:9, 37:12, 38:2, 38:17, 38:22, 46:1, 55:25, 66:18, 67:2 Photographs [3] - 3:14, 3:23, 66:23 photos [2] - 37:21, 37:22 phrase [4] - 11:3, 11:13, 12:3, 29:8 phrases [1] - 12:7 physical [1] - 33:21 physically [2] - 65:4, 65:6 picture [7] - 12:18, 46:10, 46:11, 52:4, 66:16, 67:16, 67:18 pictures [3] - 36:15, 38:14, 39:5 piece [4] - 27:17, 29:24, 30:20, 32:18 pieces [2] - 30:18, 79:19 pipe [1] - 35:8 pipes [1] - 49:24 piping [9] - 13:18, 13:20, 33:24, 62:21, 62:22, 62:23, 63:7, 65:8, 88:14 place [11] - 10:19, 19:20, 20:5, 20:13, 20:19, 20:24, 24:17, 26:7, 70:2, 70:3, 71:4 placed [1] - 51:12 Plaintiff [1] - 1:6 Plaintiffs [1] - 2:4 play [2] - 69:9, 83:20 playing [1] - 91:13 plover [5] - 13:20, 33:24, 62:21, 62:23, 63:7 plovers [4] - 13:19, 62:24, 65:8, 88:14 plus [1] - 74:8 point [8] - 11:14, 11:15, 16:10, 36:2, 60:3, 62:16, 63:24, 66:10 pointing [1] - 66:9 points [1] - 16:25 poles [2] - 49:9, 49:11 Police [4] - 21:21, 39:21, 42:25, 86:24 police [9] - 10:10, 21:1, 21:20, 22:9, 81:11, 88:19, 88:25, 90:21, 91:15 policy [1] - 23:1 pool [1] - 84:14 popular [1] - 75:6 portion [1] - 34:12 portions [3] - 77:10, 78:3, 79:16 posed [1] - 85:23 Posey [2] - 56:23, 57:18 POSEY [1] - 57:18 position [8] - 74:16, 84:4, 84:19, 85:3, 87:7, 89:14 possible [1] - 89:5 possibly [2] - 23:7, 60:18 post [2] - 72:2, 72:3 posted [6] - 49:13, 57:22, 59:13, 70:7, 73:19, 74:19 posting [2] - 26:1, 70:15 posts [3] - 35:18, 60:5, 65:6 powers [2] - 7:23, 8:3 practical [2] - 65:20, 65:22 practically [1] - 11:9 practice [1] - 40:3 pre [1] - 7:25 pre-Faulkner [1] - 7:25 precluded [1] - 26:6 predecessor [1] - 13:21 presence [1] - 14:17 present [1] - 6:6 Press [3] - 3:19, 80:12, 80:23 pretty [5] - 23:22, 45:23, 49:23, 72:18, 75:22 prevented [1] - 41:6 previously [2] - 8:24, 23:1 pri [1] - 28:24 primarily [3] - 21:15, 25:1, 68:6 private [2] - 42:9, 86:24 Private [1] - 90:4 procedure [1] - 21:5 process [1] - 4:11 product [1] - 89:4 prohibit [1] - 53:20</p> | |
| P | | | |
| <p>P-63 [2] - 3:8, 10:24 P-64 [2] - 3:9, 33:16 P-65 [2] - 3:10, 43:21 P-66 [2] - 3:11, 59:3 P-67 [2] - 3:12, 61:6 P-68 [2] - 3:13, 64:7 P-69 [2] - 3:14, 66:24 P-70 [1] - 66:24 P-71 [2] - 3:15, 66:24 P-72 [2] - 3:16, 67:20 P-73 [2] - 3:17, 77:23</p> | | | |

| | | | | |
|--|--|---|--|--|
| <p>prohibited [3] - 13:17, 24:9, 70:20</p> <p>project [1] - 30:22</p> <p>projects [1] - 13:3</p> <p>proper [1] - 34:17</p> <p>property [2] - 88:8, 90:7</p> <p>protect [1] - 30:22</p> <p>protected [7] - 27:9, 32:3, 32:11, 32:13, 33:13, 33:25, 50:2</p> <p>protective [1] - 67:10</p> <p>provide [4] - 53:16, 75:2, 76:19, 87:6</p> <p>provided [4] - 25:5, 37:6, 38:15, 44:25</p> <p>PUBLIC [1] - 2:11</p> <p>Public [8] - 23:25, 24:3, 24:20, 28:25, 49:1, 49:6, 84:18, 87:4</p> <p>public [10] - 24:7, 25:10, 54:9, 54:14, 54:20, 69:10, 70:3, 73:6, 82:2, 84:19</p> <p>pulling [1] - 17:13</p> <p>purposes [1] - 66:15</p> <p>pushing [1] - 17:13</p> <p>put [9] - 24:17, 56:18, 56:20, 64:11, 74:18, 74:25, 77:17, 77:19, 77:20</p> <p>puts [1] - 88:23</p> <p>putting [1] - 16:23</p> | <p>47:25, 48:1</p> <p>rather [1] - 63:24</p> <p>Ray [1] - 9:23</p> <p>re [1] - 92:3</p> <p>re-asking [1] - 92:3</p> <p>read [15] - 13:21, 28:13, 57:2, 57:7, 57:17, 71:6, 77:12, 78:3, 79:20, 79:21, 84:22, 84:25, 85:19, 85:24, 86:25</p> <p>reading [3] - 79:17, 80:1, 80:24</p> <p>real [1] - 86:12</p> <p>realized [1] - 89:17</p> <p>really [5] - 9:2, 9:7, 13:15, 78:19, 92:15</p> <p>reason [13] - 4:22, 13:6, 35:6, 37:17, 40:23, 55:22, 68:24, 73:17, 75:1, 75:7, 87:6, 91:18, 92:8</p> <p>reasons [1] - 73:18</p> <p>recalled [1] - 87:12</p> <p>received [12] - 10:23, 33:15, 43:20, 59:2, 61:5, 64:6, 66:23, 67:19, 77:22, 79:10, 80:13, 86:6</p> <p>recent [1] - 13:13</p> <p>recently [1] - 54:19</p> <p>receptacles [1] - 53:16</p> <p>recess [1] - 57:13</p> <p>recited [1] - 68:20</p> <p>recollect [1] - 35:8</p> <p>recollection [8] - 34:1, 34:21, 36:8, 37:8, 71:9, 81:3, 90:17, 91:19</p> <p>recommendations [1] - 72:9</p> <p>record [18] - 4:3, 33:1, 33:2, 33:4, 33:6, 33:8, 40:11, 51:21, 57:12, 57:15, 77:15, 77:18, 77:24, 78:1, 81:9, 86:12, 91:23, 93:4</p> <p>Record [1] - 84:25</p> <p>recorded [1] - 77:4</p> <p>recreational [1] - 70:25</p> <p>recruitment [1] - 74:11</p> <p>recycling [1] - 24:19</p> <p>red [2] - 11:5, 49:20</p> <p>refer [5] - 11:7, 12:8, 12:11, 12:15, 45:11</p> <p>reference [2] - 71:19,</p> | <p>80:4</p> <p>referenced [4] - 32:6, 76:23, 82:18, 89:22</p> <p>references [1] - 57:21</p> <p>referencing [1] - 51:2</p> <p>referred [8] - 14:9, 17:6, 24:5, 25:22, 26:2, 29:9, 36:6, 89:25</p> <p>referring [4] - 15:8, 22:13, 72:1, 83:22</p> <p>refers [1] - 81:21</p> <p>regarding [3] - 14:18, 87:9, 88:12</p> <p>regardless [1] - 92:17</p> <p>relate [1] - 4:14</p> <p>related [1] - 89:14</p> <p>relates [2] - 47:19, 82:14</p> <p>relative [9] - 17:22, 29:19, 29:20, 32:3, 33:13, 50:13, 60:9, 94:10, 94:13</p> <p>relax [1] - 69:8</p> <p>remark [1] - 33:11</p> <p>remedial [1] - 87:12</p> <p>remember [10] - 16:21, 16:22, 77:2, 78:13, 80:24, 81:16, 81:17, 81:18, 81:19, 89:23</p> <p>remove [1] - 50:20</p> <p>removed [1] - 51:15</p> <p>repair [1] - 87:18</p> <p>repeat [1] - 61:13</p> <p>rephrase [2] - 9:14, 89:9</p> <p>replenishment [7] - 13:3, 13:7, 13:11, 13:12, 13:15, 13:18, 27:25</p> <p>report [2] - 10:12, 89:4</p> <p>reporter [1] - 4:6</p> <p>Reporter [3] - 1:16, 94:4, 94:20</p> <p>REPORTERS [1] - 1:23</p> <p>REPORTING [1] - 1:23</p> <p>reports [1] - 10:9</p> <p>represent [1] - 67:1</p> <p>representative [1] - 19:22</p> <p>representatives [1] - 88:18</p> <p>represented [1] - 87:9</p> <p>represents [1] - 4:25</p> <p>request [1] - 49:2</p> <p>require [2] - 23:19, 74:6</p> <p>required [1] - 87:17</p> | <p>rescue [1] - 17:23</p> <p>research [2] - 16:6, 36:22</p> <p>resided [1] - 6:4</p> <p>resident [1] - 50:22</p> <p>residents [1] - 72:21</p> <p>resign [2] - 89:10</p> <p>resigned [1] - 89:11</p> <p>resolutions [1] - 8:5</p> <p>resource [1] - 74:10</p> <p>resources [1] - 74:24</p> <p>respect [1] - 46:3</p> <p>responsibilities [1] - 48:14</p> <p>responsibility [5] - 8:14, 8:16, 9:8, 48:22, 48:25</p> <p>responsible [2] - 10:7, 22:20</p> <p>restaurants [1] - 68:8</p> <p>restricted [3] - 32:19, 65:11, 65:24</p> <p>restrictions [1] - 24:13</p> <p>restrooms [1] - 44:5</p> <p>result [2] - 46:12, 70:14</p> <p>retired [2] - 68:17, 78:15</p> <p>return [1] - 19:12</p> <p>review [1] - 44:11</p> <p>rid [1] - 76:16</p> <p>right-hand [1] - 51:18</p> <p>ring [1] - 77:7</p> <p>risk [1] - 84:1</p> <p>Road [3] - 1:17, 2:3, 2:7</p> <p>rock [4] - 87:15, 87:17, 87:22, 88:24</p> <p>role [1] - 18:7</p> <p>room [4] - 12:16, 78:7, 82:11, 85:14</p> <p>rope [1] - 27:2</p> <p>roped [2] - 62:11, 63:1</p> <p>ROSENELLO [3] - 1:6, 3:3, 94:7</p> <p>Rosenello [2] - 4:3, 81:25</p> <p>roughly [1] - 27:16</p> <p>Runnemed [1] - 87:7</p> <p>running [3] - 9:8, 17:18, 62:24</p> <p>runs [1] - 12:10</p> | <p>29:23, 29:24, 30:4, 46:17</p> <p>Sandman [1] - 6:14</p> <p>Sandra [1] - 81:22</p> <p>SANDY [1] - 1:3</p> <p>saw [14] - 22:10, 25:7, 34:10, 36:20, 42:19, 42:23, 43:3, 44:12, 54:17, 55:2, 58:7, 58:9, 58:11, 87:23</p> <p>scan [1] - 81:15</p> <p>scaped [1] - 46:13</p> <p>scarping [2] - 46:13, 46:15</p> <p>scenarios [2] - 19:9, 47:6</p> <p>school [1] - 6:8</p> <p>School [1] - 6:14</p> <p>scientist [1] - 16:7</p> <p>Scott [3] - 18:16, 50:6, 82:15</p> <p>sea [12] - 25:1, 30:8, 30:14, 30:16, 30:17, 30:21, 30:24, 67:24, 69:24, 72:12, 72:16, 91:17</p> <p>search [1] - 18:10</p> <p>season [1] - 21:10</p> <p>seasons [1] - 51:10</p> <p>second [7] - 4:24, 32:22, 35:6, 61:22, 76:17, 82:6, 86:5</p> <p>Second [16] - 12:8, 12:10, 12:12, 12:15, 13:1, 13:2, 20:7, 22:13, 26:3, 46:4, 53:2, 58:3, 70:9, 70:16, 70:17, 75:25</p> <p>section [2] - 15:18, 49:16</p> <p>sections [1] - 53:6</p> <p>see [45] - 10:19, 11:16, 18:12, 25:4, 28:13, 28:14, 29:24, 30:7, 31:25, 34:16, 36:13, 38:7, 38:22, 40:19, 42:15, 44:3, 44:7, 47:23, 49:8, 49:11, 49:19, 51:18, 51:19, 52:6, 54:8, 54:20, 56:1, 56:2, 58:11, 58:15, 59:11, 59:17, 60:4, 60:23, 61:25, 62:3, 66:17, 71:18, 72:24, 76:16, 79:23, 81:2, 81:21, 86:20</p> <p>seeing [1] - 36:9</p> <p>sell [1] - 23:13</p> <p>Senator [1] - 7:4</p> <p>send [5] - 28:8, 37:14,</p> |
| <p>Q</p> <p>quad [1] - 54:9</p> <p>quads [3] - 22:1, 22:7, 22:9</p> <p>qualified [1] - 74:12</p> <p>quick [2] - 9:17, 86:12</p> <p>quickly [2] - 9:17, 15:13</p> <p>quite [4] - 36:16, 76:7, 78:22, 92:7</p> <p>quote [6] - 63:12, 80:4, 82:17, 83:8, 83:24, 85:12</p> | <p>R</p> <p>R.J [1] - 2:12</p> <p>rake [4] - 24:20, 24:24, 63:4, 71:15</p> <p>raked [1] - 53:10</p> <p>rakes [2] - 24:7, 24:8</p> <p>raking [3] - 26:14, 65:13, 65:24</p> <p>rarely [3] - 47:23,</p> | <p>80:4</p> <p>referenced [4] - 32:6, 76:23, 82:18, 89:22</p> <p>references [1] - 57:21</p> <p>referencing [1] - 51:2</p> <p>referred [8] - 14:9, 17:6, 24:5, 25:22, 26:2, 29:9, 36:6, 89:25</p> <p>referring [4] - 15:8, 22:13, 72:1, 83:22</p> <p>refers [1] - 81:21</p> <p>regarding [3] - 14:18, 87:9, 88:12</p> <p>regardless [1] - 92:17</p> <p>relate [1] - 4:14</p> <p>related [1] - 89:14</p> <p>relates [2] - 47:19, 82:14</p> <p>relative [9] - 17:22, 29:19, 29:20, 32:3, 33:13, 50:13, 60:9, 94:10, 94:13</p> <p>relax [1] - 69:8</p> <p>remark [1] - 33:11</p> <p>remedial [1] - 87:12</p> <p>remember [10] - 16:21, 16:22, 77:2, 78:13, 80:24, 81:16, 81:17, 81:18, 81:19, 89:23</p> <p>remove [1] - 50:20</p> <p>removed [1] - 51:15</p> <p>repair [1] - 87:18</p> <p>repeat [1] - 61:13</p> <p>rephrase [2] - 9:14, 89:9</p> <p>replenishment [7] - 13:3, 13:7, 13:11, 13:12, 13:15, 13:18, 27:25</p> <p>report [2] - 10:12, 89:4</p> <p>reporter [1] - 4:6</p> <p>Reporter [3] - 1:16, 94:4, 94:20</p> <p>REPORTERS [1] - 1:23</p> <p>REPORTING [1] - 1:23</p> <p>reports [1] - 10:9</p> <p>represent [1] - 67:1</p> <p>representative [1] - 19:22</p> <p>representatives [1] - 88:18</p> <p>represented [1] - 87:9</p> <p>represents [1] - 4:25</p> <p>request [1] - 49:2</p> <p>require [2] - 23:19, 74:6</p> <p>required [1] - 87:17</p> | <p>rescue [1] - 17:23</p> <p>research [2] - 16:6, 36:22</p> <p>resided [1] - 6:4</p> <p>resident [1] - 50:22</p> <p>residents [1] - 72:21</p> <p>resign [2] - 89:10</p> <p>resigned [1] - 89:11</p> <p>resolutions [1] - 8:5</p> <p>resource [1] - 74:10</p> <p>resources [1] - 74:24</p> <p>respect [1] - 46:3</p> <p>responsibilities [1] - 48:14</p> <p>responsibility [5] - 8:14, 8:16, 9:8, 48:22, 48:25</p> <p>responsible [2] - 10:7, 22:20</p> <p>restaurants [1] - 68:8</p> <p>restricted [3] - 32:19, 65:11, 65:24</p> <p>restrictions [1] - 24:13</p> <p>restrooms [1] - 44:5</p> <p>result [2] - 46:12, 70:14</p> <p>retired [2] - 68:17, 78:15</p> <p>return [1] - 19:12</p> <p>review [1] - 44:11</p> <p>rid [1] - 76:16</p> <p>right-hand [1] - 51:18</p> <p>ring [1] - 77:7</p> <p>risk [1] - 84:1</p> <p>Road [3] - 1:17, 2:3, 2:7</p> <p>rock [4] - 87:15, 87:17, 87:22, 88:24</p> <p>role [1] - 18:7</p> <p>room [4] - 12:16, 78:7, 82:11, 85:14</p> <p>rope [1] - 27:2</p> <p>roped [2] - 62:11, 63:1</p> <p>ROSENELLO [3] - 1:6, 3:3, 94:7</p> <p>Rosenello [2] - 4:3, 81:25</p> <p>roughly [1] - 27:16</p> <p>Runnemed [1] - 87:7</p> <p>running [3] - 9:8, 17:18, 62:24</p> <p>runs [1] - 12:10</p> | <p>29:23, 29:24, 30:4, 46:17</p> <p>Sandman [1] - 6:14</p> <p>Sandra [1] - 81:22</p> <p>SANDY [1] - 1:3</p> <p>saw [14] - 22:10, 25:7, 34:10, 36:20, 42:19, 42:23, 43:3, 44:12, 54:17, 55:2, 58:7, 58:9, 58:11, 87:23</p> <p>scan [1] - 81:15</p> <p>scaped [1] - 46:13</p> <p>scarping [2] - 46:13, 46:15</p> <p>scenarios [2] - 19:9, 47:6</p> <p>school [1] - 6:8</p> <p>School [1] - 6:14</p> <p>scientist [1] - 16:7</p> <p>Scott [3] - 18:16, 50:6, 82:15</p> <p>sea [12] - 25:1, 30:8, 30:14, 30:16, 30:17, 30:21, 30:24, 67:24, 69:24, 72:12, 72:16, 91:17</p> <p>search [1] - 18:10</p> <p>season [1] - 21:10</p> <p>seasons [1] - 51:10</p> <p>second [7] - 4:24, 32:22, 35:6, 61:22, 76:17, 82:6, 86:5</p> <p>Second [16] - 12:8, 12:10, 12:12, 12:15, 13:1, 13:2, 20:7, 22:13, 26:3, 46:4, 53:2, 58:3, 70:9, 70:16, 70:17, 75:25</p> <p>section [2] - 15:18, 49:16</p> <p>sections [1] - 53:6</p> <p>see [45] - 10:19, 11:16, 18:12, 25:4, 28:13, 28:14, 29:24, 30:7, 31:25, 34:16, 36:13, 38:7, 38:22, 40:19, 42:15, 44:3, 44:7, 47:23, 49:8, 49:11, 49:19, 51:18, 51:19, 52:6, 54:8, 54:20, 56:1, 56:2, 58:11, 58:15, 59:11, 59:17, 60:4, 60:23, 61:25, 62:3, 66:17, 71:18, 72:24, 76:16, 79:23, 81:2, 81:21, 86:20</p> <p>seeing [1] - 36:9</p> <p>sell [1] - 23:13</p> <p>Senator [1] - 7:4</p> <p>send [5] - 28:8, 37:14,</p> |
| <p>R</p> <p>R.J [1] - 2:12</p> <p>rake [4] - 24:20, 24:24, 63:4, 71:15</p> <p>raked [1] - 53:10</p> <p>rakes [2] - 24:7, 24:8</p> <p>raking [3] - 26:14, 65:13, 65:24</p> <p>rarely [3] - 47:23,</p> | <p>47:25, 48:1</p> <p>rather [1] - 63:24</p> <p>Ray [1] - 9:23</p> <p>re [1] - 92:3</p> <p>re-asking [1] - 92:3</p> <p>read [15] - 13:21, 28:13, 57:2, 57:7, 57:17, 71:6, 77:12, 78:3, 79:20, 79:21, 84:22, 84:25, 85:19, 85:24, 86:25</p> <p>reading [3] - 79:17, 80:1, 80:24</p> <p>real [1] - 86:12</p> <p>realized [1] - 89:17</p> <p>really [5] - 9:2, 9:7, 13:15, 78:19, 92:15</p> <p>reason [13] - 4:22, 13:6, 35:6, 37:17, 40:23, 55:22, 68:24, 73:17, 75:1, 75:7, 87:6, 91:18, 92:8</p> <p>reasons [1] - 73:18</p> <p>recalled [1] - 87:12</p> <p>received [12] - 10:23, 33:15, 43:20, 59:2, 61:5, 64:6, 66:23, 67:19, 77:22, 79:10, 80:13, 86:6</p> <p>recent [1] - 13:13</p> <p>recently [1] - 54:19</p> <p>receptacles [1] - 53:16</p> <p>recess [1] - 57:13</p> <p>recited [1] - 68:20</p> <p>recollect [1] - 35:8</p> <p>recollection [8] - 34:1, 34:21, 36:8, 37:8, 71:9, 81:3, 90:17, 91:19</p> <p>recommendations [1] - 72:9</p> <p>record [18] - 4:3, 33:1, 33:2, 33:4, 33:6, 33:8, 40:11, 51:21, 57:12, 57:15, 77:15, 77:18, 77:24, 78:1, 81:9, 86:12, 91:23, 93:4</p> <p>Record [1] - 84:25</p> <p>recorded [1] - 77:4</p> <p>recreational [1] - 70:25</p> <p>recruitment [1] - 74:11</p> <p>recycling [1] - 24:19</p> <p>red [2] - 11:5, 49:20</p> <p>refer [5] - 11:7, 12:8, 12:11, 12:15, 45:11</p> <p>reference [2] - 71:19,</p> | <p>80:4</p> <p>referenced [4] - 32:6, 76:23, 82:18, 89:22</p> <p>references [1] - 57:21</p> <p>referencing [1] - 51:2</p> <p>referred [8] - 14:9, 17:6, 24:5, 25:22, 26:2, 29:9, 36:6, 89:25</p> <p>referring [4] - 15:8, 22:13, 72:1, 83:22</p> <p>refers [1] - 81:21</p> <p>regarding [3] - 14:18, 87:9, 88:12</p> <p>regardless [1] - 92:17</p> <p>relate [1] - 4:14</p> <p>related [1] - 89:14</p> <p>relates [2] - 47:19, 82:14</p> <p>relative [9] - 17:22, 29:19, 29:20, 32:3, 33:13, 50:13, 60:9, 94:10, 94:13</p> <p>relax [1] - 69:8</p> <p>remark [1] - 33:11</p> <p>remedial [1] - 87:12</p> <p>remember [10] - 16:21, 16:22, 77:2, 78:13, 80:24, 81:16, 81:17, 81:18, 81:19, 89:23</p> <p>remove [1] - 50:20</p> <p>removed [1] - 51:15</p> <p>repair [1] - 87:18</p> <p>repeat [1] - 61:13</p> <p>rephrase [2] - 9:14, 89:9</p> <p>replenishment [7] - 13:3, 13:7, 13:11, 13:12, 13:15, 13:18, 27:25</p> <p>report [2] - 10:12, 89:4</p> <p>reporter [1] - 4:6</p> <p>Reporter [3] - 1:16, 94:4, 94:20</p> <p>REPORTERS [1] - 1:23</p> <p>REPORTING [1] - 1:23</p> <p>reports [1] - 10:9</p> <p>represent [1] - 67:1</p> <p>representative [1] - 19:22</p> <p>representatives [1] - 88:18</p> <p>represented [1] - 87:9</p> <p>represents [1] - 4:25</p> <p>request [1] - 49:2</p> <p>require [2] - 23:19, 74:6</p> <p>required [1] - 87:17</p> | <p>rescue [1] - 17:23</p> <p>research [2] - 16:6, 36:22</p> <p>resided [1] - 6:4</p> <p>resident [1] - 50:22</p> <p>residents [1] - 72:21</p> <p>resign [2] - 89:10</p> <p>resigned [1] - 89:11</p> <p>resolutions [1] - 8:5</p> <p>resource [1] - 74:10</p> <p>resources [1] - 74:24</p> <p>respect [1] - 46:3</p> <p>responsibilities [1] - 48:14</p> <p>responsibility [5] - 8:14, 8:16, 9:8, 48:22, 48:25</p> <p>responsible [2] - 10:7, 22:20</p> <p>restaurants [1] - 68:8</p> <p>restricted [3] - 32:19, 65:11, 65:24</p> <p>restrictions [1] - 24:13</p> <p>restrooms [1] - 44:5</p> <p>result [2] - 46:12, 70:14</p> <p>retired [2] - 68:17, 78:15</p> <p>return [1] - 19:12</p> <p>review [1] - 44:11</p> <p>rid [1] - 76:16</p> <p>right-hand [1] - 51:18</p> <p>ring [1] - 77:7</p> <p>risk [1] - 84:1</p> <p>Road [3] - 1:17, 2:3, 2:7</p> <p>rock [4] - 87:15, 87:17, 87:22, 88:24</p> <p>role [1] - 18:7</p> <p>room [4] - 12:16, 78:7, 82:11, 85:14</p> <p>rope [1] - 27:2</p> <p>roped [2] - 62:11, 63:1</p> <p>ROSENELLO [3] - 1:6, 3:3, 94:7</p> <p>Rosenello [2] - 4:3, 81:25</p> <p>roughly [1] - 27:16</p> <p>Runnemed [1] - 87:7</p> <p>running [3] - 9:8, 17:18, 62:24</p> <p>runs [1] - 12:10</p> | <p>29:23, 29:24, 30:4, 46:17</p> <p>Sandman [1] - 6:14</p> <p>Sandra [1] - 81:22</p> <p>SANDY [1] - 1:3</p> <p>saw [14] - 22:10, 25:7, 34:10, 36:20, 42:19, 42:23, 43:3, 44:12, 54:17, 55:2, 58:7, 58:9, 58:11, 87:23</p> <p>scan [1] - 81:15</p> <p>scaped [1] - 46:13</p> <p>scarping [2] - 46:13, 46:15</p> <p>scenarios [2] - 19:9, 47:6</p> <p>school [1] - 6:8</p> <p>School [1] - 6:14</p> <p>scientist [1] - 16:7</p> <p>Scott [3] - 18:16, 50:6, 82:15</p> <p>sea [12] - 25:1, 30:8, 30:14, 30:16, 30:17, 30:21, 30:24, 67:24, 69:24, 72:12, 72:16, 91:17</p> <p>search [1] - 18:10</p> <p>season [1] - 21:10</p> <p>seasons [1] - 51:10</p> <p>second [7] - 4:24, 32:22, 35:6, 61:22, 76:17, 82:6, 86:5</p> <p>Second [16] - 12:8, 12:10, 12:12, 12:15, 13:1, 13:2, 20:7, 22:13, 26:3, 46:4, 53:2, 58:3, 70:9, 70:16, 70:17, 75:25</p> <p>section [2] - 15:18, 49:16</p> <p>sections [1] - 53:6</p> <p>see [45] - 10:19, 11:16, 18:12, 25:4, 28:13, 28:14, 29:24, 30:7, 31:25, 34:16, 36:13, 38:7, 38:22, 40:19, 42:15, 44:3, 44:7, 47:23, 49:8, 49:11, 49:19, 51:18, 51:19, 52:6, 54:8, 54:20, 56:1, 56:2, 58:11, 58:15, 59:11, 59:17, 60:4, 60:23, 61:25, 62:3, 66:17, 71:18, 72:24, 76:16, 79:23, 81:2, 81:21, 86:20</p> <p>seeing [1] - 36:9</p> <p>sell [1] - 23:13</p> <p>Senator [1] - 7:4</p> <p>send [5] - 28:8, 37:14,</p> |
| <p>S</p> <p>SAFETY [1] - 2:11</p> <p>safety [1] - 28:18</p> <p>Safety [1] - 84:18</p> <p>salt [1] - 23:19</p> <p>sand [7] - 18:25, 19:1,</p> | <p>47:25, 48:1</p> <p>rather [1] - 63:24</p> <p>Ray [1] - 9:23</p> <p>re [1] - 92:3</p> <p>re-asking [1] - 92:3</p> <p>read [15] - 13:21, 28:13, 57:2, 57:7, 57:17, 71:6, 77:12, 78:3, 79:20, 79:21, 84:22, 84:25, 85:19, 85:24, 86:25</p> <p>reading [3] - 79:17, 80:1, 80:24</p> <p>real [1] - 86:12</p> <p>realized [1] - 89:17</p> <p>really [5] - 9:2, 9:7, 13:15, 78:19, 92:15</p> <p>reason [13] - 4:22, 13:6, 35:6, 37:17, 40:23, 55:22, 68:24, 73:17, 75:1, 75:7, 87:6, 91:18, 92:8</p> <p>reasons [1] - 73:18</p> <p>recalled [1] - 87:12</p> <p>received [12] - 10:23, 33:15, 43:20, 59:2, 61:5, 64:6, 66:23, 67:19, 77:22, 79:10, 80:13, 86:6</p> <p>recent [1] - 13:13</p> <p>recently [1] - 54:19</p> <p>receptacles [1] - 53:16</p> <p>recess [1] - 57:13</p> <p>recited</p> | | | |

| | | | | |
|--|---|---|--|--|
| 82:1, 85:12, 88:19 sense [2] - 68:25, 88:25 sensitive [1] - 63:10 sent [4] - 28:10, 71:18, 86:19, 89:7 sentence [2] - 81:24, 82:6 September [4] - 45:22, 79:15, 80:2 series [1] - 36:11 serve [1] - 7:4 service [1] - 68:6 set [5] - 38:14, 40:19, 40:24, 41:1, 54:20 sets [1] - 91:11 seven [1] - 8:25 several [1] - 29:8 shallow [1] - 76:10 shape [1] - 30:16 share [1] - 41:17 shelf [2] - 87:16, 89:20 sheriffs [1] - 89:2 shoals [1] - 29:23 shortly [1] - 26:25 show [29] - 25:9, 29:1, 31:9, 34:19, 36:1, 36:25, 37:4, 37:25, 40:15, 41:23, 42:6, 45:5, 46:2, 49:7, 51:4, 51:16, 52:14, 53:22, 55:1, 55:23, 56:21, 57:20, 59:4, 59:15, 67:21, 68:9, 71:17, 79:12, 80:15 showed [5] - 34:18, 40:11, 44:10, 50:17, 77:18 showing [3] - 21:1, 35:16, 67:3 shown [5] - 41:15, 54:2, 57:25, 58:16, 68:12 shows [2] - 29:4, 61:16 side [2] - 30:23, 35:9 sign [4] - 49:20, 59:16, 60:4, 60:5 signed [2] - 27:23, 71:9 significant [1] - 71:10 signs [15] - 28:19, 48:15, 49:1, 49:3, 49:9, 49:11, 50:11, 50:17, 50:23, 52:16, 59:11, 59:14, 59:17, 62:3, 62:7 similar [2] - 58:17, 84:13 simple [1] - 84:3 | simply [5] - 9:2, 70:2, 70:11, 73:5, 74:17 sit [2] - 69:8, 71:25 sitting [7] - 4:16, 14:21, 14:24, 15:1, 60:24, 62:6, 77:3 six [2] - 90:15, 90:23 size [1] - 74:9 skills [1] - 89:15 Skis [2] - 76:3, 76:7 slack [2] - 17:17, 17:20 slope [1] - 46:17 slow [1] - 9:18 small [4] - 19:7, 67:9, 69:23, 72:16 smell [1] - 25:3 SMITH [4] - 1:3, 1:5, 1:15, 94:4 Smith [28] - 10:19, 14:11, 14:12, 15:10, 17:23, 18:14, 18:17, 19:10, 20:13, 20:19, 28:19, 29:17, 46:22, 47:6, 48:6, 50:2, 50:11, 51:13, 57:23, 59:8, 70:14, 81:22, 82:15, 84:5, 84:12, 87:9, 87:12, 87:21 Smith's [5] - 18:16, 36:4, 49:10, 50:6, 68:23 Smiths [1] - 92:5 snow [3] - 27:2, 60:10, 65:5 socially [1] - 78:20 someone [3] - 14:3, 78:7, 82:23 someplace [1] - 30:11 sometimes [3] - 54:21, 65:5, 76:8 somewhere [4] - 20:6, 20:8, 56:18, 56:19 son [6] - 78:21, 78:23, 78:24, 79:1, 79:2 soon [1] - 89:5 sorry [16] - 17:9, 27:14, 31:18, 32:15, 35:12, 41:11, 47:1, 58:20, 58:21, 60:2, 61:13, 69:17, 75:22, 81:14, 90:18 south [3] - 63:18, 64:12 southern [1] - 12:11 species [1] - 13:19 specific [3] - 29:20, 36:7, 73:19 specifically [4] - 37:24, 51:2, 81:19, | 91:3 spells [1] - 28:1 spend [3] - 62:24, 78:18, 78:20 Speziali [1] - 12:16 spoken [2] - 5:10, 87:8 spokesperson [1] - 85:7 spots [2] - 41:22, 75:24 Staff [1] - 80:19 stages [1] - 30:19 stairs [7] - 34:22, 54:21, 54:23, 54:24, 54:25, 55:21, 60:18 stand [9] - 27:7, 28:12, 71:5, 72:11, 81:14, 82:4, 82:12, 84:21, 85:13 standard [1] - 49:14 standing [6] - 41:6, 54:3, 60:25, 61:2, 61:10, 62:6 standpoint [6] - 39:4, 65:11, 65:20, 65:23, 74:11 stands [3] - 70:8, 74:7, 74:25 start [1] - 39:17 started [3] - 5:21, 10:17, 29:15 starting [1] - 11:14 starts [3] - 25:2, 38:23 STATE [2] - 1:9, 2:11 state [11] - 23:19, 26:24, 27:24, 32:9, 62:18, 70:21, 71:7, 88:8, 89:1, 89:2, 90:7 State [10] - 1:16, 2:15, 4:25, 39:20, 86:23, 88:10, 88:13, 88:17, 88:23, 94:5 statement [5] - 58:23, 77:4, 84:5, 85:10, 89:25 States [1] - 39:20 stay [2] - 6:22, 76:9 steno [1] - 77:18 stenographer [1] - 84:22 stepping [1] - 63:2 steps [2] - 87:17, 87:23 Stewart [2] - 3:23, 36:21 sticker [2] - 77:20 sticking [1] - 62:3 still [4] - 30:6, 40:2, | 58:12, 69:17 Stockton [1] - 36:21 Stone [1] - 29:25 stop [3] - 7:15, 40:3, 40:6 stopped [1] - 23:6 stops [2] - 53:2, 73:12 storm [2] - 46:12, 46:16 storms [1] - 30:23 story [1] - 89:22 straight [2] - 26:23, 27:7 strange [1] - 12:9 STREET [1] - 1:24 street [4] - 26:20, 63:16, 64:20, 91:12 Street [7] - 2:13, 12:9, 12:10, 12:12, 12:15, 13:2, 20:7 strictly [1] - 48:24 strike [2] - 39:15, 39:16 strings [1] - 65:6 stroke [1] - 48:2 strong [1] - 7:18 struggling [1] - 34:8 stuff [1] - 25:1 style [3] - 48:2, 89:13, 89:14 subjecting [1] - 43:10 Sue [1] - 6:24 suggested [1] - 33:10 Suite [2] - 1:18, 2:3 SUITE [1] - 1:24 suits [1] - 72:20 summer [12] - 21:9, 41:4, 51:14, 54:19, 59:7, 69:1, 74:7, 81:5, 81:10, 85:9, 87:20, 88:15 summertime [2] - 21:3, 90:21 summonses [1] - 89:1 Sunderland [4] - 18:16, 50:6, 50:12, 82:15 SUPERIOR [1] - 1:1 supervision [1] - 74:8 supplied [1] - 20:25 support [2] - 27:19, 75:8 supposed [1] - 33:13 Surf [19] - 26:12, 26:21, 26:22, 27:6, 49:18, 50:3, 50:4, 62:20, 65:14, 65:22, 65:25, 67:11, 67:15, 71:1, 71:5, 72:3, 73:12, 75:15 | surf [2] - 44:2, 44:14 surfers [1] - 75:9 swear [1] - 4:6 swimmers [1] - 75:9 swimming [17] - 19:11, 19:14, 43:9, 46:23, 47:13, 47:14, 47:18, 47:20, 47:24, 48:4, 48:7, 49:21, 49:25, 51:11, 70:25, 84:1, 84:2 sworn [4] - 4:9, 7:11, 10:4, 94:7 |
| T | | | | |
| TAKEN [1] - 1:15 talks [2] - 44:2, 81:11 tape [2] - 57:11, 57:15 technically [2] - 10:9, 24:10 ten [3] - 86:17, 90:15, 90:23 term [2] - 23:7, 48:7 terminated [3] - 87:5, 89:8, 89:10 terminology [1] - 83:14 terms [4] - 7:23, 14:5, 64:20, 92:18 testified [3] - 4:9, 69:13, 91:1 testify [2] - 71:1, 94:7 testimony [5] - 21:3, 47:2, 50:1, 51:5, 63:25 TESTIMONY [1] - 1:6 THE [10] - 1:4, 35:5, 35:12, 37:19, 45:17, 58:21, 66:10, 66:15, 79:24, 92:25 themselves [3] - 43:5, 84:6, 85:4 thigh [1] - 85:15 three [7] - 35:23, 35:24, 44:6, 44:19, 47:5, 66:18, 67:2 tidal [3] - 69:21, 73:6, 73:9 tide [11] - 15:17, 17:12, 17:14, 17:15, 17:17, 17:19, 17:20, 27:4, 50:21, 54:22, 83:18 tides [3] - 68:21, 84:15, 87:14 tie [1] - 8:11 today [8] - 11:2, 16:24, 29:8, 62:12, 72:1, 78:10, 87:3, 92:12 | | | | |

| | | | | | |
|---|--|--|---|--|--|
| <p>today's [2] - 4:1, 33:11</p> <p>together [1] - 78:20</p> <p>Tom [2] - 2:17, 68:19</p> <p>tomorrow [1] - 30:1</p> <p>Tony [1] - 18:21</p> <p>took [10] - 10:19, 19:20, 20:5, 20:13, 20:19, 26:11, 51:5, 68:16, 70:5, 89:12</p> <p>top [4] - 38:7, 38:17, 43:24, 66:6</p> <p>tourism [1] - 43:17</p> <p>Tourism [2] - 3:10, 43:20</p> <p>toward [1] - 92:10</p> <p>towards [6] - 17:18, 35:2, 50:7, 52:4, 54:4, 55:16</p> <p>Townsend [1] - 9:24</p> <p>Township [2] - 1:18, 2:3</p> <p>traffic [1] - 63:6</p> <p>transcript [1] - 4:5</p> <p>trash [7] - 24:18, 24:22, 24:23, 53:16, 55:14, 55:15, 71:15</p> <p>Trenton [1] - 2:13</p> <p>trouble [1] - 47:21</p> <p>truth [3] - 94:7, 94:8</p> <p>try [2] - 10:18, 75:8</p> <p>trying [7] - 9:15, 15:12, 26:18, 34:13, 35:18, 72:22, 85:12</p> <p>Tuesday [1] - 1:19</p> <p>turns [2] - 35:2, 65:5</p> <p>twelve [1] - 78:24</p> <p>Twenty [1] - 16:14</p> <p>Twenty-five [1] - 16:14</p> <p>twice [1] - 85:21</p> <p>two [11] - 6:9, 7:6, 22:5, 22:6, 35:23, 35:24, 41:20, 61:21, 65:2, 67:13</p> <p>type [6] - 17:11, 22:2, 39:13, 54:14, 54:22</p> <p>types [1] - 46:14</p> <p>typically [2] - 49:1, 49:5</p> <p>typo [1] - 90:10</p> | <p>understructure [1] - 13:7</p> <p>unfortunate [1] - 84:11</p> <p>unguarded [12] - 20:14, 53:19, 54:5, 55:4, 56:5, 61:3, 75:24, 76:13, 76:14, 82:2, 83:25, 85:11</p> <p>United [1] - 39:20</p> <p>University [1] - 6:20</p> <p>unless [2] - 5:5, 85:16</p> <p>unprotected [4] - 46:24, 53:19, 54:5, 56:5</p> <p>up [24] - 5:22, 6:5, 19:15, 20:4, 24:25, 29:3, 29:12, 29:16, 29:24, 36:13, 40:19, 40:24, 41:1, 46:5, 56:19, 59:16, 62:3, 62:24, 64:1, 68:22, 76:8, 76:10, 91:11, 91:17</p> <p>upwards [1] - 74:6</p> <p>uses [1] - 48:7</p> | <p>violent [1] - 46:16</p> <p>visually [2] - 87:25, 88:1</p> <p>volleyball [1] - 91:14</p> <p>vortex [12] - 14:23, 15:3, 16:2, 16:8, 16:12, 16:25, 17:4, 80:5, 83:3, 83:15, 87:14, 87:23</p> <p>vote [2] - 8:5, 8:7</p> <p>votes [1] - 8:11</p> <p>vs [1] - 1:7</p> | <p>W</p> <p>wading [3] - 42:15, 42:23, 43:3</p> <p>wait [2] - 32:22, 60:1</p> <p>walk [1] - 50:7</p> <p>walking [17] - 19:1, 19:4, 19:6, 19:18, 20:17, 21:1, 21:6, 21:14, 21:22, 21:23, 47:9, 50:13, 50:25, 82:16, 84:7, 88:16, 92:6</p> <p>wall [14] - 30:8, 30:14, 30:16, 30:18, 30:21, 30:24, 67:24, 69:24, 72:12, 72:16, 87:17, 87:22, 88:24, 91:17</p> <p>wants [1] - 64:14</p> <p>warning [5] - 28:18, 48:15, 48:17, 50:25, 51:7</p> <p>Washington [4] - 6:7, 6:8, 6:23, 46:7</p> <p>water [38] - 13:8, 15:4, 17:1, 17:6, 18:18, 19:5, 19:15, 20:17, 23:19, 25:22, 29:5, 29:8, 29:14, 29:19, 41:7, 42:12, 42:15, 43:4, 43:6, 47:8, 47:21, 48:16, 51:1, 51:3, 52:6, 57:25, 76:9, 76:10, 82:16, 82:23, 82:24, 82:25, 83:25, 84:7, 85:10, 87:24, 88:2</p> <p>water's [4] - 50:18, 62:20, 62:25, 63:9</p> <p>waters [2] - 73:6, 73:9</p> <p>waterways [1] - 72:23</p> <p>weak [1] - 7:17</p> <p>website [2] - 5:9, 43:18</p> <p>wedding [2] - 40:20, 40:24</p> <p>west [17] - 24:10,</p> | <p>24:12, 26:11, 26:15, 52:1, 52:4, 62:19, 63:20, 64:11, 65:14, 65:21, 65:25, 66:9, 66:14, 69:23, 71:4, 72:15</p> <p>wet [3] - 49:20, 84:3, 84:20</p> <p>whatever's [1] - 63:19</p> <p>whirlpool [9] - 14:23, 16:2, 16:8, 16:12, 16:24, 17:4, 80:7, 83:15, 83:22</p> <p>white [3] - 49:9, 49:11, 87:21</p> <p>whole [4] - 30:5, 68:2, 94:8</p> <p>wilderness [2] - 20:9, 82:20</p> <p>wildlife [3] - 26:25, 62:23, 89:2</p> <p>Wildlife [1] - 32:5</p> <p>Wildwood [37] - 2:9, 4:14, 5:23, 6:5, 6:12, 6:14, 7:8, 7:17, 7:21, 13:17, 21:21, 21:22, 22:16, 23:14, 23:17, 23:23, 25:13, 27:24, 29:16, 42:25, 43:1, 43:18, 44:13, 44:15, 59:7, 68:18, 70:6, 73:10, 74:17, 78:15, 81:25, 84:17, 85:7, 87:3, 87:5, 90:14, 90:21</p> <p>WILDWOOD [1] - 1:8</p> <p>Wildwood's [1] - 69:20</p> <p>William [1] - 80:5</p> <p>window [1] - 66:4</p> <p>winter [1] - 69:1</p> <p>witness [2] - 4:7, 36:8</p> <p>WITNESS [10] - 3:2, 35:5, 35:12, 37:19, 45:17, 58:21, 66:10, 66:15, 79:24, 92:25</p> <p>Witness [2] - 11:8, 51:20</p> <p>witnessed [3] - 22:9, 42:5, 46:5</p> <p>WOODBURY [1] - 1:24</p> <p>wooden [1] - 36:1</p> <p>WORD [2] - 1:23</p> <p>wording [1] - 83:21</p> <p>words [4] - 11:18, 12:6, 53:9, 63:16</p> <p>Works [7] - 23:25, 24:3, 24:20, 28:25, 49:1, 49:6, 87:4</p> | <p>works [6] - 24:7, 25:10, 54:9, 54:14, 54:20, 76:19</p> <p>worth [1] - 71:24</p> <p>Wozunk [11] - 87:2, 87:8, 87:10, 87:12, 88:3, 88:7, 88:9, 88:13, 88:23, 89:8, 90:4</p> <p>wraps [1] - 12:18</p> <p>write [1] - 89:1</p> <p>Writer [1] - 80:19</p> <p>writes [1] - 32:23</p> <p>written [1] - 79:18</p> |
| | | | | X | |
| | | | | XIO1520 [2] - 1:17, 94:21 | |
| | | | | XYZ [1] - 1:10 | |
| | | | | Y | |
| | | | | yards [1] - 16:14 | |
| | | | | year [6] - 10:1, 15:24, 30:11, 58:7, 72:10, 81:13 | |
| | | | | years [16] - 6:9, 7:6, 7:13, 8:13, 16:1, 30:1, 30:19, 38:17, 38:22, 39:23, 40:5, 44:16, 44:17, 71:10, 87:20 | |
| | | | | Yeeco [1] - 10:2 | |
| | | | | yellow [1] - 79:16 | |
| | | | | York [1] - 7:2 | |
| | | | | young [1] - 40:3 | |
| | | | | younger [1] - 39:23 | |
| | | | | youngest [1] - 78:24 | |
| | | | | yourself [2] - 43:10, 84:1 | |
| | | | | Z | |
| | | | | Zanaras [1] - 2:17 | |

March 14, 2012



1 inch = 500 feet

Provided by the Cape May County Planning Department
Aerial flown by the State of NJ

EXHIBIT

3

2-9-16 US

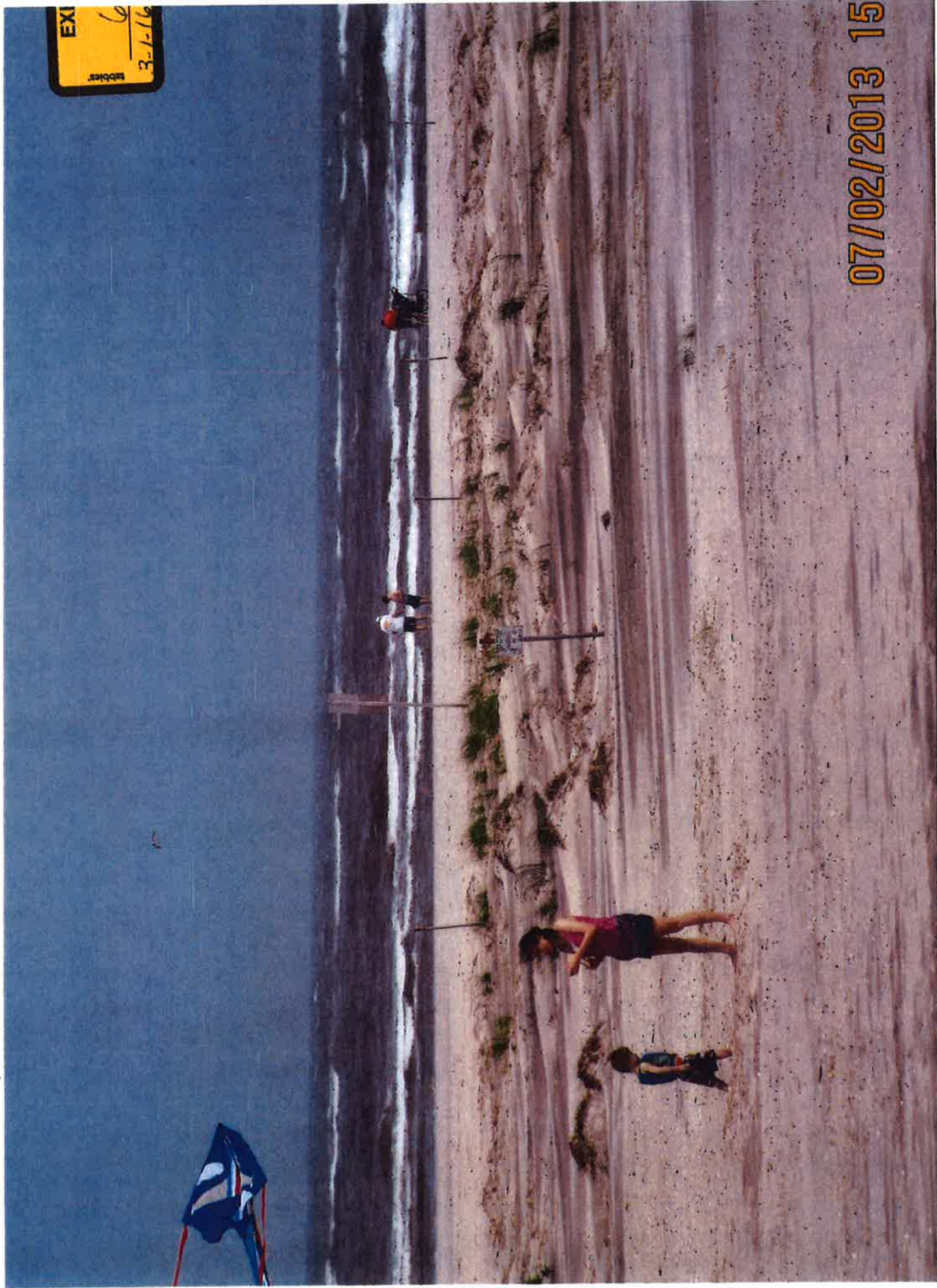
EXHIBIT

64

3-1-16 US



D'Amato Law-Smith Estate • Aerial View • July 31, 2014 • AC Photo • 60



07/02/2013 15

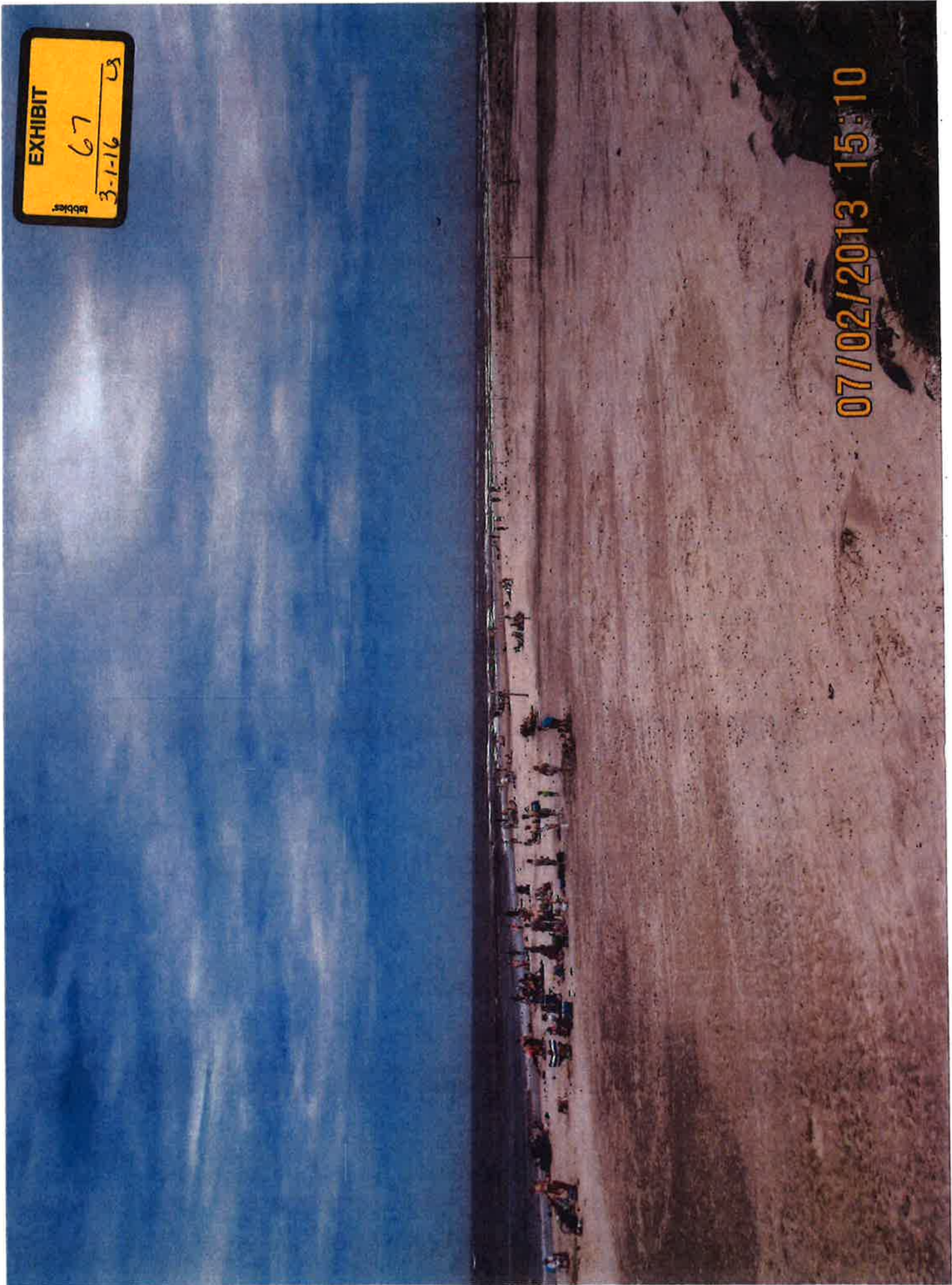
EXHIBIT

67

3-1-16

U3

07/02/2013 15:10



March 14, 2012



1 inch = 500 feet

Provided by the Cape May County Planning Department
Aerial Flown by the State of NJ

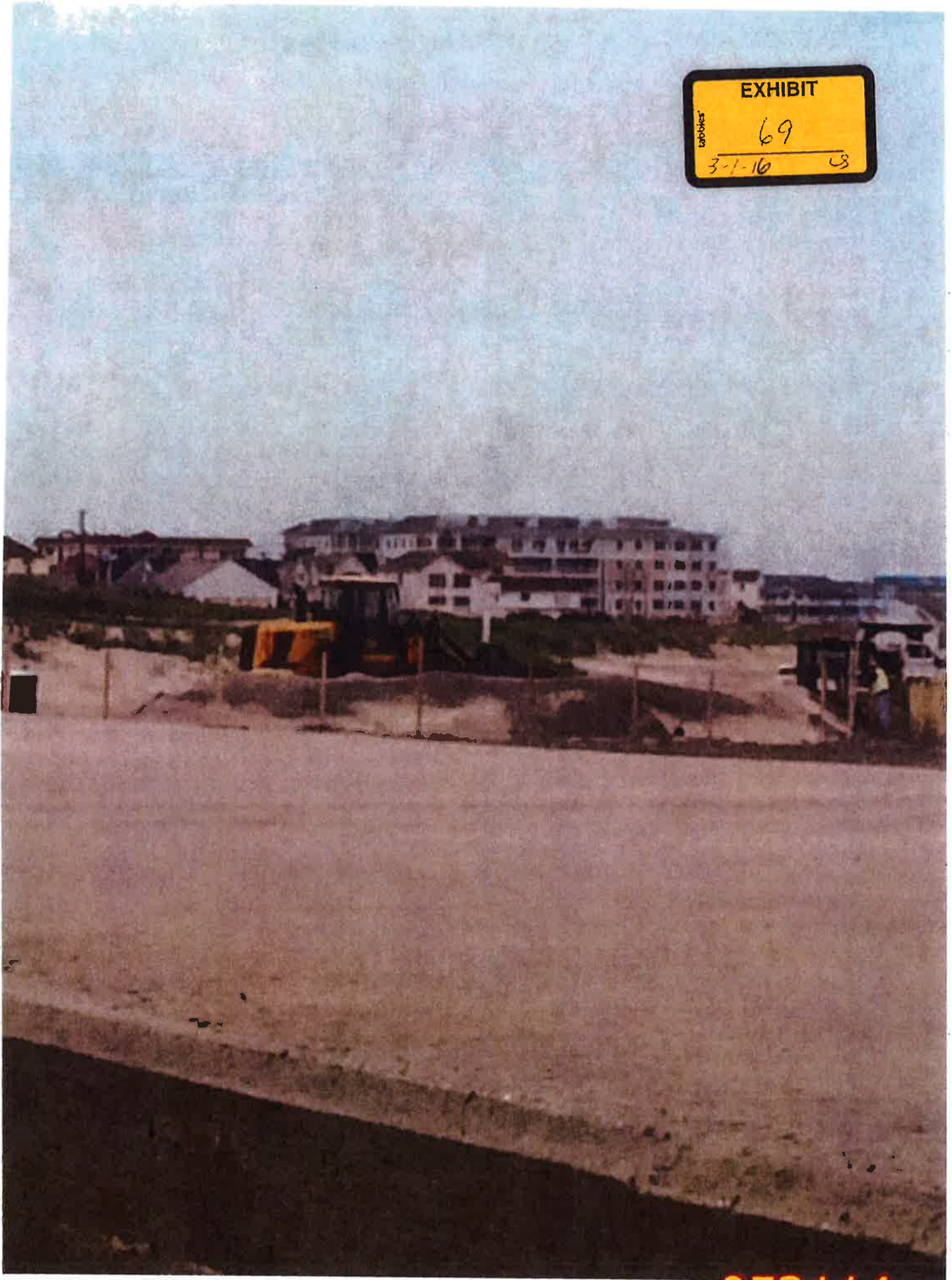
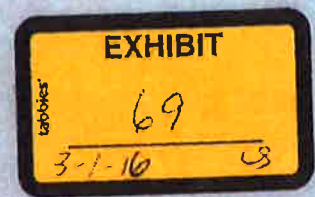
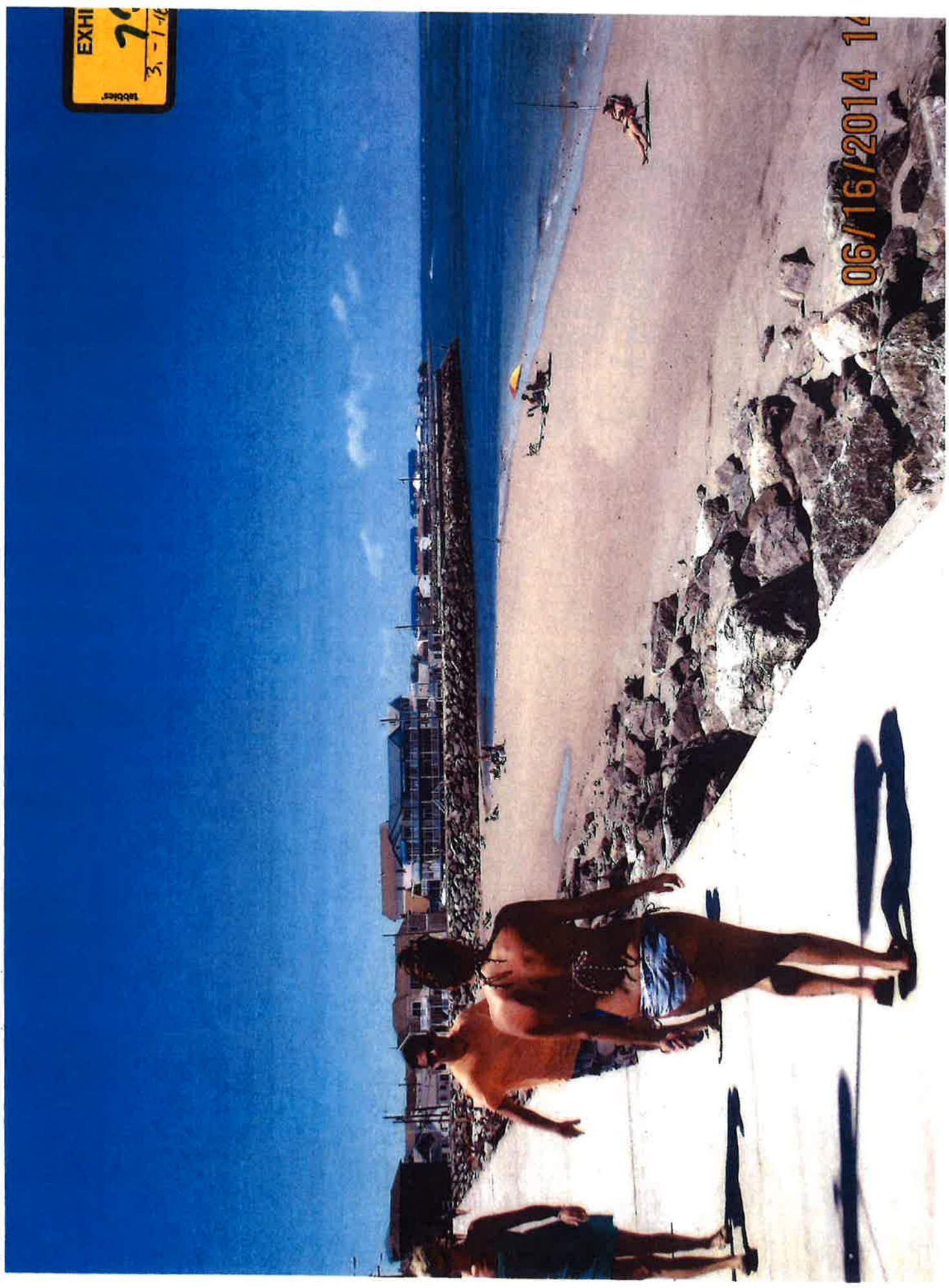


EXHIBIT
70
3-1-16





EXHIBIT
76
31-1-16
Lobley



06/16/2014 14



05/21/2014 1

EXHIBIT

tabbies

65

3-1-16

CS

FREE Summer

CONCERTS UNDER THE STARS

| DAY | DATE | GROUP |
|----------|-----------|--|
| Saturday | July 2nd | Stan Wades "TRAMMPS" |
| Thursday | July 7th | No Show visit the BBQ Festival |
| Saturday | July 9th | No Show visit the BBQ Festival |
| Thursday | July 14th | Elvis Tribute (Jesse Garron) |
| Saturday | July 16th | Chicago 9 Tribute Band |
| Thursday | July 21st | Jimmy & the Parrots (Jimmy Buffet Tribute) |
| Saturday | July 23rd | Real Diamond (Neil Diamond Tribute) |
| Thursday | July 28th | The Diamonds |
| Saturday | July 30th | The Cameo's |
| Thursday | Aug. 4th | Lights Out (Frankie Valli Tribute) |
| Saturday | Aug. 6th | Wallstreet (Salute to Motown) |
| Thursday | Aug. 11th | George Young & Friends in Concert |
| Saturday | Aug. 13th | Robert Eric's (Billy Joel Tribute) |
| Thursday | Aug. 18th | The "B" Street Band (Bruce Springsteen Tribute) |
| Saturday | Aug. 20th | The Dovells |
| Thursday | Aug. 25th | The Bronx Wanderers |
| Saturday | Aug. 27th | Ladies of "Country" (Sara Spicer, Audra McLaughlin) |
| Saturday | Sept. 3rd | Beatlemania |

ALL CONCERTS WILL BE HELD AT LOU BOOTH AMPHITHEATER (2ND & OCEAN AVE) AND WILL BEGIN AT 8:00 PM. FOR MORE INFORMATION PLEASE CALL 609.522.7722 OR TOLL FREE 1 800.882.7787. ALL CONCERTS ARE FREE.

North Wildwood New Jersey



2016

INFORMATION & RECREATION GUIDE

northwildwood.com



Photo by Matt Ulmer

A Place in the Sun for Family Fun!



Photo by Steve Kano





CONTENTS

| | |
|---------|--|
| 3 | Important Contact Information |
| 4 | Welcome Letter |
| 5 | North Wildwood City Council |
| 6 & 7 | History of North Wildwood |
| 8 & 9 | Beach & Fishing Information |
| 10 | Wildwoods Boardwalk |
| 11 | Hereford Inlet Lighthouse |
| 12 | North Wildwood City Attractions |
| 13 & 14 | Recreation & Tourism Facilities |
| 15 & 16 | Recreation Programs & Camp Info |
| 17 | 2016 Camp Info |
| 18 & 19 | Directions / Map |
| 20 - 30 | Schedule of Events |
| 31 | Fire, Police & Office of Emergency Management (OEM) |
| 32 | Public Works, Recreation & Tourism Dept., City Clerk & City Administrator |
| 33 | Buildings, Parks & Grounds, Treasurer's & Tax Collector, Municipal Courts |
| 34 | Tax Assessor, Construction, Land Use Board & Beach Patrol |
| 35 | Trash and Recycling Schedule |
| 36 | Concerts Under the Stars |



EMERGENCY PHONE NUMBERS POLICE, FIRE & EMS

9-1-1

NON-EMERGENCY PHONE NUMBERS

POLICE NON-EMERGENCY & Administrative Number
(609) 522-2411

FIRE NON-EMERGENCY & Administrative Number
(609) 522-5743

FOR UPDATED CITY INFORMATION

Website: northwildwood.com

Office of Emergency Management (OEM)

ready.northwildwood.com

Radio 1640 AM



FREQUENTLY CALLED NUMBERS

City Hall (General Info & Departments) 609 522-2030

Public Works Department 609 522-4646

Office of Emergency Management (OEM) 609 522-0191

Beach Patrol 609 522-7500

Recreation Department 609 522-2955

Senior Center 609 729-2090

Tourism & Special Events 609 522-7722

NJSP Marine Bureau 609 522-0393

MEDICAL

Cape Regional Medical Center 609 463-2000

Cape Regional Urgent Care 609 465-6364

Cape Urgent Care 609 884-4357

ANIMAL

Shore Animal Control 800 351-1822

(Call police non-emergency number) 609 522-2411

CMC Animal Shelter 609 465-8923

Marine Mammal Stranding Center 609 266-0538

UTILITY NUMBERS TO BE CALLED FOR OUTAGES

Atlantic City Electric 800-833-7476

Comcast 800-266-2278

Wildwood Water Company 609-889-6735

South Jersey 24-Gas Leak Hotline 888-766-9900

Verizon 800-837-4966





Dear Friend:

North Wildwood City Council and I are pleased to offer you this "Information Guide" containing our city directory of departments and services, calendar of events, history of the town, and a list of various City attractions and facilities.

From our beautiful beaches, to the lively boardwalk and historic Hereford Inlet Lighthouse, we cherish the uniqueness our City has to offer and the quality of life it supports. As Mayor of the City of North Wildwood, I am committed to preserving the hometown charm of our community, and I will continue to make decisions to enhance the quality of life for our residents, property owners and visitors.

Your government, which is always accessible to you, provides forward-thinking and proactive leadership day in and day out. All of our City employees work hard to protect and safeguard our homes, streets, beaches, parks, and recreational facilities in North Wildwood, and this guide will help you to learn more about those employees and municipal departments.

For more information on government meetings, news, schedule of recreational programs, and public announcements, please visit the City of North Wildwood website at northwildwood.com. Our website also offers forms for download such as applications for various licenses, passes, and even provides an option to pay your taxes online. Always remember, if the internet is not for you, we are only just a phone call away at (609)522-2030.

Very Sincerely,

Mayor

Patrick T. Rosenello

A handwritten signature in blue ink that reads "Patrick T. Rosenello".



NORTH WILDWOOD CITY COUNCIL



Salvatore Zampiri

Email: szampiri@northwildwood.com
Council President, Second Ward



Edwin Koehler

Email: edkoehler@northwildwood.com
Council - At - Large



Margaret "Peggy" A. Bishop

Email: pbishop@northwildwood.com
First Ward



David DelConte

Email: ddelconte@northwildwood.com
First Ward



James Kane

Email: jkane@northwildwood.com
First Ward



Kelly Ann Tolomeo

Email: ktolomeo@northwildwood.com
Second Ward



Joseph Rullo

Email: jrullo@northwildwood.com
Second Ward



History of North Wildwood



Located at the north end of Five Mile Beach in Cape May County, the City of North Wildwood was originally formed as the Borough of Angelsea on June 2, 1885. The Hereford Inlet Lighthouse, built in 1874, was the first structure built on the island and soon afterwards fishermen's cottages dotted the vicinity. The name of the municipality was changed to North Wildwood in 1906. In 1917 voters approved a change in the form of government, and the Borough became the City of North Wildwood.

A link to the mainland had come in 1883 in the form of the Angelsea Railroad, which later came into possession of the West Jersey Railroad in 1888. With the Pennsylvania-Reading Seashore Lines merger in 1933, the tracks through North Wildwood were abandoned and New Jersey Avenue right-of-way was sold to the City in 1930. Population of the community increased from 161 in 1900 to a peak of 5,017 in 1990. Although the trains brought many tourists for day trips on the beach and on fishing vessels in Hereford Inlet, a bridge built over Beach Creek was completed in 1924 that allowed families to come in automobiles and enjoy extended stays at any of the increasing number of hotels in the City. The modern, four-lane highway with a new bridge was completed in the 1990s.

The first Boardwalk was built in the 1880s, with boards being laid on both the ocean front (Surf Avenue) and inlet sections of the Beach. The ocean front Boardwalk was moved out further towards the high water mark, and for a number years extended from the border with Wildwood all the way to 2nd Avenue. The current Boardwalk has ended at 16th Avenue since the late 1930s.



History of North Wildwood



Area children attended class in a house on 1st Avenue until a school was built at Chestnut and Central in 1887. In 1908 a new school was built on Central Avenue between 9th and 10th which was closed in 1940 and later became the North Wildwood Recreation Center. The Margaret Mace School on Atlantic Avenue, between 12th and 13th, was built in 1925 as a Junior High School and took in all grades after 1940. This school was named for Dr. Margaret Mace, whose hospital at 25th & Atlantic opened in 1915 and closed in 1950. The Mace Hospital was located in the building formerly owned by Mr. Frederick Sutton, who had perished on the Titanic in 1912. Expansion of residential areas continued towards the ever-widening beach and culminated with the completion of the John F. Kennedy Beach Drive in 1964.

The area which in many of the original hotels stood in the northern part of the City has evolved into a vibrant entertainment district on Olde New Jersey Avenue. This district is the home of a number of special festivals held throughout the year. The beaches and Boardwalk continue to attract thousands of visitors each year, providing fun and activities for all to enjoy. The Hereford Inlet Lighthouse and its award-winning Gardens will be a highlight of anyone's visit to North Wildwood. From fishing on the seawall in the north end to strolling on the beach or Boardwalk at the south end, North Wildwood continues to be a great place to live and that makes it a great place to visit, as it has been since 1885.



BEACH AND FISHING INFORMATION



BEACH INFORMATION

Lifeguards are on duty from 10am - 5:30pm weather permitting. Always swim near a lifeguard.

ACCESS TO THE BEACH

• **BEACH:** ADA compliant ramp access at: Inlet Beach (Off the seawall), 7th, 10th, 15th and 20th Avenues.



HANDICAP SURF CHAIRS

Please contact the North Wildwood Beach Patrol at (609) 522-7500 to check availability, as it is a first come, first served basis. *Note that there is no charge for use of chairs.*

- There are a total of 22 chairs available.
- 15 are located at Beach Patrol Headquarters at 15th Avenue
- 4 are located at 5th Avenue & the beach
- 3 are located on Inlet Beach

ACCESSIBLE RESTROOMS

Public restrooms are located at 7th & 15th Avenues at the beach. During the summer months there are also portable restrooms stationed every other block along the beach.

SURFING BEACH

Our surfing beach will be designated annually by the city, please contact the beach patrol for more information. (609) 522-7500

PARKING

- Available parking along JFK, Surf, Ocean, Atlantic, Central, New Jersey and New York Avenues
- Municipal Parking Lots are available at 15th Avenue & the beach and 1st & Surf Avenues



BEACH AND FISHING INFORMATION

SURF FISHING SUMMER SCHEDULE

(May 21st, 2016 – September 18th, 2016)

Surf Fishing is permitted North of the 2nd Avenue Jetty while lifeguards are on duty (between the hours of 10am–5:30 pm). Surf fishing is permitted from Hereford Inlet – 26th Avenues any time before 10am or after 5:30pm, **when lifeguards are no longer on-duty.**

SURF FISHING WINTER SCHEDULE

(September 19th, 2016 – May 20th, 2017)

Surf fishing permitted 1st – 26th Avenues, curfew hours varie according to season. For hours and restrictions, please visit northwildwood.com for forms and registration information.

BEACH VEHICLE PERMITS

Permit: Police inspection required; Please visit the link referenced above for more information.

Fee \$20

Access available the Day after Labor Day to Monday before Memorial Day.

NORTH WILDWOOD FISHING

North Wildwood is a great location for Back Bay saltwater fishing because of its close proximity to the Atlantic Ocean. Anglers can have their try at catching Flounder, Bluefish, Striped Bass, Sea Bass, Drum, Weakfish, and other species throughout designated fishing seasons. North Wildwood's Back Bay allows beginners as well as experienced anglers to navigate through beautiful scenic intracoastal waterways in search of that perfect catch. In the State of New Jersey, fishermen over the age of 16 are required to register with the Saltwater Recreational Registry Program. Fish caught must meet Recreational Minimum Size, Possession Limits & Season Standards. For further registration information and regulation requirements visit state.nj.us/dep/fgw/fishing.htm.



Wildwoods Boardwalk



The Wildwoods' award-winning Boardwalk features 38 blocks packed end to end with stores, shops, water parks, eateries, live entertainment and amusement piers with over 100 rides and attractions. The sights, sounds and smells of the Wildwoods Boardwalk are pure sensory overload! North Wildwood specifically offers 3 piers: Sportland Pier, Seaport Pier and Morey's Pier - located at 26th Ave. & the boardwalk, various shops, arcades, restaurants and several ocean view hotel/motel accommodations adjacent to the boardwalk. Are your legs getting tired from walking the boards? Don't worry! Wildwoods' boardwalk offers tram car services the entire length of the boardwalk, and can be boarded at any location. Whether you're out on a morning bike ride, taking in the carnival-like atmosphere or simply out for a stroll enjoying the refreshing salt air, there's always something happening on the boardwalk.

Ramp Access: Accessible ADA compliant ramps from street at: 15th Avenue, 16th Avenue, 17th Avenue, 18th Avenue, 19th Avenue, 24th Avenue, and 26th Avenue.

Parking: Is available along JFK, Surf, Ocean, Central, Atlantic, New Jersey and New York Avenues. A parking lot is also available at 15th Avenue & the beach, right next to the boardwalk archway at 16th & the boardwalk.

Bicycles: Bicycles are allowed on the Boardwalk from 5 am to 12 pm daily. The Boardwalk stretches 1.85 miles north to a connecting ramp between 16th and 15th Avenues in North Wildwood. From there, cyclists can continue along a path on the beach along JFK Beach in North Wildwood. (See Map pg.18) A special "bikes only" lane is also dedicated throughout the length of North Wildwood, from 1st to 26th Avenues along Surf Avenue.



Accessible Restrooms: 2 Public restrooms at 22nd Avenue and the boardwalk & 25th Avenue and the boardwalk

Historic Hereford Inlet Lighthouse "Victorian Lighthouse"



Hereford Inlet Lighthouse, built in 1874, is the most important historic structure in the Wildwoods. It is still an active navigational aid as well as a museum, open to the public for guided and self guided tours. Visitors learn about the buildings history and get a glimpse of the life of a lighthouse keeper in the late 19th and early 20th century.

The park surrounding the lighthouse was designed with many different garden areas containing over 200 plant varieties. The Gardens are planted in the Victorian cottage style and extend right up to the ocean seawall. They have won several impressive awards and have been featured in many gardening books and magazines. The gardens and grounds are wheelchair accessible. A DVD tour is available upon request to those unable to climb the Lighthouse.

We welcome and can accommodate school trips, senior citizen groups and all other tour buses. Special rates are available for groups of 30 or more.

The Lighthouse also has a gift shop featuring lighthouse and nautical theme art work, books, miniatures, shirts, hats, mugs and much more. See separate listing for special events held here throughout the year.

LIGHTHOUSE ADMISSION FEES

Adults 12 yrs & up - \$5.00 • 11 and under - \$2.00

No charge for active military personnel

No charge to visit the gardens or to browse the gift shop

DAYS AND HOURS OF OPERATION

May 9th - Oct. 21st seven days per week, 9am to 5pm - last tour 4pm

Oct. 22nd to May 8th - call for days and hours

111 North Central Avenue, North Wildwood NJ 08260
609-522-4520 • HEREFORDLIGHTHOUSE.ORG

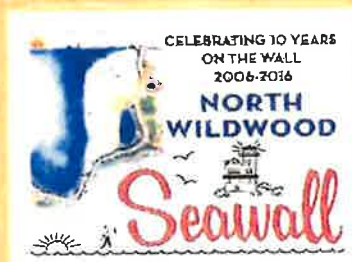


North Wildwood City Attractions



Veterans Monument

North Wildwood Veterans Monument is located at the corner of Spruce and New York Avenues in North Wildwood. There, visitors can honor those who have fallen in the line of duty and pray for those currently fighting overseas.



North Wildwood Seawall

The seawall was completed in 2006 and has not only protected the North end of the City during hurricanes and Nor'easters, but also functions as a walking and jogging facility, a popular fishing spot, and a place where residents and visitors can enjoy the wonderful views of Hereford Inlet. Since its completion, the City has added more access ramps and widened one section to make it safer. Due to safety concerns, no self-propelled devices, such as bicycles, skateboards, rollerskates, and the like, are permitted on the seawall. Beginning at 2nd & John F. Kennedy Beach Drive, the seawall runs in a northwesterly direction for 1.1 miles to the Anglesea Beach Colony. The seawall is known far and wide as a great place to exercise, fish or just relax, all year-round.



NORTH WILDWOOD RECREATION & TOURISM FACILITIES

Recreation Department Phone 609-522-2955



NORTH WILDWOOD COMMUNITY CENTER

Location: 900 Central Avenue

Amenities:

- Gymnasium
- Fitness Room
- Locker Rooms
- Meeting Rooms
- Game Room
- Kitchen
- Multipurpose Room
- Weight Room
- Offices

TOURISM INFORMATION OFFICE

Phone: 609-522-7722 or **Toll Free:** 800-882-7787

Location: 22nd & Boardwalk - Open May Thru September

Call for Specific Hours (609-522-7722)

Location: 900 Central Avenue - Open Year Round

PARK LOCATIONS & AMENITIES



ALBERT I. ALLEN MEMORIAL PARK

**Renovated in 2015 & 2016*

Location: 2200 Delaware Avenue

Amenities:

- Playground Equipment
- Shuffleboard Courts
- 6 Lighted Basketball Courts
- Lighted Street/Roller Hockey Rink
- Multipurpose Athletic Field
- Observation Pier
- 3 Tennis Courts
- 2 Private Practice Tennis Wall Areas
- Skate Park
- Restrooms
- Gazebo
- Picnic Areas



NORTH WILDWOOD RECREATION & TOURISM FACILITIES

BAYFRONT PARK

Location: 5th Avenue and the Bay

Personal Watercraft Seasonal Launch Fees

\$10.00 Per Launch at Kiosk

\$100.00 Yearly Permit Purchased Up To June 1st

\$150.00 Yearly Permit Purchased After June 1st

KAYAK STORAGE PERMITS

Seasonal Permit (April 1st - October 1st) Cost: \$75

Monthly Permit Cost: \$35

**Personal Watercraft and Kayak Storage Permits are sold at
the North Wildwood Recreation Center**

Location: 900 Central Avenue

Phone: 609-522-2955 for more info.

Amenities:

- | | |
|----------------|-----------------------|
| 2 Launch Ramps | Viewing Areas |
| Picnic Areas | Vending Machines |
| Restrooms | Fish Cleaning Station |



BILL HENFEY PARK

Location: 8th and Central Avenues

Amenities:

- | | |
|-----------------------------|----------------------|
| Softball Field | Playground Equipment |
| Basketball Court | Restrooms |
| Multipurpose Athletic Field | Gazebo |

OAK AVENUE PARK

Location: Oak Avenue (Anglesea Section in N. Wildwood)



PLAYGROUND ON THE BEACH

Location: 16th and the Beach in North Wildwood

RECREATION PROGRAMS

OPEN RECREATION

Children in grades 1st-6th, 7th-12th, and Adults

All participants must be registered and receive a membership card before attending the program.

Please check northwildwood.com Recreation Department monthly calendars for schedule times.

TOT TIME

Tuesdays & Thursdays 10:00am – 12:00pm

October through April.

Parent supervised playgroup for children up to 5 yrs.

Held at North Wildwood Recreation Center.

EXERCISE CLASSES

A variety of fitness classes are offered throughout the year.

Please call Recreation Center for class schedule.

Fall/Winter/Spring classes are held at Recreation Center.

Location: 900 Central Avenue.

Summer Classes are held at the Lou Booth Amphitheater.

Location: 2nd & Ocean Avenue.

Visit northwildwood.com or call 609-522-2955

for class schedule.

SCRABBLE

Mondays 6:30-9:00pm

Play the world's best loved word game Open to **Adults only.**

No Fee

S C R A B B L E

FALL MEN'S FLAG FOOTBALL LEAGUE

League begins in October and plays on

Sunday mornings.

Location: Bill Henfey Park.

Mandatory Captain's Meeting

Date: August 17th @ 6pm Team Registration Only

Cost Per Team \$1,200



RECREATION PROGRAMS & CAMPS

SUMMER BASKETBALL LEAGUES

Kindergarten - 2nd Grade League Plays Thurs. Evenings

Scheduled to begin 7/14

3rd-5th Grade League - Plays Mon. & Fri. Evenings

Scheduled to begin 7/1

6th-8th Grade League - Plays Mon. & Fri. Evenings

Scheduled to begin 7/1

High School Boys League - Plays Tues. & Thurs. Evenings

Scheduled to begin 7/5

Player Skill Evaluations will be held June 27th & 28th

Cost Per Player is \$30

Adult Men's League - Plays Sun. & Wed. Evenings

Mandatory Captains Meeting Date: June 8th @ 6pm

Team Registration Only, Must provide own sponsor

Cost Per Team \$800

FALL STREET AND ROLLER HOCKEY LEAGUES

North Wildwood Whalers Hockey Divisions

2nd-4th Grades • 5th-8th Grades • High School

Location: George D'Amico Hockey Rink • **Cost Per Player is \$60**

Registration opens in August

BUCKETS BASKETBALL CLINIC

Begins Saturday, January 7th, 2017

Boys and Girls Grades Kindergarten-2nd

Saturday Mornings 9am-10am; 6 sessions

Cost \$10.00 for all 6 sessions

Location: 900 Central Avenue, North Wildwood



2016 CAMPS



For Camp Information

Contact the Recreation Department

Phone: 609-522-2955 • **NORTHWILDWOOD.COM**

PLAY-WELL TECHNOLOGIES

***NEW 2016 - 2 Sessions Being Offered!**

Lego Inspired Engineering Camp for Children

June 27th - July 1st & August 8th - 12th

Cost \$145 per person /Ages 5-6 /9am-12pm

Cost \$145 per person /Ages 7-11 /1pm-4pm



2016 CAMP INFORMATION

BUCKETS BASKETBALL CAMP



July 4th-8th
9am-2pm
Ages 9-15

July 18th-22nd
9am-1pm
Ages 6-9

August 1st-5th
9am-2pm
Ages 9-15

Weeks 1 & 3: \$155 • Week 2: \$145

NORTH WILDWOOD SOCCER CAMP

July 11th-15th • July 25th-29th
Ages 5-16

Full Day \$190 / Ages 8-16 / 9am-3pm

Half Day \$150 / Ages 5-8 / 9am-12pm

DEAN RANDAZZO SURF SCHOOL

2nd Avenue Beach

Monday through Friday (*Begins June 20th*)

10am-1pm / Ages 5-16

5 Day Camp \$350 3 Day Camp \$250 1 Day Camp \$100

Group Lessons: \$60, 75 minutes

Private Lessons: \$75, 75 minutes

KITCHEN WIZARDS COOKING CAMP

July 11th-14th

Eat Like the Olympians

July 25th - 28th

Cupcake, Cookies, Candy Oh My

August 8th - 11th

Eat Like the Presidents

Cost \$155 / Boys & Girls Ages 6 & Up / 5:30pm-7:30pm

SCIENCE EXPLORERS

August 15th - August 19th

Junior Explorers / Ages 4-6 / 9am-12pm

Take a Dive / Ages 7-11 / 12:30pm-3:30pm

Cost \$245 per session



- | | |
|---------------------------|---------------|
| INFORMATION CENTER | BEACH PATROL |
| VETERANS MONUMENT | SURF BEACHES |
| SCENIC OVERLOOKS | BOAT RAMP |
| CONCERT VENUES | FIRE HOUSE |
| PUBLIC RESTROOMS | MARINE POLICE |
| PUBLIC PARKING | PUBLIC WORKS |
| POLICE STATIONS | DOG PARK |
| HEREFORD INLET LIGHTHOUSE | SEA WALL |
| HANDICAPPED BEACH ACCESS | BIKE PATH |
| TRASH & RECYCLING CENTER | |
| RECREATIONAL FACILITIES | |
| ENTERTAINMENT DISTRICT | |



2016 SCHEDULE of EVENTS

FEBRUARY

25th **Fallen Hero Polar Plunge** **2017 Upcoming Event*

Location: 15th & Beach, North Wildwood; 11am

fallenheroplunge.com | 215-990-8689

MARCH

12th **St. Patrick's Day Celebration & Parade**

Location: 10th & Atlantic Avenues (City Hall steps),
North Wildwood, Ceremony 11:30am; Parade 12noon

northwildwood.com | 609-522-2955



(Photo by George Capua)

19th **Greek Independence Day Celebration**

Location: 9th & Central Avenues, North Wildwood; 12noon

609-602-0056

20th **Ocean Drive Marathon and 10 Mile Race**

Location: Cape May to Sea Isle City;

10-Miler: Cape May to North Wildwood; 9am Start

odmarathon.org | 609-523-0880

26th **Elks Easter Egg Hunt**

Location: 19th Ave & Beach, North Wildwood;

Kids 11& Under; 12noon

elks1896.org | 609-729-5776

27th **Easter "Son" Rise Services**

Location: Lighthouse Gazebo, 1st & Central Avenue,
North Wildwood; 6:45am

fbcanglesea.com | 609-522-2951

27th **Ed's Funcade Easter Sunday Egg Hunt**

Location: 23rd Avenue on the Boardwalk, North Wildwood;

12noon-1:30pm | edsfuncade.com | 609-729-3223



2016 SCHEDULE of EVENTS Cont'd.

APRIL

9th - 10th Special Olympics NJ Spring Sports Festival

Basketball Competition

Location: 9th & Central Avenues, North Wildwood and various locations in the Wildwoods, Sat. 10am-6pm; Sun. 9am-4pm | sonj.org | 609-896-8000

23rd Chrissy Tolomeo Memorial Walk

Location: Start at 15th & Beach, North Wildwood; Sign-In 9am, Start 10am | 609-602-3456

MAY

5th - 8th Spring Boardwalk Classic Car Show

Location: various locations, Thurs. 12-9pm, Fri. & Sat 8:30am-3pm, Sun. 9-11am
wildwoodmotorevents.com | 609-522-3644

6th - 8th Coast Guard Community Festival

Location: Saturday Festival at Training Center Cape May; other events listed on website
coastguardcommunity.org | 609-429-0667

14th - 15th The Wild Half Race Series 1/2 Marathon 8K & 5K

Location: Wildwoods Convention Center,
wildhalf.com | 609-846-1621

14th Captain Kidd Pirate Day Costume Parade check-in & judging 10am - 10:45 am at 26th & Boardwalk; Parade 11am
Treasure Hunt following parade at 19th & Beach, North Wildwood | northwildwood.com | 609-522-2955



(Photo by Nicole Dever)



2016 SCHEDULE of EVENTS Cont'd.

MAY

20th - 22nd Spring Beach Jam Scouting Adventure

Location: Beach camping between 18th & 22nd Aves., North Wildwood plus amusements on Morey's Piers;
Friday 10am - Sunday - 5pm
moreyspiers.com | 609-729-3700 ext.1195

21st- 22nd National MS Society "Coast to Coast" Bike Tour

Location: Bike tour throughout the Wildwoods | 732-660-1005
main.nationalmssociety.org

30th VFW Memorial Day Ceremony

Location: North Wildwood Veterans Memorial,
Spruce & New York Avenues, North Wildwood 10am
northwildwood.com | 609-729-5832

JUNE

4th New Jersey State Elks Parade

Location: 25th & Atlantic Avenues, North Wildwood, proceeds South on Atlantic Avenue to Andrews Avenue in Wildwood; 12noon; Reviewing Stand - Memory Lane, Atlantic & Montgomery Avenues in Wildwood | njelks.org | 609-585-3215

NEW EVENT

10th-11th New Years In North Wildwood *(Rain date - June 12th)*

Top Philly Mummers Brigades and String Bands recreate New Years Day with a Parade and festivities

Location: Olde New Jersey Avenue, North Wildwood,
northwildwood.com | 609-522-2955

11th American Legion Parade

Location: 18th & Atlantic Avenues, North Wildwood, proceeds South on Atlantic Avenue to Bennett Avenue in Wildwood; 2:00pm; Reviewing Stand - American Legion Post 184, Atlantic & Baker Avenues, Wildwood njamericanlegion.org | 609-695-5418

14th American Flag Day Ceremony

Location: North Wildwood Veterans Monument, Spruce & New York Avenues, North Wildwood, 10am | 609-729-5832

18th ALS Express Bike Ride

Location: 4 start points, 7am-3pm | als-express.org | 215-643-5434



2016 SCHEDULE of EVENTS Cont'd.

JUNE

18th - 19th Hereford Inlet Lighthouse Maritime Festival

Location: Hereford Inlet Lighthouse, 1st & Central Avenues, North Wildwood, Sat. 10am - 5pm; Sun. 10am - 4pm
herefordlighthousefestivals.org | 609-522-4520

18th NJ Veterans of Foreign Wars Parade

Location: 21st & Atlantic Avenues, North Wildwood, proceeds south on Atlantic Avenue to Andrews Avenue in Wildwood; 1:30pm; Reviewing Stand - American Legion Post 184, Atlantic & Baker Avenues, Wildwood | njvfw.com | 609-393-1929

24th - 26th North Wildwood Italian American Festival

Location: Olde New Jersey Avenue, North Wildwood, Fri. 4pm - 11pm; Sat. 10am - 11pm, Sun. 10am - 6pm
kofc2572.org. | 609-408-5793



(Photo by Ann Devlin)

JULY

4th Independence Day Family Parade

Location: 9th & Atlantic Avenues, North Wildwood
Registration 8:15am, 9am start | northwildwood.com | 609-522-2955

4th Pooch Parade

Location: 8th & Atlantic Avenues, North Wildwood
Registration 8:15am, 9am start | northwildwood.com | 609-374-0562



2016 SCHEDULE of EVENTS Cont'd.

JULY

8th -10th NJ State BBQ Championship & Anglesea Blues Festival

Location: Olde New Jersey Avenue, North Wildwood,
Fri. 4pm -11pm; Sat. 10 am -11 pm; Sun. 10am - 6pm
angleseablues.com | njbbq.com | 609-523-6565

9th Sidewalk Chalk Competition

Location: 8th & Central Avenues, North Wildwood, Competition
begins at 9am; Judging begins at 10:45am; Awards 11am
northwildwood.com | 609-522-2955



(Photo by Ann Devlin)

9th Alexander's Little Run That Could 5k Run/Walk

Location: 15th Avenue Beach , North Wildwood,
Pre Registration: 8am; 5k Beach Run/Walk: 8:30am
littlerunthatcould.org

13th -14th Miss North Wildwood Competition

Interviews Wed 10am - North End American Grill;
Crowning Thurs. 6:30pm - Lou Booth Amphitheater
Location: 2nd & Ocean Avenues, North Wildwood
northwildwood.com | 609-522-2955

15th Beschen-Callahan Memorial Lifeguard Races

Location: 15th Avenue Beach, North Wildwood, 6pm
northwildwood.com | 609-522-7500

16th Boogie Board Races

Location: 15th Avenue Beach, North Wildwood
Registration 9am; Contest 10am
northwildwood.com | 609-522-2955



2016 SCHEDULE of EVENTS Cont'd.

JULY

16th Mid Atlantic Police/Fire Survivors 5k Race & 1 Mile Walk

Location: 1st & Olde New Jersey Avenue, North Wildwood,
Registration 7:45am; Race 9am
facebook.com/NorthWildwoodPD | 609-522-2030 X 1503



(Photo by John Harkins)

21st Anglesea Nightmarket and Mobile Food Night

Location: Olde New Jersey Avenue, North Wildwood 4pm - 9pm
angleseanightmarket.com | 609-318-4504

23rd Christmas in July

Location: Along the beach in North Wildwood, 1pm
northwildwood.com | 609-522-7500

23rd Antique Car Show

Location: between 16th - 26th Avenues on the boardwalk,
North Wildwood, 10:30am-3pm | 609-522-6442

AUGUST

2nd National Night Out

Location: Bill Henfey Park, 8th & Central Avenues,
North Wildwood, 5:30pm-10pm
nwpd.org | 609-522-2030 X 1503



(Photo by Ann Devlin)



2016 SCHEDULE of EVENTS Cont'd.

AUGUST

3rd Wildwoods Baby Parade (Rain Date - August 4th)

Location: WW Convention Center to 16th Ave. on Boardwalk,
5pm Registration; 6pm Parade Step-off
wildwoodsnj.com | 609-729-4000

7th National Lighthouse Day

Location: Hereford Inlet Lighthouse, 1st & Central Avenues,
North Wildwood, 9am-5pm
herefordlighthouse.org | 609-522-4520

14th 42nd Annual North Wildwood Flea Market

Location: JFK Blvd. from 2nd-13th Avenues, North Wildwood,
8am-4pm | 609-408-6819

16th Around the Island Row

Location: 15th Avenue Beach, North Wildwood, 7:30am
northwildwood.com | 609-522-7500

NEW EVENT

18th Anglesea Nightmarket and Mobile Food Night

Location: Olde New Jersey Avenue, North Wildwood 4pm - 9pm
angleseanightmarket.com | 609-318-4504

26th 13th Annual Tri the Wildwoods Triathlon Health & Wellness Expo

Location: North Wildwood Recreation Center, 900 Central
Avenue, North Wildwood, 10am-6pm
delmosports.com/wildwood-jersey-shore-triathlon
609-849-8908

27th 13th Annual Tri the Wildwoods Triathlon, 5K & Kids Race

Location: 15th Avenue Beach, North Wildwood, 6:30am
delmosports.com/wildwood-jersey-shore-triathlon | 609-849-8908

SEPTEMBER

NEW EVENT

9th - 10th Waves and Wheels Festival

Location: Olde New Jersey Avenue, North Wildwood
Fri. 3pm - 10pm; Sat. 10am - 10pm
wavesandwheelsfest.com | 609-770-8839



2016 SCHEDULE of EVENTS Cont'd.

SEPTEMBER

9th-11th North Wildwood Rec. Dept. Surf Fishing Tournament

Location: 3rd and JFK Blvd., North Wildwood,
Fri. & Sat. 7am - 5pm, Sun. 7am - 11am
northwildwood.com | 609-522-2955

11th September 11th Commemoration

Location: 15th & Central Avenues, North Wildwood, 8:40am
northwildwood.com | 609-522-2955



(Photo by Ann Devlin)

16th-18th Fall Beach Jam Scouting Adventure

Location: Beach camping between 18th & 22nd Aves., North
Wildwood plus amusements on Morey's Piers;
Friday 10 am - Sunday 5pm
moreyspiers.com | 609-729-3700 ext. 1195

16th-17th Boots at the Beach Country Festival

Location: Olde New Jersey & Chestnut Avenues,
North Wildwood, Fri. 3pm - 10pm, Sat. 10am - 10pm
bootsatthebeach.com | 609-770-8839



(Photo by Jen Marra courtesy of the Wildwood Leader)



2016 SCHEDULE of EVENTS Cont'd.

SEPTEMBER

17th NJ State Firemen's Parade

Location: Cresse & New Jersey Avenues in Wildwood Crest, proceeds north to 20th Avenue in North Wildwood; 2pm
njfireexpo.com | 856-433-0386

22nd - 25th Irish Fall Festival

Location: Olde New Jersey Avenue & surrounding pubs, North Wildwood, Friday 8am-8:30pm, Saturday 8am -10:30 pm, Sunday 8am-7pm
cmcaoh.com | 609-729-0075

22nd - 25th Fall Boardwalk Classic Car Show

Location: Various locations, Thurs. 12-9pm, Fri. & Sat. 8:30am-3pm, Sun. 9-11am
wildwoodmotorevents.com | 609-522-3644

30th - 1st Mid-Atlantic Police & Fire Survivors Weekend

Location: Various locations throughout North Wildwood; for event listings go to facebook.com/NorthWildwoodPD
609-522-2030 X 1503

OCTOBER

1st Ed's Funcade Boardwalk Treasure Hunt

Location: 23rd Avenue on the Boardwalk, North Wildwood, 12 noon-2pm | edsfuncade.com | 609-729-3223

8th 62nd Annual Pennsauken Surf Fishing Tournament

Registration – Anglesea Firehouse, 6am
Location: 2nd & New Jersey Avenues, North Wildwood
Surf Fishing 7:30-1pm | asaonline.org | 856-231-9110

15th Great Fall Classic Fishing Tournament

Registration – Anglesea Firehouse, 5am
Location: 2nd & New Jersey Avenues, North Wildwood
Surf Fishing 6am-2pm | njbba.org | 856-228-2642

15th - 16th Lighthouse Challenge of New Jersey

Location: Hereford Inlet Lighthouse, 1st & Central Avenues, North Wildwood, 8am-6pm
lighthousechallengenj.org | 609-522-4520



2016 SCHEDULE of EVENTS Cont'd.

OCTOBER

22nd 9th Annual Pumpkin Run

Registration – 8am, | Race 10am

Location: Wildwoods Convention Center on Boardwalk to 21st Avenue and return to Wildwoods Convention Center, Wildwood
boardwalkpumpkinrun.com | 609-849-8887

31st 8th Annual Halloween Trunk or Treat Block Party

Location: Olde New Jersey Avenue, North Wildwood,
Vehicle check-in 5pm, Event 5:30-7pm
northwildwood.com | 609-522-2955



(Photo by Ann Devlin)

31st Greater Wildwood Elks Halloween Haunted House

Greater Wildwood Elks Lodge

Location: 1st & New Jersey Avenues, North Wildwood,
5pm-8pm | 609-729-2170

NOVEMBER

5th Elk's Hoop Shoot

Location: North Wildwood Rec Center, 900 Central Avenue,
North Wildwood,
Registration 12pm-1pm; Contest begins at 1pm
609-729-2170

11th Veteran's Day Services

Location: North Wildwood Veterans Memorial, Spruce &
New York Avenues, North Wildwood 10am | 609-729-5832



2016 SCHEDULE of EVENTS Cont'd.

DECEMBER

2th Hereford Inlet Lighthouse Christmas Tree Lighting

Location: Hereford Inlet Lighthouse Courtyard 1st & Central Avenues, North Wildwood, 5:30pm
herefordlighthouse.org | 609-522-4520

7th Pearl Harbor Remembrance Day

Location: St. Demetrios Church, 321 St. Demetrios Avenue, North Wildwood, 12 noon | northwildwood.com | 609-729-5832

9th Greater Wildwood Jaycees Christmas Parade

(Rain Date - December 11th)

Location: Begins at 15th & Central Avenues, North Wildwood proceeds south through Wildwood and Wildwood Crest,

Participant Registration 5pm-5:30pm; Parade begins 6pm
wildwoodholiday.com | 609-729-5501



(Photo by Jen Marra courtesy of The Wildwood Leader)



FIRE DEPARTMENT FIRE PREVENTION BUREAU

Fire Chief: Chief Jeffrey B. Cole, Sr.

Email: firechief@northwildwood.com

Deputy Fire Chief: Dominick McClain

Phone: (609) 522-5743 • **Fax:** (609) 729-0722

Location: 400 New Jersey Avenue

Administration Hours: 9am – 4pm Monday thru Friday

Fire and Housing Official: Lewis Ostrander

Email: lostrander@northwildwood.com

Location: 400B New Jersey Avenue

Phone: (609) 522-2160 • **Fax:** (609) 522-1952

Hours: Monday thru Friday, 8:30am – 4:00pm

Administrative Staff: Kathy Mandell ext. 6100

POLICE DEPARTMENT

Police Chief: Chief Matthew T. Gallagher, CPM

Email: mgallagher@nwpd.org • **Website:** nwpd.org



Phone: (609) 522-2030 ext.1503 • **Fax:** (609) 522-2531

Location: 901 Atlantic Avenue (*behind City Hall*)

Administrative Staff: Captain Tolan, CPM,

Captain Stevenson, CPM & Lieutenant Etsell

Dispatch Center: (609) 522-2411



NORTH WILDWOOD COMMUNITY MEETING

Meets on the second Tuesday of each month, from September to June, at 7:00pm at the North Wildwood Community Center, 900 Central Avenue. The Public is invited

OFFICE OF EMERGENCY MANAGEMENT (OEM)

Emergency Management Coordinator:

Chief Robert Matteucci (Ret.)

Deputy Emergency Management Coordinators:

**Michael Dowling, Thomas Fox, Gary Sloan
and Dominick McClain**

Location: 400C New Jersey Ave.

Phone: (609) 522-0191 • **Fax:** (609) 522-0120

Website: ready.northwildwood.com

Tide schedules and other useful information is available via links on the OEM Website at ready.northwildwood.com



DEPARTMENT OF PUBLIC WORKS

Director of Public Works: Gary Sloan

Email: gsloan@northwildwood.com

Phone: (609) 522-4646 • **Fax:** (609) 522-1141

Location: 511 West Oak Avenue

Office Hours: Mon thru Friday 7am to 2:30pm

After Hour Emergencies: Contact the North Wildwood
Police Department at (609) 522-2411

RECREATION & TOURISM DEPT.

Superintendent of Recreation: Rick Haas, R.S.   

Email: rhaas@northwildwood.com

Assistant Superintendent of Rec. & Director of Tourism:

Steve DeHorsey, Jr, C.P.M., R.A.

Email: sdehorsey@northwildwood.com

Phone: (609) 522-2955 • **Fax:** (609) 522-0402

Location: 900 Central Avenue

Recreation Program Coordinator: Liz Golden

Email: lgolden@northwildwood.com

Office Manager: Ann Devlin

Email: adevlin@northwildwood.com

OFFICE OF CITY CLERK

City Clerk & Registrar of Vital Statistics:

W. Scott Jett, RMC, CMR ext.1400

Email: sjett@northwildwood.com

Phone: (609) 522-2030

Location: City Hall 1st floor

Deputy City Clerk & Deputy Registrar:

Jennifer VanSant, RMC, CMR ext.1410

Email: jvansant@northwildwood.com

Senior Clerk & Alternate Deputy Registrar:

Diane McCullion ext.1460

CITY ADMINISTRATOR

City Administrator: Kevin Yecco

Email: kyecco@northwildwood.com

Phone: (609) 522-6464 • **Fax:** (609) 523-8502



Location: City Hall 2nd floor

BUILDINGS, PARKS & GROUNDS DEPT.

Superintendent: Doug Ford

Email: dford@northwildwood.com

Phone: (609) 522-1638 • **Fax:** (609) 522-1141

Office Location: 513 W. Oak Avenue

Department Hours: Monday thru Friday 7:00am – 3:00pm

TREASURER'S & TAX COLLECTOR OFFICE

Treasurer & Tax Collector: Todd N. Burkey, CFO, CTC

Email: tburkey@northwildwood.com

Phone: (609) 522-2030 • **Fax:** (609) 523-8502

Location: City Hall 1st Floor

Business Hours: Monday thru Friday, 8:30am – 4:30pm

Assistant to the Treasurer: Nic Long ext.1240

Email: nlong@northwildwood.com

Assistant to the Collector: Cheryl Guarinello ext.1330

Email: cguarinello@northwildwood.com

Finance Clerk: Jeanette Axelsson ext. 1245

Email: jaxelsson@northwildwood.com

Principal Payroll Supervisor, HR: Barbara Boyle ext.1230

Email: bboyle@northwildwood.com

NORTH WILDWOOD MUNICIPAL COURT

Municipal Judge: Louis J. Belasco, Jr., PJMC

Court Administrator: Angela Flynn, C.M.C.A.

Deputy Court Administrator: Theresa Viall, C.D.M.C.A.

Phone: (609) 729-3818 • **Fax:** (609) 729-6392

Location: 901 Atlantic Avenue, (Behind City Hall)

Business Hours: Monday – Friday 9:00AM to 4:00PM

(Excluding Holidays)

Court Sessions: Summer – Tuesdays at 10:00AM, 1:00PM, 2:00PM, 3:00PM

Winter – Tuesdays at 1:00PM, 2:00PM and 3:00PM

For ONLINE payments go to: NJMCDIRECT.COM



OFFICE OF THE TAX ASSESSOR

Tax Assessor: Jason Hesley

Email: jhesley@northwildwood.com

Tax Assessor Clerk: Patricia Bowman ext. 1340

Email: pbowman@northwildwood.com

Phone: (609) 522-2030 • **Fax:** (609) 846-9995

Location: City Hall 2nd Floor

Business Hours: 8:30am – 4:30pm, Monday thru Friday

CONSTRUCTION, LAND USE BOARD

Construction Official: Patrick Malia

Email: pmalia@northwildwood.com

Asst. to the Construction Official: Maureen Olney ext.1560

Phone: (609) 522-2030 • **Fax:** (609) 846-9995

Location: City Hall 2nd Floor

LAND USE BOARD

Board Secretary/Admin. Officer: Eric Gundrum ext.1280

Zoning Officer: Larry Booy ext.1270

Meeting: 2nd Wednesday of every Month, 6:30pm
(Council Chambers, Courts, Public Meeting Room)

BEACH PATROL

Beach Patrol Chief: Tony Cavalier



Email: tcavalier@northwildwood.com

Phone: (609) 522-7500 • **Fax:** (609) 522-6531

Location: 15th Avenue and the Beach



(Photo by Yary Photography)



TRASH & RECYCLING SCHEDULE

WINTER SCHEDULE 10/01/16 THROUGH 5/28/17

WINTER TRASH SCHEDULE

Anglesea – 8th Ave (Monday)
9th Ave – 17th Ave (Tuesday)
18th Ave – 26th Ave (Wednesday)

WINTER RECYCLING SCHEDULE



Anglesea – 10th Ave (Thursday)
11th Avenue – 26th Ave (Friday)



SUMMER SCHEDULE

5/30/16 THROUGH 9/30/16

**TRASH AND RECYCLING
WILL BE COLLECTED 2 DAYS A WEEK**

Anglesea – 8th Ave (Monday and Thursday)
9th Ave – 17th Ave (Tuesday and Friday)
18th Ave – 26th Ave (Wednesday and Saturday)

CONVENIENCE CENTER

512 WEST OAK AVENUE

Open Tuesday through Friday 10 a.m. to 2 p.m.
Saturday, Sunday, and Monday 8 a.m. to 4 p.m.

****ONLY HOUSEHOLD TRASH & RECYCLABLES
WILL BE ACCEPTED**

****DO NOT LEAVE TRASH AFTER CLOSING**
Violators will be prosecuted

BULK TRASH

One (1) bulk item may be put out for collection on
each scheduled trash day.

1 piece of furniture, or 1 room's worth of carpet, rolled
and bound not more than 4' long,
or 1 set of box spring and mattress

QUESTIONS? Call the Department of Public Works at
609-522-4646 or visit northwildwood.com



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SPRING WATER

Vortex Takes Sand Out to Sea

By DEBORAH MCGUIRE

NORTH WILDWOOD
— A small section of beach at the city's furthestmost northern end collapsed after weather conditions created the perfect storm to allow sand to be washed out to sea the evening of Sept. 19.

"There's a vortex that's created in our inlet," said Mayor William Henfey. "We have competing inlets coming out of Henfey Inlet and it's causing a whirlpool effect there."



Robert Newkirk

Due to the recent northeast winds and new moon, the whirlpool started to spin and eroded the beach.

"It's going to level off," said Henfey who had been in close communication with Dr. Stewart Farrell, Director of Coastal Studies at the Coastal Research Center at Stockton College.

The mayor said the

There were no injuries or damage to property, said the mayor.

Henfey said the area is one that can be considered as alive. "The sand grows, the sand goes away, the sand grows, the sand goes away. It's all part of Mother Nature back in the area back there."

Mid-Atlantic Police, Fire Survivors Weekend Set

NORTH WILDWOOD
— The Mid-Atlantic Law Enforcement Survivor Weekend will join with

The Cape May County Police & Fire Emerald Society to welcome the Survivor Groups of the Mid-Atlantic Region to North Wildwood, in support of the survivors of those police and fire personnel who lost their life in service of others.

The Mid-Atlantic Police & Fire Survivor's Weekend is unique in that it is currently the only event that focuses on the survivor. For the most part the weekend is a serious, somber event highlighted by the survivors support for one another, friendship and camaraderie by those in attendance.

It is also a place that the public can show their support for current emer-

Fri., Sept. 28, 5 p.m. Delivery of the Ceremonial Wreath by members of the Philadelphia Police Boat Teams arriving at the Municipal Boat Ramp at Fifth and New York avenues 6-9 p.m. Police and Fire Public Mingle. Keenan's Tikj Bar, Chestnut and Old New Jersey avenues, \$10 door charge

Sat., Sept. 29, 4:30 - 6:30 p.m. - Display and Demonstration, New Jersey State Police Helicopter, K-9, TEAMS Unit, Fire & Rescue Equipment At Second & Surf

7 p.m., Candlelight Vigil at the Municipal Oceanfront Amphitheater at Second and Ocean avenues, including a Solemn Procession and Wreath Laying

Celebrate a Loved One's Birthday Anniversary or Other Special Event

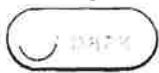
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On Feb 29, 2016, at 5:06 PM, Lou DiJoseph <hilltop55@comcast.net> wrote:

Counsel, I interviewed **Harry Wozunk III** today. He is the former North Wildwood Director of Public Works. He was asked to leave North Wildwood or be terminated in December 2015 and did not provide a reason. He currently holds the same position in the Borough of Runnemede, Camden County NJ. Wozunk has not spoken to anyone regarding the Smith drowning and is not represented by counsel. Wozunk was a good interview and he doesn't come off as a bitter former employee. Wozunk recalled the Smith drowning and the remedial actions that followed. He also knew of Dr. Farrell and the "Vortex" and said the outgoing tides coming off the rock jetty near Moores Beach once caused a 12' deep "shelf" collapse at the beach near the rock wall steps. He was required to have his men with machinery repair and knock down the cliff so it wouldn't be dangerous to patrons. This occurred in early summer 2010 a few years prior to Brad Smith drowning. He also said a older white male who lives directly across from the rock wall steps told him that he saw the "vortex" prior to the beach collapse and visually described it as "boiling water". Wozunk believes the area of Inlet Beach is dangerous and recalls discussions with now deceased Mayor Henfey who called the area of Inlet/Moore's Beach an "Attractive Nuisance". Henfey told Wozunk that the Moore's Beach and Inlet Beach was NJ State Property. Wozunk also recalls conversations between himself, the State of NJ Fish & Game Agents, Mayor Henfey and former City Administrator Lasko regarding closing the Inlet Beach area. Wozunk claims the State of NJ wanted the beach closed when the piping plovers were mating during the summer and they didn't want beach patrons walking near the nesting area or consuming alcoholic beverages. Mayor Henfey told the State of NJ representatives that if they wanted to patrol the beach, then they can send their own Police to do it. Mayor Henfey had everyone convinced that Inlet Beach and Moore's Beach was owned by the State of New Jersey. Wozunk puts the city line of jurisdiction at the rock wall. This doesn't make sense because the Police Officers wouldn't be able to write summonses on state land. They would all have to be deputized as County Sheriff's or State Wildlife agents. I will compile a work product report ASAP. Wozunk said if he is subpoenaed, he will provide a deposition.





FREE PUBLIC RECORDS SEARCH

First Name

Last Name

SEARCH FREE

North Wildwood swimmer still missing in Hereford Inlet

1 image



Staff photo by Michael Miller

Boaters and recreational fishermen returned to Hereford Inlet on Wednesday, a day after a swimmer in distress went missing.

MICHAEL MILLER, Staff Writer | Posted 7 days ago

NORTH WILDWOOD — The search resumed Wednesday for a swimmer who was seen in distress in Hereford Inlet near Seaview Court early Tuesday morning.

State Marine Police patrolled a wide area around the inlet as recreational fishermen and boaters resumed summer activities.

Police still have not identified the missing man, described as a white man around 40 years old. No family, friends or co-workers have reported him missing, police said.

Police do not know where the man entered the water, but he was last seen in a deep channel off Seaview Court, which has no beach but a rock seawall.

Meanwhile, the widow of a man who drowned off Hereford Inlet in 2012 said North Wildwood should close the inlet beach to the public altogether.

Brad Smith was walking in shallow water on an unguarded beach with his daughter and his friend's family when they slipped into deep water on the sharply sloped beach.

Smith was able to save his daughter, but drowned in the vicinity of Tuesday's presumed victim.

His wife, Sandra Smith, of Horsham, Pennsylvania, is suing North Wildwood for negligence in the accident.

"It is too late for Brad," she said. "But it is not too late for North Wildwood officials to do the right thing and close that beach and close it now."

As with today, the beach was posted with "no swimming" warnings. But the signs were not near the water's edge where her family was taking an evening stroll, she said. And her family never imagined walking at the water's edge could pose any danger, she said.

"They all decided to go for a walk. Then we'd pack up and go to dinner," she said.

A short time later, she reunited with her children in the back of an ambulance. Her late husband was recovered days later.

"They were not even in knee-high water. They were up to their ankles," she said.

The sharply sloped beach took her family by surprise with tragic consequences. She said she wants the beach closed to other beachgoers prevent a similar tragedy.

"I can't have this happen to anyone else, to another family, knowing what I know," she said.

North Wildwood Mayor Patrick Rosenello said closing the inlet beach to beachgoers would send the wrong message to the public when all unguarded beaches can be dangerous.

"There's no gray area. If there is not a lifeguard on duty, you should not be in the ocean," he said. "It's such a dynamic environment. To say you were only so deep — that's not the issue. There is no room for equivocation."

"If you choose to enter the water on an unguarded location, you do so at a grave risk to yourself," he said. "No swimming is no swimming. If there is no lifeguard, you should not be wet. It's very simple."

Rosenello said the common denominator in these tragedies, including perhaps Tuesday's, was that people were in the water without lifeguards to save them.

"In the 100-year history of the North Wildwood Beach Patrol, nobody has died on a guarded beach," he said.

Despite multiple warning signs posted on the inlet beach, some people still swam there

without lifeguards this we...

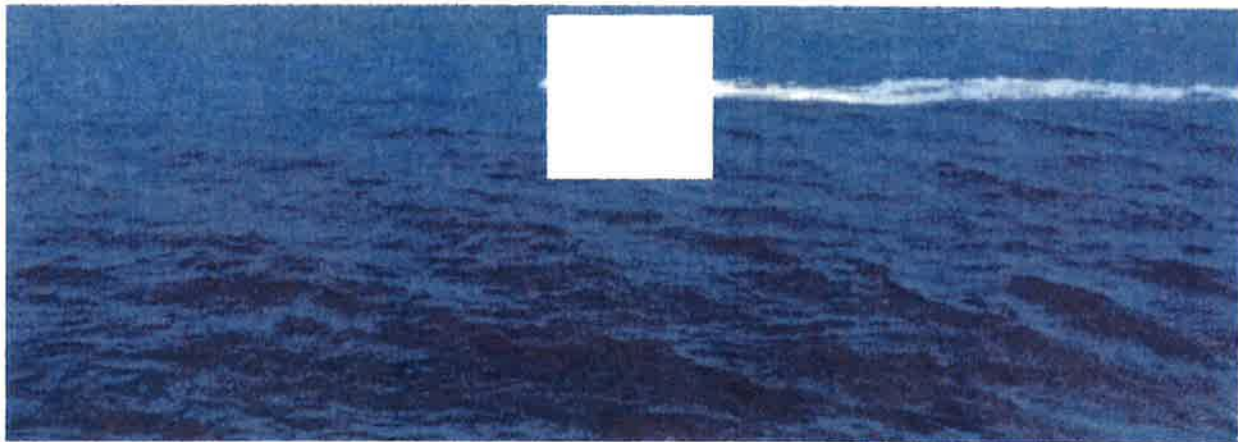
Rosenello said two North Wildwood officers sustained cuts and bruises on the rocks when they dove into the inlet Tuesday to try to save the swimmer.

"We had police officers diving into the inlet to rescue this swimmer, putting themselves at serious, serious risk," he said. "Any attempt to qualify that policy ... does a disservice to public safety."

Contact: 609-463-6712

MMiller@pressofac.com

Twitter @ACPressMiller



2



1 SUPERIOR COURT OF NEW JERSEY
2 LAW DIVISION - CAPE MAY COUNTY
3 DOCKET NO. CPM-L-331-14
4 SANDY SMITH,
5 INDIVIDUALLY AND AS
6 EXECUTRIX OF THE ESTATE
7 OF HER LATE HUSBAND
8 GEORGE BRADLEY SMITH,
9
10 Plaintiff,
11
12 vs.
13
14 CITY OF NORTH WILDWOOD,
15 STATE OF NEW JERSEY,
16 JOHN DOE, MARY DOE, ABC
17 PARTNERSHIPS and XYZ
18 CORPORATIONS,
19
20 Defendants.
21
22
23
24
25
TAKEN BEFORE: LYNN SMITH, a Certified Court
Reporter of the State of New Jersey, License No.
X101520, at the North Wildwood City Hall, 901
Atlantic Avenue, North Wildwood, New Jersey, on
Tuesday, May 17, 2016, commencing at 9:46 a.m.
WORD FOR WORD REPORTING, LLC
CERTIFIED COURT REPORTERS & VIDEOGRAPHERS
6 NORTH BROAD STREET, SUITE 202
WOODBURY, NEW JERSEY 08096
Ph. (856) 384-2770 Fax. (856) 384-2779

WORD FOR WORD REPORTING, LLC

APPEARANCES:

D'AMATO LAW FIRM
2900 Fire Road, Suite 200
Egg Harbor Township, New Jersey 08234
609-926-3300
BY: PAUL R. D'AMATO, ESQUIRE
For the Plaintiffs
BARKER, GELFAND & JAMES
210 New Road
Linwood, New Jersey 08221
(609) 601-8677
BY: WILL ROZELL, ESQUIRE
For the Defendant, North Wildwood
STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF LAW
R.J. Hughes Justice Complex
25 Market Street
Trenton, New Jersey 08625
(609) 777-4872
BY: BRIAN HUNKINS, DAG
For the State of New Jersey
Also present: Lou DiJoseph
Videographer: Tom Zanaras

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INDEX

| WITNESS | PAGE |
|----------------------------|------|
| STEPHEN DeHORSEY, JR. | |
| Examination By Mr. D'Amato | 4 |
| Examination By Mr. Hunkins | 33 |

EXHIBITS

| NUMBER | DESCRIPTION | ID. |
|------------|----------------------------------|-----|
| DeHorsey-1 | Information and recreation guide | 4 |
| DeHorsey-2 | Photographs through DeHorsey-7 | 11 |

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(Information and recreation guide,
received and marked for identification as Exhibit
DeHorsey-1.)
VIDEOGRAPHER: Today is May 17, 2016.
This is the videotaped deposition of Stephen
DeHorsey, Jr. Going on the record, and the time is
9:46 a.m. The appearance of counsel will be noted in
the transcript.
Would the court reporter please swear
in the witness.
STEPHEN DeHORSEY, JR.,
having been first duly sworn, testified as follows:
EXAMINATION
BY MR. D'AMATO:
Q. Steve, my name is Paul D'Amato, and you're
here today for a deposition.
Have you ever gone through this process
before?
A. Yes.
Q. All right. How many times?
A. Once or twice.
Q. And did it relate to your employment with
North Wildwood?
A. Just once.
Q. And that one time, what was the subject

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1 to call that beach that you see in that exhibit.
 2 **A. I've never been there. I would guess it's**
 3 **getting close to the Greek church. I don't know if I**
 4 **would call that a beach.**
 5 **Q.** Okay. Let me hand you Exhibit 5. All right?
 6 Do you see the beach there?
 7 **A. Yes. Isn't that the same picture?**
 8 **Q.** It's a different angle.
 9 **A. Right. Different tide.**
 10 **Q.** Yes. All right. What do you call the beach
 11 that's there?
 12 **A. I guess the beach changes, depending on the**
 13 **tide, if there is a beach, or if there's not a beach.**
 14 **Q.** No, no. What do you call it? Do you call it
 15 Moore's Inlet Beach, do you call it The Inlet Beach,
 16 something else?
 17 **A. Honestly, I've never been there, and never**
 18 **had a reason to call it --**
 19 **Q.** Oh, really?
 20 **A. -- call it anything. Yeah. I've never --**
 21 **the only time I've ever been in this area is walking**
 22 **along the seawall.**
 23 **Q.** Okay. Fine. What we can do now is, you can
 24 turn those photographs over, because I'm finished
 25 asking you questions about them. And I want to take

WORD FOR WORD REPORTING, LLC

you back to the very first exhibit.
 2 **A. These, too, or this?**
 3 **Q.** Yeah. I'm going to ask you about the one you
 4 said this. Okay?
 5 **A. Okay.**
 6 **Q.** We're not going to do the photographs
 7 anymore.
 8 **A. Okay.**
 9 **Q.** Okay? The activities on the beaches of North
 10 Wildwood that you have had involvement with during
 11 the summer season, before July of 2012, would have
 12 been what type of activities?
 13 **A. What do you mean by an activity? An event,**
 14 **or --**
 15 **Q.** An event, an event.
 16 **A. Before 2012?**
 17 **Q.** Before July of 2012.
 18 **A. Before July of 2012? I've been part of our**
 19 **boogie board races, the city centennial, our surf**
 20 **fishing tournaments that occur on the beach. And**
 21 **that's all I can think of at the moment.**
 22 **Q.** Okay. All right. Now, the boogie board
 23 tournaments?
 24 **A. Races, yes.**
 25 **Q.** Races, okay. For how many years have they

WORD FOR WORD REPORTING, LLC

1 been going on?
 2 **A. Oh, I'm unsure. Awhile.**
 3 **Q.** Just give me your best estimate.
 4 **A. 10 -- 10 to 15 years.**
 5 **Q.** This is -- okay. And are those boogie board
 6 races typically held at a particular location?
 7 **A. Yes.**
 8 **Q.** And what is that location?
 9 **A. 15th Street and the beach.**
 10 **Q.** Okay. Now, let's talk about the city
 11 centennial.
 12 **A. Okay.**
 13 **Q.** All right? That was the, what, hundred --
 14 **A. Hundred year anniversary of the city, yes.**
 15 **Q.** Okay. Fine. When was that held?
 16 **A. Sometime in 2006.**
 17 **Q.** All right. And what events or activities
 18 occurred on the beaches of North Wildwood relative to
 19 the celebration of the city's centennial?
 20 **A. I think we had, like, a city picnic, and then**
 21 **we did fun games and activities for the employees on**
 22 **the beach.**
 23 **Q.** Okay. Were those activities located
 24 anywhere?
 25 **A. 15th Street and the beach.**

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1 **Q.** Okay. Now, the surf fishing?
 2 **A. Um-hum.**
 3 **Q.** Okay. Could you give me kind of an overview
 4 of what the city's involvement was with surf fishing
 5 before July of 2012?
 6 **A. The recreation department runs a surf fishing**
 7 **tournament, and then there's actually two surf**
 8 **fishing tournaments that are held in North Wildwood**
 9 **through two other organizations.**
 10 **Q.** Okay. So, let's do the surf fishing
 11 tournament that is conducted by the city.
 12 **A. By the rec. Okay?**
 13 **Q.** By the recreation?
 14 **A. Department, yes.**
 15 **Q.** Of the City of North Wildwood?
 16 **A. Yes.**
 17 **Q.** All right. For how long has that been going
 18 on?
 19 **A. Over 40 years.**
 20 **Q.** All right. And at what beaches does this
 21 surf fishing tournament take place?
 22 **A. Our boundaries are 26th Street and the beach,**
 23 **all the way down to --**
 24 **Q.** Moore's Inlet Beach?
 25 **A. Past that. There's apartments on the**

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SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - CAPE MAY COUNTY
DOCKET NO. CPM-L-331-14

SANDY SMITH,
INDIVIDUALLY AND AS
EXECUTRIX OF THE ESTATE
OF HER LATE HUSBAND
GEORGE BRADLEY SMITH,

Plaintiff,

vs.

CITY OF NORTH WILDWOOD,
STATE OF NEW JERSEY,
JOHN DOE, MARY DOE, ABC
PARTNERSHIPS and XYZ
CORPORATIONS,

Defendants.

CIVIL ACTION
VIDEOTAPED
DEPOSITION
TESTIMONY OF:
HARRY WOZUNK

TAKEN BEFORE: LYNN SMITH, a Certified Court
Reporter of the State of New Jersey, License No.
XI01520, at the North Wildwood City Hall, 901
Atlantic Avenue, North Wildwood, New Jersey, on
Tuesday, May 17, 2016, commencing at 1:01 p.m.

WORD FOR WORD REPORTING, LLC
CERTIFIED COURT REPORTERS & VIDEOGRAPHERS
6 NORTH BROAD STREET, SUITE 202
WOODBURY, NEW JERSEY 08096
Ph. (856) 384-2770 Fax: (856) 384-2779

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WITNESS

PAGE

HARRY WOZUNK

Examination By Mr. D'Amato
Examination By Mr. Hunkins
Examination By Mr. Rozell

4
38
48

EXHIBITS

| NUMBER | DESCRIPTION | ID. |
|--------|-------------|-----|
|--------|-------------|-----|

| | | |
|----------|-----------|----|
| Wozunk-1 | Statement | 4 |
| Wozunk-2 | Map | 21 |

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APPEARANCES:

D'AMATO LAW FIRM
2900 Fire Road, Suite 200
Egg Harbor Township, New Jersey 08234
609-926-3300
BY: PAUL R. D'AMATO, ESQUIRE
For the Plaintiffs

BARKER, GELFAND & JAMES
210 New Road
Linwood, New Jersey 08221
(609) 601-8677
BY: WILL ROZELL, ESQUIRE
For the Defendant, North Wildwood

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF LAW
R.J. Hughes Justice Complex
25 Market Street
Trenton, New Jersey 08625
(609) 777-4872
BY: BRIAN HUNKINS, DAG
For the State of New Jersey

Also present: Lou DiJoseph
Videographer: Tom Zanaras

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(Statement, received and marked for
identification as Exhibit Wozunk-1.)
VIDEOGRAPHER: Today is May 17th, 2016.
This is the videotaped deposition of Harry Wozunk.
Going on the record, and the time is 1:01 p.m. The
appearance of counsel will be noted in the
transcript.

Would the court reporter please swear
in the witness.

HARRY WOZUNK,
having been first duly sworn, testified as follows:
EXAMINATION

BY MR. D'AMATO:

Q. Sir, thank you for coming here. My name's
Paul D'Amato. I represent Brad Smith's wife and his
four children. And my colleagues have a copy of your
interview that was contacted -- that was conducted by
Louis DiJoseph, who's retired from the Intelligence
Bureau of the New Jersey State Police, and now is a
licensed private investigator. And we're just going
to be asking you questions about what you know and
the statement that you gave.

If I and my colleagues ask you a
question that's not clear, just tell us.

A. Okay.

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5
1 Q. All right? And we'll move on.
2 Before we get to this statement, let's
3 get some background information.
4 When did you start working for the City
of North Wildwood?

6 A. February, 10, 11 years ago.

7 Q. Okay. And what was your position when you
8 started working for the city?

9 A. I was hired as superintendent of Public
10 Works.

11 Q. Okay. And there came a time that you stopped
12 working for the city. And when was that?

13 A. This past December, 2015.

14 Q. Okay. Before you started working for North
15 Wildwood, had you worked for any other municipality
16 or township?

17 A. Yes. I worked for 17 years for the Borough
18 of Stone Harbor.

19 Q. Oh, okay. And when you retired from that
20 position in Stone Harbor, what was your title?

21 A. I was supervisor water, sewer, beaches and
22 streets.

23 Q. Okay. Before Mr. DiJoseph contacted you, had
24 you heard about the drowning of Brad Smith, back on
25 July 27, 2012?

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6

1 A. I was aware of the drowning. Wasn't
2 particular about the names, what the circumstances
3 was. I wasn't in town when it took place. But I did
4 -- was aware of it through newspaper reports, and
5 discussion with town members afterwards.

6 Q. Okay. What I'd like to do right now is,
7 we've had marked for identification this statement.
8 And I had asked Mr. DiJoseph to send you a copy of it
9 before coming here, to save some time.

10 Did you get a chance to review this
11 statement before coming here today?

12 A. Yes.

13 Q. We'll go through the various, I call them
14 bullet points. But did you see anything that was
15 attributed to you that was a mistake?

16 MR. HUNKINS: Object to the form.

17 A. Not that I'm aware of.

18 Q. Okay. All right. So, let's go to page 2, at
19 the top.

20 And let's go through these bullet
21 points one by one, and I'm going to ask you if it's a
correct statement.

22 The first bullet point, "Wozunk was
23 employed at the City of North Wildwood from 2004 to
24 December 2014."
25

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1 A. It would be '15.

2 Q. That's -- it would be 15. Okay.

3 Next, "Prior to his leaving the City of
4 North Wildwood, Wozunk was appointed as the
5 superintendent of Public Works."

6 A. That is correct.

7 Q. All right. And when you started working for
8 the city, you were, in fact, the superintendent of
9 Public Works?

10 A. Yes.

11 Q. Okay. Next point, "As superintendent of
12 Public Works, Wozunk was responsible for city
13 employees that cleaned the North Wildwood beaches."
14 Is that correct?

15 A. That is correct.

16 Q. Now, we had some photographs. I'm going to
17 digress just for a second here, I want to show you
18 some photographs.

19 We took this morning the deposition of
20 Mr. Delinski, and we had marked as Delinski-5 a
21 particular photograph here. If I could hand that to
22 you.

23 Is the beach that we're looking at in
24 Delinski-5 what people call Moore's Inlet Beach?

25 MR. HUNKINS: Object to the form.
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8

1 MR. ROZELL: Join in the objection.

2 Q. Or a part of Moore's Inlet Beach?

3 MR. HUNKINS: Object to the form.

4 A. It's considered Moore's Inlet.

5 Q. Moore's Inlet?

6 A. Yeah.

7 Q. Okay. Is there such a thing called Moore's
8 Inlet Beach?

9 A. Depending on who you talk to. I mean, I
10 don't know of a sign posted that says beach, itself.

11 Q. Okay.

12 A. But it's an inlet.

13 Q. All right. Now, let me show you Delinski-6.

14 Is that Moore's Inlet again?

15 MR. HUNKINS: Object to the form.

16 MR. ROZELL: Same objection.

17 A. Moore's Inlet, yes.

18 Q. Okay. Now, before July 27, 2012, when you
19 were superintendent of Public Works for North
20 Wildwood, did you ever see police officers patrolling
21 Moore's Inlet, as you see in that photograph that's
22 in your hand?

23 A. Have I seen police in the area, yes.

24 Q. How about on the beach?

25 A. On the sand, yes.

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2 of 20 sheet

9
1 Q. Okay. Fine. Now, did the employees of the
2 North Wildwood Public Works Department pick up trash
3 on the beach that is shown in Delinski-5 and
4 Delinski-6?

A. **Employees of North Wildwood Public Works
6 would pick up trash on the inlet section by hand,
7 yes.**

8 Q. Okay, fine. Now, would tractors ever come
9 down to this section and -- that had a rake on it to
10 clean the area?

11 A. **No.**

12 Q. All right. How far would the tractors go
13 down toward Moore's Inlet?

14 A. **Our cut off zone was at Surf Avenue.**

15 Q. Got it. Okay. So, let's go back to the
16 statement now.

17 Next, "Wozunk believes he was asked to
18 leave his position or be terminated."

19 A. **That is correct.**

20 Q. Okay. Next, "Wozunk did not want to
21 elaborate on the specifics of his departure from
22 North Wildwood."

23 A. **Correct.**

24 Q. Okay. Next, "During his tenure at North
25 Wildwood, Wozunk became familiar with Inlet Beach and

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10

1 Moore's Beach."

2 A. **Yes.**

3 Q. All right. Now, from talking to other
4 people, we know what Moore's Beach is, or Moore's
5 Inlet Beach. All right?

6 As you walk southeast, okay, you and I
7 are -- we're on Moore's Inlet, and we decide to take
8 a walk. All right? Before we get to a beach that
9 had lifeguards on it, we -- we would walk through The
10 Inlet Beach. Correct?

11 A. **Yes.**

12 Q. All right. Now, what, if anything, did the
13 employees of the Public Works Department do with
14 respect to The Inlet Beach?

15 A. **They would hand -- walk the area, and police
16 for trash. From there, there was an outfall pipe in
17 the area, at the bend off of Central Avenue. We
18 would have to periodically maintain that. We would
19 use a backhoe, or a front end loader to open that up,
20 when needed.**

21 Q. Okay. Let me show you what's been marked for
22 identification as Delinski-9. And I'm going to show
23 you Delinski-10. Okay.

24 You can see in the lower right-hand
25 corner, there's a date that those photographs were

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1 taken. And I believe I took those photographs.

2 You'll see somebody in a Public Works
3 shirt. Do you know who that is? Can you tell?

4 There's a young boy sitting in the
5 vehicle with him.

6 A. **Yeah. There's a young boy and a gentleman.
7 And I'm not actually certain of his name. He was a
8 seasonal employee. Both were seasonal employees.**

9 Q. Okay. They are operating a vehicle that has
10 a wagon behind it.

11 A. **Yes.**

12 Q. All right. Given your experience as the
13 superintendent, what are they doing down there on
14 that beach?

15 A. **Well, first of all, they shouldn't be on the
16 beach at this time. Because we've always had a no
17 enter with a vehicle from the Fish and Game Wildlife,
18 during the time period. From this picture, I'm
19 looking at these gentlemen, they're probably
20 joyriding. But their defense would be that they're
21 looking for trash.**

22 Q. All right. You see the sea grass in one of
23 those photographs?

24 A. **Yes.**

25 Q. Did Public Works ever pick up that sea grass?

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12

1 A. **Not in that section.**

2 Q. Okay. How about in the inlet -- on The Inlet
3 Beach?

4 A. **From Surf Avenue southeastward.**

5 Q. Got it. Okay. All right. Thank you.

6 The next bullet point says, "Wozunk
7 also fished the area of The Inlet Beach with his
8 father when he was younger."

9 A. **Correct.**

10 Q. Were you raised in North Wildwood for a
11 period of time?

12 A. **I was raised -- born and raised in Cape May
13 County.**

14 Q. Oh, okay. So, occasionally, you would go to
15 this area to go fishing?

16 A. **Yes.**

17 Q. Okay. This area, meaning The Inlet Beach?

18 A. **The inlet.**

19 Q. Right.

20 A. **When I was a kid, there was no beach.**

21 Q. Okay. We heard that.

22 Now, next bullet point, "During his
23 tenure at North Wildwood, Wozunk oversaw the
24 construction of two phases. Number 2 and 3 of the
25 seawall construction."

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1 Now, I'm going to ask you about this
2 seawall, and I'm going to show you an aerial
3 photograph that's in here someplace. Here we go.
4 Nope. Sorry.

There are two small aerial photographs.
5 Of course, they're lost in here now. Hold on.

6 While I'm looking for this -- oh, here
7 they are. While I'm looking for this photograph, or
8 photographs, I'm now going to direct your attention
9 to the Hereford Inlet, the channel, itself.

10 And here are two aerial photographs
11 that were taken on March 1, 2016. And we have -- I
12 want to hand them to you. There's one. Okay? And
13 there's the other. Okay?

14 Now, if you look at those photographs,
15 you'll see Moore's Inlet?

16 **A. Yes.**

17 **Q.** All right. And if you go to the water, I'm
18 referring to the water adjacent to Moore's Inlet as
19 the Hereford Inlet channel. Is that a fair
20 description?

21 **MR. HUNKINS:** Object to the form.

22 **Q.** Or what would you call it?

23 **A. Well, the inlet's the whole body of water**
24 **there, yes.**

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14

1 **Q.** Okay. All right. Now, I want to take you
2 from the time you're a young boy up until July of
3 2012. If I had walked up to you and said to me, tell
4 me what you know about this body of water called the
5 Hereford Inlet, what would you describe to me?

6 **A. It's a channel that cuts through between**
7 **North Wildwood, Anglesea, and Stone Harbor.**

8 **Q.** Okay. Did you, before July 2012, ever
9 operate a boat through that channel?

10 **A. No.**

11 **Q.** All right. Did you ever swim in that
12 channel?

13 **A. No.**

14 **Q.** Did you ever do any surf fishing in that
15 channel?

16 **A. Yes.**

17 **Q.** All right. And that's when you were a young
18 boy?

19 **A. Yes.**

20 **Q.** All right. If I said to you before July
21 2012, is there anything that's unique about this
inlet that would be dangerous for swimmers --

22 **MR. HUNKINS:** Object to form.

23 **Q.** -- what would have been your answer?

24 **MR. HUNKINS:** Object to form.

25 **WORD FOR WORD REPORTING, LLC**

MR. ROZELL: Same objection.

1 **Q.** If I can help you, specifically, I'm talking
2 about rip tides, ebb tides, currents, things like
3 that.

4 **A. It's a moving body of water. I would -- you**
5 **know, it's like any other body of water, inlet**
6 **moving, be cautious on it, be like a river.**

7 **Q.** Okay. We took the deposition of Chief
8 Cavalier of the North Wildwood Beach Patrol, and he
9 told us, like, for 10 years -- well, let me go back a
10 little bit.

11 I asked the chief, I said, do you have
12 an opinion as to what happened with Brad Smith. And
13 counsel was there for that, as well as Lou.

14 And he said, yes. He said, the back
15 bays were moving into the ocean, and when that
16 happens, there is, like, a whirlpool, a vortex, which
17 eats a piece of the beach away. And he goes, Mr.
18 Smith and company, and the children, just walked into
19 it, and the vortex sucked Mr. Smith down.

20 Now, here's my question: If I had
21 asked you -- if I had come up to you before July 25,
22 2012, and asked you about the existence of a vortex
23 or whirlpool at any time in the water that
24 constitutes the Hereford Inlet, what would have been
25

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16

1 your answer?

2 **MR. HUNKINS:** Before you answer, sir,
3 and I apologize for interrupting, but I need to
4 interpose an objection. And my thought is, if you
5 don't mind, maybe if the witness just steps out for a
6 second, I can say a little bit more than object to
7 the form.

8 **MR. D'AMATO:** Sure.

9 **MR. HUNKINS:** Do you mind?

10 **VIDEOGRAPHER:** Watch your microphone,
11 please. Going off the record, 1:15.

12 (Discussion off the record.)

13 **MR. HUNKINS:** You've -- in earlier
14 questions, you've paraphrased Cavalier somewhat, and
15 I, you know, really don't have too much of a problem
16 with that. This -- in this particular question, the
17 preface to the question was a long description of
18 what Cavalier said. Without pulling out the
19 transcript, I can't be certain, but I'm fairly sure
20 that the way you characterized his testimony is not
21 accurate. In particular, it sounds like you
22 preface -- has Cavalier saying that the drowning
23 occurred where there was a vortex.

24 **MR. D'AMATO:** That was not my intent.

25 **MR. HUNKINS:** Okay. And/or what I
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1 thought I heard was that the beach -- piece of beach
2 fell away, which again, A, I don't think Cavalier
3 said that. I don't think he connected the dots the
way I think you might be. And I'm concerned that
this witness now, based on your question, thinks we
6 all are in agreement as to what you just said. In
7 particular, Cavalier.

8 And so, I want to only find out what
9 this witness knows. And I think we know from his
10 statement that he's aware there's a vortex.

11 MR. D'AMATO: Right.

12 MR. HUNKINS: I mean, if it was up to
13 me, I would ask him, where have you seen a vortex?
14 But your question ties it in locationwise in a way
15 that I think is problematic.

16 MR. D'AMATO: What I'll do is -- I
17 appreciate what you're saying. What I will do is,
18 I'm going to say, if you will, forget the testimony
19 of Chief Cavalier, okay, we just want to know what
20 you know. And we'll go with that. Okay?

21 MR. HUNKINS: Okay.

22 MR. D'AMATO: All right? So -- and
23 let's see if that, you know, cures your concern.

24 MR. HUNKINS: Yeah. And I -- agreed.
25 And I'll just add one thing. I think the location of
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18

1 the vortex is potentially an important issue. And so
2 --

3 MR. D'AMATO: You're right.

4 MR. HUNKINS: -- where did you see the
5 vortex is something, I think, maybe we all want to
6 know, where he has seen it.

7 MR. ROZELL: And I should have put -- I
8 was going to put -- I meant to put an objection in,
9 too. But just along the lines of that, I wasn't a
10 hundred percent sure that's what Cavalier said, not
11 having the transcript in front of me, so.

12 MR. D'AMATO: I appreciate both of your
13 comments. So, let's get him back in.

14 MR. ROZELL: Yeah.

15 VIDEOGRAPHER: We're back on the
16 record, 1:19.

17 BY MR. D'AMATO:

18 Q. The three of us were having a conversation
19 here, and I want to withdraw that last question, and
20 put aside what Chief Cavalier said. We want to know
21 what you know.

Now, so, without even looking at this
23 statement, were you aware of a condition of the water
24 in the Hereford Inlet that has been referred to as
25 the vortex or a whirlpool?

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1 A. Yes.

2 Q. Okay. When, with your history with North
3 Wildwood, did you become aware of the vortex or
4 whirlpool?

5 A. Through my tenure in Public Works, I've heard
6 of the vortex years ago with -- and I'm pretty sure
7 you -- I don't know if you've had him here for it,
8 but Dr. Farrell. We've talked about the inlet with
9 the sand migration, and so forth, between Stone
10 Harbor and North Wildwood. As I said, I was
11 previously employed with Stone Harbor, so I dealt
12 with Dr. Farrell there on trying to maintain our
13 beaches there. And then coming over to North
14 Wildwood, had that same information. We always
15 talked about the sand migration, always had an impact
16 through the Hereford Inlet water channel.

17 With that, knew about the vortex that,
18 this being called a vortex, is the water ebb tide
19 from the mass of body of water changing from high
20 tide, low tide on the in and out. Came familiar with
21 that one evening, one afternoon, when I was in town
22 late, and got called about -- from residents at New
23 York Avenue, who thought something mysterious was
24 happening with water boiling and so forth. And upon
25 looking on the beach and so forth, we found out the

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20

1 beach was actually -- beach area, sand area at Pine
2 and New York actually had a 12-foot cliff, the sand
3 was taken out, the whole corner in that area. That's
4 when it was very obvious of a vortex and so forth to
5 actually create a suction and remove the material in
6 the area.

7 Q. What year is that, approximately?

8 A. Probably 2008 or 2009. Not --

9 Q. All right. Now, the area where you saw the
10 vortex, all right, would that be north of Moore's
11 Inlet, or south?

12 A. It's at the starting point. And to better
13 show you, if I can --

14 Q. Go ahead.

15 A. -- point it out to you on your Delinski No.
16 3.

17 Q. Yeah.

18 A. Okay? It's actually this corner of the L
19 shape.

20 Q. Okay.

21 A. So, right there.

22 Q. Here. Do you want to put an X with this
23 green marker on that?

24 A. I'll actually put a dot.

25 Q. Okay.

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1 **A. This is the location.**
2 **Q.** Can you make it a little bit bigger, so, you
3 know, older people like me can see it?
4 **A. (Witness complies.)**
5 **Q.** There you go.
6 **A. All right.**
7 MR. ROZELL: Can I see that, I didn't
8 get a look at it, when you're done with it.
9 MR. HUNKINS: Would you mind, this is
10 just a suggestion.
11 MR. D'AMATO:
12 MR. HUNKINS: Maybe having him mark it
13 on something else, as well.
14 MR. D'AMATO: Okay.
15 MR. HUNKINS: Would that -- it would
16 help me. I don't know --
17 MR. D'AMATO: Okay. Do you mind, can I
18 rip this off?
19 MR. HUNKINS: Yes.
20 MR. D'AMATO: All right. We -- here,
21 we'll have this marked.
22 (Map, received and marked for
23 identification as Exhibit Wozunk-2.)
24 **Q.** Okay. With counsel's permission, I ripped a
25 page out of a tourism guide that North Wildwood
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1 publishes that we used in an earlier deposition. And
2 with this red marker, if you could put a nice big fat
3 point as to where you saw this vortex.
4 **A. (Witness complies.)**
5 **Q.** Okay. Okay. Can I have that?
6 MR. D'AMATO: Do you see it, Brian?
7 MR. HUNKINS: Yes. And that exhibit is
8 labeled?
9 MR. D'AMATO: Wozunk-2.
10 MR. HUNKINS: Thank you.
11 MR. D'AMATO: Wozunk-2.
12 **Q.** I'm looking at both the photograph that you
13 marked and Wozunk-2. This seems to be the very
14 corner of what I'm going to call Moore's Inlet.
15 MR. HUNKINS: Object --
16 **A. Yes.**
17 MR. HUNKINS: Object to the form.
18 MR. ROZELL: Same objection.
19 **Q.** Now, let me ask this, to get to the bottom
20 line. You indicated that you were overseeing the
21 construction of two phases of the seawall
22 construction. There is a seawall behind where you
23 put the point and the X on these two exhibits as to
24 where the vortex was. Okay? Given your lifetime
25 experience as a young boy, just as a layperson, do
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1 you think the creation of this seawall had anything
2 to do with the creation or exacerbation of this
3 vortex?
4 MR. HUNKINS: Object to the form.
5 MR. ROZELL: Object to the form.
6 MR. HUNKINS: Did you get my objection?
7 **A. No.**
8 **Q.** Okay. And why do you say that?
9 **A. Because there's a bulkhead that was there
10 previous to the seawall, itself, that was erected
11 after the '62 storm. So, it's been -- been there in
12 the same footprint since 1962.**
13 **Q.** Did that bulkhead have anything to do with
14 the creation of the vortex?
15 MR. HUNKINS: Object to the form.
16 MR. ROZELL: Object to the form.
17 **A. Not that I'm aware of.**
18 **Q.** Okay. Based upon your experience with this
19 area, and based upon anything you read or were told,
20 what is the cause of the vortex that you described?
21 MR. HUNKINS: Object to the form.
22 MR. ROZELL: Same objection.
23 **A. Changing of the tide.**
24 **Q.** Okay. I'm going to jump ahead here, in light
25 of your testimony so far.

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1 Okay. I'm now on page 3. And I'm
2 looking at the fifth bullet point, which says, "The
3 inlet waters in front of the Greek church of Pine
4 Avenue are up to 80 feet deep."
5 **A. Correct.**
6 **Q.** Is that correct?
7 **A. Yes.**
8 **Q.** As you walk from Moore's Inlet, generally, in
9 a south or southeast direction, with respect to the
10 Hereford Inlet, that is, the body of water next to
11 the walking beach that you typically see there in the
12 summertime, how deep is the water there? That is, is
13 it -- does it also run 80 feet, or does the depth
14 change?
15 MR. HUNKINS: Object to the form.
16 MR. ROZELL: Same objection.
17 **A. Depth changes.**
18 **Q.** Can you give me the variation in the changes
19 in the depth?
20 **A. I can tell you I don't know for factual what
21 the footage is and so forth, but I know Captain
22 Kramer used to have a charter boat that used to go in
23 and out of that inlet, and he pretty much, his
24 business went belly up, because he couldn't drive
25 through it past mid tide anymore. So, I mean, it --**
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1 it changes every day.

2 Q. Okay. Let's go to the bullet point that
3 says, it's about two-thirds down, "Wozunk was
4 familiar with the Smith drowning, believes the
accident occurred on The Inlet Beach." Correct?

6 A. Correct.

7 Q. "Wozunk was familiar with beach collapses
8 near Moore's Beach after the Army Corps of Engineers
9 completed the construction of the seawall."

10 A. That's where I pointed out in the exhibits
11 was that vortex.

12 Q. Okay. But it's your testimony that the beach
13 collapses that you're referring to -- well, let me
14 ask you this: The beach collapses that you're
15 referring to in this bullet point, are you saying
16 that in your mind there's a connection with the beach
17 collapses and the construction of the seawall?

18 MR. HUNKINS: Object to the form. Are
19 you saying collapses --

20 MR. ROZELL: Same objection.

21 MR. HUNKINS: Are you saying collapses,
22 plural, because let me just read this point again.
23 Are we talking about one?

24 MR. D'AMATO: It says collapses here on
25 the bullet point.

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26

1 MR. HUNKINS: Okay. Thank you.

2 Q. Do you understand the question?

3 A. Yeah. No, I believe it's just one incident
4 at that intersection I point --

5 Q. Okay.

6 A. -- pointed out.

7 MR. HUNKINS: If I can interject. Was
8 there one collapse, or more than one collapse?

9 THE WITNESS: One collapse.

10 MR. HUNKINS: Okay. So, in that
11 respect, the statement is not accurate?

12 THE WITNESS: Correct.

13 MR. HUNKINS: Okay.

14 Q. Okay. Remember, ultimately, we're trying to
15 make sure this statement is correct.

16 A. Okay.

17 Q. Okay?

18 A. Yes.

19 Q. Now, there's another bullet point here,
20 "Wozunk said the outgoing tidal current makes a shelf
21 under the rock wall, causing the beach collapse."

22 Is that an accurate statement
23 attributable to you?

24 A. That's -- that's what -- that's what I
25 believed happened at that incident, was the tide

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1 going out created the shelf.

2 Q. Got it.

3 A. And collapsed.

4 Q. How frequently would you meet with Dr.
5 Farrell, whether you were working for Stone Harbor,
6 or North Wildwood?

7 A. I would base at a few times a year with
8 consulting with Dr. Farrell, on -- depending on the
9 projects that we had going on.

10 Q. Okay. Was there ever a discussion about
11 replenishing the beach known as Moore's Inlet?

12 A. Not that I'm aware of.

13 Q. Okay. Was there ever a discussion about
14 replenishing the beach south of Moore's Inlet that
15 we've been calling The Inlet Beach?

16 A. Their discussion and the original plans for
17 the first beach fill, where the rock groin is at
18 Second and JFK, that is the transition point to the
19 inlet, there was a section of that that was filled
20 in, part of the project to have it as an end point.
21 So, they had to go into that section.

22 Q. Okay.

23 MR. ROZELL: That was at Second and --

24 THE WITNESS: JFK.

25 MR. ROZELL: Okay.

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28

1 BY MR. D'AMATO:

2 Q. Okay. Now, I want to get into the next
3 bullet points that deal with the former mayor, Bill
4 Henfey.

5 The first item says, "Deceased Mayor
6 Bill Henfey told Wozunk that all of the back water
7 from Turtle Creek, where the railroad crossing is,
8 comes out through the Hereford Inlet."

9 A. Yes. And to add a little bit to that, where
10 Turtle Creek is -- Creek is, it's a railroad
11 crossing. That's where the water from Cape May inlet
12 meets the Hereford Inlet. That's where they both
13 meet during change of tides rising.

14 Q. Okay.

15 A. And then it change outward. That's where it
16 splits and moves outward.

17 Q. I see. Okay. Next bullet point, "After the
18 Smith drowning, Wozunk met with deceased Mayor Henfey
19 who told Wozunk that the inlet is New Jersey State
20 property." Is that a correct statement?

21 A. Yes.

22 Q. Now, when you say the inlet, are you
23 referring to The Inlet Beach, are you referring to
24 the body of water, the Hereford Inlet? What are you
25 referring to in this statement?

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1 **A. Everything from the roadside of the seawall**
2 **towards the water is state property.**

3 **Q.** Okay. Did he ever tell you what the basis of
4 his opinion was?

5 **A. The basis of Henfey and myself is, with the**
6 **plans that we've had through the beach replenishment**
7 **and so forth, that waterway, if we put a bulkhead or**
8 **anything like that, we have to acquire a permit from**
9 **the DEP, from the state, to have anything on the**
10 **water side of the bulkhead.**

11 **Q.** Got it. And have you, in the past, procured
12 that document from DEP?

13 **A. Not in my employment. But I do believe the**
14 **City of North Wildwood did have a permit for a**
15 **fishing pier they had in the same section that's**
16 **under question.**

17 **Q.** All right. Now, the next bullet point is,
18 "Henfey," referring to the former mayor, "referred to
19 the area of Inlet Beach and Moore's Beach as an
20 attractive nuisance."

21 **A. Yes.**

22 **Q.** That happens to be a legal term, and it also
23 is something that laypeople would also say.

24 What did he mean when he said it was an
25 attractive nuisance?

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30

1 MR. HUNKINS: Object to the form.

2 MR. ROZELL: Same objection.

3 **A. I believe, in the discussions that we've had**
4 **with that, the attractive nuisance was a catch phrase**
5 **that we would use for an area that is attracting**
6 **people, and we don't have much of the right or**
7 **responsibility to the area.**

8 **Q.** You had a good working relationship with
9 Mayor Henfey?

10 **A. Yes.**

11 **Q.** All right. When you say nuisance, as you're
12 using the term, and as Mayor Henfey used the term,
13 what was it about Moore's Inlet or The Inlet Beach
14 that was a, quotes, nuisance?

15 **A. The red tape of the state saying we couldn't**
16 **do certain things on the property, Fish and Wildlife,**
17 **and so forth, and then the area itself, for**
18 **patrolling, and the forces to be able to do anything**
19 **in that area.**

20 **Q.** Okay. Now, the last bullet point there, it
21 says, "Wozunk believes the area of The Inlet Beach
22 and Moore's Beach is the property of the State of New
23 Jersey."

24 **A. Yes.**

25 **Q.** So, therefore, that is your opinion, as well

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1 as Mayor Henfey's. Correct?

2 MR. HUNKINS: Object to the form.

3 **Q.** No?

4 **A. That is my opinion.**

5 **Q.** Yeah. All right. Okay. Next page, which is
6 5, the top, "Former Mayor Henfey and former City
7 Administrator Lasco spoke to the State of New Jersey
8 regarding the closing of the beach due to complaints
9 of drinking and partying by beach patrons."

10 Is that a true statement?

11 **A. Yeah. First of all, it's Belasco, not Lasco.**

12 **Q.** Belasco, okay.

13 **A. Yeah. Lou Belasco. And I was part of that**
14 **conversation with that -- of the complaints of the**
15 **drinking, partying, and for the beach to be closed.**

16 **Q.** Let's define the beach. Are we talking about
17 Moore's Inlet?

18 **A. Moore's Inlet.**

19 **Q.** Or how about The Inlet Beach, which is next
20 to Moore's Inlet?

21 **A. The Inlet Beach of -- being referred to in**
22 **this is Moore's Beach.**

23 **Q.** Okay. Next bullet point. "Former Mayor
24 Henfey told the state that if they wanted to patrol
25 The Inlet Beach, they should send their own police to

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32

1 do it."

2 Now, is that something that Mayor
3 Henfey told you?

4 **A. I was at a meeting with fish and game and**
5 **Bill Henfey, and they wanted us to use our resources**
6 **to patrol the beach area, being referred to as**
7 **Moore's Beach.**

8 **Q.** Um-hum.

9 **A. Because of the piping plover restrictions.**

10 **Q.** Um-hum.

11 **A. And with that, they said if you would like**
12 **that enforced and so forth, bring your own police**
13 **department.**

14 **Q.** What did -- what was the response from fish
15 and game?

16 **A. Couple of posts and string.**

17 **Q.** Oh, really? Which is there every summer now.
18 Right?

19 **A. Um-hum.**

20 **Q.** Okay. After Brad Smith's passing -- hold on.
21 Let me find it here. Concrete blocks with big red
22 balls and a chain were posted or positioned on the
23 beach, The Inlet Beach. Were you involved in that
24 project?

25 **A. Yes.**

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1 **Q.** Okay. We have certain photographs that were
2 marked here. We'll find them in a second.

3 Why were those red balls with concrete
4 blocks put on The Inlet Beach?

5 **A.** It was after the drowning, and we knew that
6 the area -- we became aware that it is a hazard area,
7 with property signage and so forth, we were asked to
8 place something in the area, in the waterway, to help
9 trying to alert the people if they walked past the
10 sign and didn't see it, that it was a hazard area.

11 **Q.** Okay. Now, this is not an exact quote, but I
12 was trying to listen very carefully. You said after
13 the drowning, it was learned that it was a hazard
14 area?

15 **A.** Um-hum.

16 **Q.** Is that correct?

17 **A.** Yes.

18 **Q.** All right. What did you learn after the
19 Smith drowning that made you say that it was a
20 hazardous area?

21 **A.** The vortex, the rip current that's caused in
22 the area, took a life, and we needed to be
23 proactionary to alert further people from it.

24 **Q.** Okay. And the balls that we're talking
25 about, one looks red, one looks orange. Here, this

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34

1 is Delinski-4.

2 **A.** Yes.

3 **Q.** Delinski-2, and Delinski-3.

4 So, there were red and orange balls, or
5 is that just a -- a developing issue there on the
6 film?

7 **A.** Developing issue. They're all an orange buoy
8 marker.

9 **Q.** Right. And was this an idea that both you
10 and the mayor came up with?

11 **A.** Myself, the mayor, the administrator.

12 **Q.** Who was?

13 **A.** I do believe at the time it was Lou Belasco.
14 But with -- the former mayor, Henfey, his boating
15 history, and so forth like that, the only thing that
16 that would be able to withstand the water and so
17 forth and be able to mark was a buoy.

18 **Q.** Okay. Now, let me show you Delinski-18, are
19 a series of flags with white poles.

20 **A.** Yes.

21 **Q.** Were those poles installed after the Smith
drowning?

23 **A.** I do believe so.

24 **Q.** Was that done by the beach patrol, or Public
25 Works?

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1 **A.** Beach patrol.

2 **Q.** Okay. How long did the concrete blocks with
3 the chain and the orange balls last before they
4 disappeared?

5 **A.** Two disappeared immediately, and I do believe
6 three lasted for a few months.

7 **Q.** And they disappeared because of what?

8 **A.** One was -- disappeared upon placement, to
9 where, when we placed it, it disappeared and went
10 under, and we never seen it.

11 **Q.** As soon as you put it on the ground, it just
12 -- it was swallowed up by the ground?

13 **A.** Yes. We placed them with a loader. We went
14 out to -- to the water's edge with a loader, a front
15 end loader with the concrete and the buoy in the
16 bucket. And then from there, we just rolled it off.
17 And it rolled off into the water, and we never seen
18 it.

19 **Q.** And the other ones?

20 **A.** The other -- we found one probably within a
21 week or two, broke from the chain, and washed up down
22 -- on the regular beach. And it was deflated. And
23 then the three other ones were out there, and they
24 disappeared in time.

25 **Q.** The present president of council of North

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36

1 Wildwood is?

2 **A.** Sal Zampirri?

3 **Q.** Yeah. Was he involved in these discussions
4 about posting the concrete blocks with the balls?

5 **A.** Not that I'm aware of.

6 **Q.** How about Mayor Rosenello?

7 **A.** Mayor Rosenello might have been consulted
8 with Bill Henfey. I wasn't positive.

9 **Q.** Do you have an opinion as to whether people
10 should be permitted to sit on the beach in what we
11 were calling Moore's Inlet? Is it safe for them to
12 do so?

13 MR. HUNKINS: Object to the form.

14 MR. ROZELL: Same objection.

15 **A.** Not knowing the conditions of every day, it
16 would be up to them.

17 **Q.** Well, you mentioned how you placed the block
18 and the ball, and it was swallowed up by the -- the
19 sand. Did that experience lead you to have concerns
20 about the safety of people walking on the water's
21 edge at The Inlet Beach or Moore's Inlet?

22 **A.** It's -- yeah, it's an inlet moving water.
23 I'd have concerns with anybody being there.

24 **Q.** Was there any discussions with Mayor Henfey
25 about not allowing people to sit on the beach at

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1 Moore's Inlet or The Inlet Beach, and just close it
2 off?
3 **A. Not that I'm aware of.**
4 **Q.** Okay. Oh, you know what, I'm on page 5. The
5 fourth bullet point from the bottom says, "Wozunk
6 believes that The Inlet Beach and Moore's Beach
7 should be closed, but refer to the area as a doubled
8 edge sword." What do you mean by a double edged
9 sword?

10 **A. With that, it's -- you're darned if you do,**
11 **you're darned if you're not. People are still going**
12 **to go there. Unless you have security guards up,**
13 **police department there all the time, you're going to**
14 **have people on that beach.**

15 **Q.** After the Smith drowning, was there any
16 discussion about having lifeguards down there walking
17 around to detect hazardous conditions on the beach or
18 in the adjacent water?

19 **A. Not that I'm aware.**

20 **Q.** Okay.

21 (Discussion off the record.)

22 **Q.** Are you aware of any other drownings
23 occurring off of Moore's Inlet or The Inlet Beach
24 prior to the Smith drowning?

25 **A. The only one I can recall to memory right now**
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38

1 **is several years ago, probably going 30 years ago, of**
2 **two firefighters that drowned in a Jeep.**

3 **Q.** Yeah. We heard about that one.

4 Okay. Thank you very much. I
5 appreciate your time.

6 MR. HUNKINS: Thank you. Just a couple
7 questions. Thanks for your patience.

8 Do you need to take a break for any
9 reason?

10 THE WITNESS: No.

11 MR. HUNKINS: Okay. I shouldn't be too
12 long. Maybe I should put this on.

13 EXAMINATION

14 BY MR. HUNKINS:

15 **Q.** First of all, your current employment is
16 what?

17 **A. Superintendent of Public Works with**
18 **Runnemede, the Borough of Runnemede.**

19 **Q.** I may have mentioned when you first came in,
20 I represent the State of New Jersey. So, I just have
21 a few questions for you.

22 First of all, you testified that there
23 came a point in time where you thought that there was
24 a -- a hazard area, as you used the term?

25 **A. (Witness nods.)**

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1 **Q.** And you need to verbalize your answer. You
2 need to say yes, no, or --

3 **A. Oh, yes. I'm sorry.**

4 **Q.** Okay. And now, let me show you an exhibit
5 that we marked earlier. It's --

6 MR. D'AMATO: Which one?

7 MR. HUNKINS: It's the one with -- that
8 you ripped off, and we marked it as Wozunk-2, I
9 think.

10 MR. D'AMATO: Right here.

11 **A. Yeah.**

12 **Q.** We're handing that to you. And maybe just
13 start out by using your finger, point out for me the
14 -- the extent of the hazard area. It, in your mind,
15 at the time would have gone from where to where? And
16 just use your finger, or -- yeah, your pen point
17 without using the ink.

18 **A. It don't depict it good right here. But the**
19 **hazard area that we placed the buoys and so forth,**
20 **was in this area.**

21 MR. D'AMATO: Here. Why don't you use
22 a green marker, and put like a bracket. Here you go.

23 **A. Yeah.**

24 **Q.** Okay. If you want to draw a line, a green
25 line adjacent to where you thought it was a hazard

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40

1 area, that would be fine.

2 **A. I'd say it was around something like that.**

3 **Q.** Okay. Okay. You've drawn a curved line.

4 **A. Yeah.**

5 **Q.** That's where you thought there was a hazard
6 area?

7 **A. Um-hum.**

8 **Q.** And I think you're saying that's where the
9 buoys went?

10 **A. Yes.**

11 **Q.** Okay. Then you used a couple of terms with
12 -- we've obviously used the term vortex, and you drew
13 for us on Wozunk-2 with a red arrow where the vortex
14 was. Correct?

15 **A. Yes.**

16 **Q.** You also used the term rip tide. Is it fair
17 to say that because this is an inlet with water
18 running through it, that creates a rip tide?

19 **A. Yeah. Rip tide, vortex would be pretty much**
20 **the same definition in this circumstances.**

21 **Q.** Okay. By the way, you mentioned Dr. Farrell.
22 He's actually going to be an expert in this case.

23 Do you view him as an expert in the
24 conditions in and around the inlet?

25 **A. Yes.**

WORD FOR WORD REPORTING, LLC

10 of 20 sheet

1 Q. Okay. You would trust any conclusions or
2 opinions he gives about what's happening in the inlet
3 area?

A. Yes.

Q. Okay. I want to avoid getting into technical
6 terms, because I don't think your training is in
7 hydrology --

A. No.

Q. -- or marine biology, or anything like that.
10 Right?

A. Correct.

Q. Okay. So, being careful not to use terms
13 loosely, for example, the term rip tide and vortex,
14 those terms could be potentially very important in
15 this case.

A. Um-hum.

Q. And so, to go back over it again briefly, the
18 vortex that you saw on one occasion was at the --
19 where you drew the red line on Wozunk-2. Is that
20 right?

A. Yes. And I'd like to be certain that it was
22 the after effects of it. I didn't actually see it
23 happen as it was developing. I was there probably 15
24 to 20 minutes after the effect took place.

Q. Oh. Understood. So, if I understand you
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42

1 correctly, you're referring to one occasion when you
2 were alerted to a boiling water kind of effect?

A. Yes.

Q. And when you got there, you saw, and you
5 marked the location with a red arrow.

A. Yes.

Q. That there had been a beach collapse?

A. Yes.

Q. All right. And your conclusion was that
10 there had been a vortex at that location?

A. Yes.

Q. All right. Did you ever see a vortex
13 anywhere else?

A. No.

Q. Okay. Were you aware over the months and
16 years that you worked for the town that there is
17 basically a rip tide or a very strong current that
18 runs through the inlet?

A. Yes.

Q. All right. And so, in terms of what you're
21 aware of, if we look at that green line that you
wrote on Wozunk-2, that hazard area.

A. Um-hum.

Q. As far as what you personally have seen or
25 observed, that's an area where there's a rip tide or
WORD FOR WORD REPORTING, LLC

1 a very strong current. Correct?

A. At the time when the placement of the blocks,
3 yes.

Q. Okay. You, personally, have never seen a
5 vortex in the area of the green line, or hazard area.
6 Correct?

A. No.

Q. Is that correct?

A. That is correct.

Q. Okay.

MR. ROZELL: I just have a couple.

MR. HUNKINS: I might actually have a
13 couple more.

MR. ROZELL: I'm sorry, Brian. Okay.

BY MR. HUNKINS:

Q. Yeah. On your statement -- and by the way, I
17 think we established this, but the statement which we
18 marked as -- what is this, Wozunk-1?

A. Yes.

Q. Is -- was prepared by somebody else after
21 they spoke to you. Correct?

A. Yes.

Q. When is the first time you read this?

A. I received this by e-mail Friday, and I
25 viewed it yesterday.

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44

Q. Okay. Did you spend a lot of time reviewing
2 it --

A. No.

Q. -- or just a minute?

All right. Just went through it
6 quickly?

A. Just went through it quickly.

Q. Okay. Because my impression was that you had
9 a discussion with Mr. D'Amato's investigator for a
10 period of time, and then after the discussion, you
11 probably touched on a lot of points, and after the
12 discussion was over, the investigator did his best to
13 summarize some of the things that were discussed?

A. Yes.

Q. It's my impression looking at this statement,
16 and the bullet points, that they don't necessarily
17 flow in the same way that your conversation went.
18 But I want to ask you about that briefly.

If you look at page 5, at the top, the
20 first bullet point says basically that the former
21 mayor and city administrator spoke to the state about
22 closing the beach, due to complaints of drinking and
23 partying. Yes?

A. Yes.

Q. And when you said that to the investigator,
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1 which beach were you referring to; Moore's Beach?

2 **A. Yeah. Moore's Inlet Beach.**

3 **Q.** Okay. And specifically, what you were
4 telling the investigator was that closure issue arose
from drinking and partying?

6 **A. Drinking and partying, and the requirement of
7 the piping plover. That's what it stemmed from.**

8 **Q.** Okay. That's --

9 **A. They didn't want people -- the restrictions
10 that were coming down for the area being closed off
11 to people, vehicles and so forth, with piping
12 plover --**

13 **Q.** Okay.

14 **A. -- habitat.**

15 **Q.** And that's what I need to understand a little
16 bit more. I'm going to ask you a couple of
17 questions.

18 **A. Yes.**

19 **Q.** First of all, maybe you can clarify it for
20 me, the piping plover area is not the entire Moore's
21 Beach. Correct?

22 **A. That is correct.**

23 **Q.** It's a subsection, if you will, and it's sort
24 of in the dunes section? In other words, it doesn't
25 extend all the way up to the water line. Is that

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46

1 fair to say?

2 **A. It does go to the water line.**

3 **Q.** Okay. Can you give me an estimate of how
4 many of the -- the width of that area, if I were
5 walking along the beach, how many yards, let's say,
6 would comprise the protected area?

7 **A. Because that inlet is kind of on a curve and
8 so forth, I wouldn't be able to give you a solid
9 estimate of yardage and so forth. But it stems from
10 Surf Avenue to Central Avenue.**

11 **Q.** Okay. And just roughly, how many blocks is
12 that?

13 **A. It's two blocks.**

14 **Q.** Okay. And was it the issue that if you were
15 going to try to police the drinking and partying, you
16 would need to get vehicles on the part of the beach
17 that was protected?

18 **A. Yes.**

19 **Q.** Okay. So, you were hampered from doing that
20 because of the restriction by the DEP?

21 **A. Correct.**

22 **Q.** Okay.

23 **A. And I should clarify, saying DEP, it's
24 actually Fish and Wildlife.**

25 **Q.** Okay.

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1 **A. State Fish and Wildlife.**

2 **Q.** Thank you.

3 **A. They were the ones who were imposing the
4 restrictions of that area.**

5 **Q.** Understood. So, the reason there was a
6 discussion about closing the beach was because of the
7 partying that was going on at Moore's Beach, and you
8 felt, as the town, that you were not able to police
9 it because of the piping plover restriction?

10 **A. Correct.**

11 **Q.** Okay. The beach wasn't closed. Correct?

12 **A. No.**

13 **Q.** One of the issues that's come up in this case
14 is, who has the ability to close the beach. Were you
15 at a meeting with the mayor and the administrator and
16 Fish and Game?

17 **A. I was at a meeting, yes.**

18 **Q.** Okay. Was Fish and Game involved in that
19 meeting?

20 **A. Yes.**

21 **Q.** Okay. And did you come away with any
22 understanding of who, if anyone, has the power to
23 close the beach?

24 **A. Fish and Game.**

25 **Q.** Okay. Is that because they're protecting the
WORD FOR WORD REPORTING, LLC

48

1 piping plover area?

2 **A. Yes.**

3 **Q.** Okay. Any other reason?

4 **A. Not that I'm aware of.**

5 **Q.** Okay. Did you come away with an
6 understanding that Fish and Game had the ability to
7 close any other part of the beach, for example, the
8 parts where there were no piping plover?

9 I'll rephrase the question.

10 Other than the area where the piping
11 plover are, did you come away from that meeting with
12 an understanding that the state had the ability to
13 close any other part of the beach?

14 **A. I would say yes, if they had justification
15 for some type of environmental specific or something
16 like that.**

17 **Q.** Okay.

18 MR. HUNKINS: I think that's all I
19 have. The other attorney has some questions for you.
20 Thanks.

21 EXAMINATION

22 BY MR. ROZELL:

23 **Q.** I just want to clarify a couple of things
24 that you talked about.

25 I believe Mr. D'Amato asked you a
WORD FOR WORD REPORTING, LLC

12 of 20 sheet

1 question or some questions about the location on the
2 inlet beaches where there was beach replenishment?

3 **A. Yes.**

4 **Q.** And I -- going back over my notes, it looks
5 like, I believe you said that -- first, let me go
6 back for a second.

7 As far as The Inlet Beach goes, are you
8 familiar with the term guarded and unguarded beaches?

9 **A. Yes.**

10 **Q.** Do you consider The Inlet Beach to contain
11 both guarded and unguarded beaches?

12 **A. Yes.**

13 **Q.** Okay. So, now, going back to where you gave
14 testimony about the replenishment project, I believe
15 you said that the furthest point on The Inlet Beach
16 -- and if I'm misstating this, correct me -- where
17 they did any sort of beach replenishment was Second
18 and JFK?

19 **A. Second of JFK, probably within 200 yards off**
20 **of JFK on the inlet. In other words, they didn't go**
21 **past Ocean Avenue on the inlet side.**

22 **Q.** And that would -- and that area that you're
23 talking about, that would be a guarded beach. Is
24 that correct?

25 **A. Yes, that was guarded.**

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50

1 MR. ROZELL: Okay. I don't have
2 anything else.

3 MR. D'AMATO: Nothing else.

4 VIDEOGRAPHER: That's it? Okay. This
5 concludes the videotaped deposition. Off the record,
6 1:55.

7 (Deposition concludes at 1:55 p.m.)
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1 CERTIFICATE

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3
4 I, LYNN SMITH, a Certified Court Reporter of the
5 State of New Jersey, do hereby certify that prior to
6 the commencement of the examination, HARRY WOZUNK was
7 duly sworn by me to testify the truth, the whole
8 truth and nothing but the truth.

9
10 I DO FURTHER CERTIFY that I am neither a relative nor
11 employee nor attorney nor counsel of any of the
12 parties to this action, and that I am neither a
13 relative nor employee of such attorney or counsel,
14 and that I am not financially interested in the
15 action.

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| | | | | |
|---|--|--|--|--|
| | 4 | 23:24 alert [2] - 33:9, 33:23 alerted [1] - 42:2 allowing [1] - 36:25 AND [2] - 1:4, 2:12 Anglesea [1] - 14:7 answer [4] - 14:24, 16:1, 16:2, 39:1 apologize [1] - 16:3 appearance [1] - 4:6 appointed [1] - 7:4 appreciate [3] - 17:17, 18:12, 38:5 area [47] - 8:23, 9:10, 10:15, 10:17, 12:7, 12:15, 12:17, 20:1, 20:3, 20:6, 20:9, 23:19, 29:19, 30:5, 30:7, 30:17, 30:19, 30:21, 32:6, 33:6, 33:8, 33:10, 33:14, 33:20, 33:22, 37:7, 38:24, 39:14, 39:19, 39:20, 40:1, 40:6, 41:3, 42:22, 42:25, 43:5, 45:10, 45:20, 46:4, 46:6, 47:4, 48:1, 48:10, 49:22 Army [1] - 25:8 arose [1] - 45:4 arrow [2] - 40:13, 42:5 AS [1] - 1:4 aside [1] - 18:20 Atlantic [1] - 1:18 attention [1] - 13:9 attorney [3] - 48:19, 51:11, 51:13 attracting [1] - 30:5 attractive [3] - 29:20, 29:25, 30:4 attributable [1] - 26:23 attributed [1] - 6:15 Avenue [9] - 1:18, 9:14, 10:17, 12:4, 19:23, 24:4, 46:10, 49:21 avoid [1] - 41:5 aware [16] - 6:1, 6:4, 6:17, 17:10, 18:23, 19:3, 23:17, 27:12, 33:6, 36:5, 37:3, 37:19, 37:22, 42:15, 42:21, 48:4 | balls [6] - 32:22, 33:3, 33:24, 34:4, 35:3, 36:4 BARKER [1] - 2:7 base [1] - 27:7 based [3] - 17:5, 23:18, 23:19 basis [2] - 29:3, 29:5 bays [1] - 15:16 beach [51] - 7:23, 8:10, 8:24, 9:3, 10:8, 11:14, 11:16, 12:20, 15:18, 17:1, 19:25, 20:1, 24:11, 25:7, 25:12, 25:14, 25:16, 26:21, 27:11, 27:14, 27:17, 29:6, 31:8, 31:9, 31:15, 31:16, 32:6, 32:23, 34:24, 35:1, 35:22, 36:10, 36:25, 37:14, 37:17, 42:7, 44:22, 45:1, 46:5, 46:16, 47:6, 47:11, 47:14, 47:23, 48:7, 48:13, 49:2, 49:17, 49:23 Beach [41] - 7:24, 8:2, 8:8, 9:25, 10:1, 10:4, 10:5, 10:10, 10:14, 12:3, 12:7, 12:17, 15:9, 25:5, 25:8, 27:15, 28:23, 29:19, 30:13, 30:21, 30:22, 31:19, 31:21, 31:22, 31:25, 32:7, 32:23, 33:4, 36:21, 37:1, 37:6, 37:23, 45:1, 45:2, 45:21, 47:7, 49:7, 49:10, 49:15 beaches [6] - 5:21, 7:13, 19:13, 49:2, 49:8, 49:11 became [2] - 9:25, 33:6 become [1] - 19:3 BEFORE [1] - 1:15 behind [2] - 11:10, 22:22 Belasco [4] - 31:11, 31:12, 31:13, 34:13 believes [4] - 9:17, 25:4, 30:21, 37:6 belly [1] - 24:24 bend [1] - 10:17 best [1] - 44:12 better [1] - 20:12 between [2] - 14:6, 19:9 big [2] - 22:2, 32:21 bigger [1] - 21:2 | Bill [4] - 28:3, 28:6, 32:5, 36:8 biology [1] - 41:9 bit [5] - 15:11, 16:6, 21:2, 28:9, 45:16 block [1] - 36:17 blocks [7] - 32:21, 33:4, 35:2, 36:4, 43:2, 46:11, 46:13 boat [2] - 14:9, 24:22 boating [1] - 34:14 body [7] - 13:24, 14:4, 15:5, 15:6, 19:19, 24:10, 28:24 boiling [2] - 19:24, 42:2 born [1] - 12:12 Borough [2] - 5:17, 38:18 bottom [2] - 22:19, 37:5 boy [5] - 11:4, 11:6, 14:2, 14:18, 22:25 bracket [1] - 39:22 Brad [4] - 4:15, 5:24, 15:13, 32:20 BRADLEY [1] - 1:5 break [1] - 38:8 BRIAN [1] - 2:15 Brian [2] - 22:6, 43:14 briefly [2] - 41:17, 44:18 bring [1] - 32:12 BROAD [1] - 1:22 broke [1] - 35:21 bucket [1] - 35:16 bulkhead [4] - 23:9, 23:13, 29:7, 29:10 bullet [18] - 6:14, 6:20, 6:23, 12:6, 12:22, 24:2, 25:2, 25:15, 25:25, 26:19, 28:3, 28:17, 29:17, 30:20, 31:23, 37:5, 44:16, 44:20 buoy [3] - 34:7, 34:17, 35:15 buoys [2] - 39:19, 40:9 Bureau [1] - 4:19 business [1] - 24:24 BY [9] - 2:4, 2:9, 2:15, 4:13, 18:17, 28:1, 38:14, 43:15, 48:22 |
| '15 [1] - 7:1 '62 [1] - 23:11 | 4 [2] - 3:4, 3:11 48 [1] - 3:5 | | | |
| 0 | 5 | | | |
| 08096 [1] - 1:22 08221 [1] - 2:8 08234 [1] - 2:3 08625 [1] - 2:14 | 5 [3] - 31:6, 37:4, 44:19 | | | |
| | 6 | | | |
| 1 | 6 [1] - 1:22 601-8677 [1] - 2:8 609 [2] - 2:8, 2:14 609-926-3300 [1] - 2:4 | | | |
| 1 [1] - 13:12 10 [2] - 5:6, 15:10 11 [1] - 5:6 12-foot [1] - 20:2 15 [2] - 7:2, 41:23 17 [2] - 1:19, 5:17 17th [1] - 4:3 1962 [1] - 23:12 1:01 [2] - 1:19, 4:5 1:15 [1] - 16:11 1:19 [1] - 18:16 1:55 [2] - 50:6, 50:7 | | | | |
| | 7 | | | |
| | 777-4872 [1] - 2:14 | | | |
| | 8 | | | |
| | 80 [2] - 24:4, 24:13 856 [2] - 1:23 | | | |
| | 9 | | | |
| | 901 [1] - 1:17 | | | |
| 2 | A | | | |
| 2 [2] - 6:18, 12:24 20 [1] - 41:24 200 [2] - 2:3, 49:19 2004 [1] - 6:24 2008 [1] - 20:8 2009 [1] - 20:8 2012 [6] - 5:25, 8:18, 14:3, 14:8, 14:21, 15:23 2014 [1] - 6:25 2015 [1] - 5:13 2016 [3] - 1:19, 4:3, 13:12 202 [1] - 1:22 21 [1] - 3:12 210 [1] - 2:7 25 [2] - 2:13, 15:22 27 [2] - 5:25, 8:18 2900 [1] - 2:3 | ABC [1] - 1:9 ability [3] - 47:14, 48:6, 48:12 able [5] - 30:18, 34:16, 34:17, 46:8, 47:8 accident [1] - 25:5 accurate [3] - 16:21, 26:11, 26:22 acquire [1] - 29:8 action [2] - 51:12, 51:15 ACTION [1] - 1:4 add [2] - 17:25, 28:9 adjacent [3] - 13:19, 37:18, 39:25 Administrator [1] - 31:7 administrator [3] - 34:11, 44:21, 47:15 aerial [3] - 13:2, 13:5, 13:11 afternoon [1] - 19:21 afterwards [1] - 6:5 ago [4] - 5:6, 19:6, 38:1 agreed [1] - 17:24 agreement [1] - 17:6 ahead [2] - 20:14, | | | |
| | | B | | |
| 3 | | background [1] - 5:3 backhoe [1] - 10:19 ball [1] - 36:18 | | |
| 3 [3] - 12:24, 20:16, 24:1 30 [1] - 38:1 38 [1] - 3:5 384-2770 [1] - 1:23 384-2779 [1] - 1:23 | | | C | |
| | | | Cape [2] - 12:12, 28:11 CAPE [1] - 1:1 Captain [1] - 24:21 | |

careful [1] - 41:12
carefully [1] - 33:12
case [3] - 40:22, 41:15, 47:13
catch [1] - 30:4
caused [1] - 33:21
causing [1] - 26:21
cautious [1] - 15:7
Cavalier [9] - 15:9, 16:14, 16:18, 16:22, 17:2, 17:7, 17:19, 18:10, 18:20
Central [2] - 10:17, 46:10
certain [5] - 11:7, 16:19, 30:16, 33:1, 41:21
CERTIFIED [1] - 1:21
certified [1] - 51:20
Certified [2] - 1:15, 51:4
certify [1] - 51:5
CERTIFY [1] - 51:10
chain [3] - 32:22, 35:3, 35:21
chance [1] - 6:10
change [3] - 24:14, 28:13, 28:15
changes [3] - 24:17, 24:18, 25:1
changing [2] - 19:19, 23:23
channel [7] - 13:10, 13:20, 14:6, 14:9, 14:12, 14:15, 19:16
characterized [1] - 16:20
charter [1] - 24:22
Chief [3] - 15:8, 17:19, 18:20
chief [1] - 15:12
children [2] - 4:16, 15:19
church [1] - 24:3
circumstances [2] - 6:2, 40:20
CITY [1] - 1:8
city [5] - 5:8, 5:12, 7:8, 7:12, 44:21
City [6] - 1:17, 5:4, 6:24, 7:3, 29:14, 31:6
CIVIL [1] - 1:4
clarify [3] - 45:19, 46:23, 48:23
clean [1] - 9:10
cleaned [1] - 7:13
clear [1] - 4:24
cliff [1] - 20:2
close [5] - 37:1, 47:14,

47:23, 48:7, 48:13
closed [4] - 31:15, 37:7, 45:10, 47:11
closing [3] - 31:8, 44:22, 47:6
closure [1] - 45:4
collapse [5] - 26:8, 26:9, 26:21, 42:7
collapsed [1] - 27:3
collapses [7] - 25:7, 25:13, 25:14, 25:17, 25:19, 25:21, 25:24
colleagues [2] - 4:16, 4:23
coming [5] - 4:14, 6:9, 6:11, 19:13, 45:10
commencement [1] - 51:6
commencing [1] - 1:19
comments [1] - 18:13
company [1] - 15:19
complaints [3] - 31:8, 31:14, 44:22
completed [1] - 25:9
Complex [1] - 2:13
complies [2] - 21:4, 22:4
comprise [1] - 46:6
concern [1] - 17:23
concerned [1] - 17:4
concerns [2] - 36:19, 36:23
concludes [2] - 50:5, 50:7
conclusion [1] - 42:9
conclusions [1] - 41:1
concrete [5] - 32:21, 33:3, 35:2, 35:15, 36:4
condition [1] - 18:23
conditions [3] - 36:15, 37:17, 40:24
conducted [1] - 4:17
connected [1] - 17:3
connection [1] - 25:16
consider [1] - 49:10
considered [1] - 8:4
constitutes [1] - 15:25
construction [6] - 12:24, 12:25, 22:21, 22:22, 25:9, 25:17
consulted [1] - 36:7
consulting [1] - 27:8
contacted [2] - 4:17, 5:23
contain [1] - 49:10
conversation [3] - 18:18, 31:14, 44:17
copy [2] - 4:16, 6:8

corner [4] - 10:25, 20:3, 20:18, 22:14
CORPORATIONS [1] - 1:10
Corps [1] - 25:8
correct [31] - 6:22, 7:6, 7:14, 7:15, 9:19, 9:23, 10:10, 12:9, 24:5, 24:6, 25:5, 25:6, 26:12, 26:15, 28:20, 31:1, 33:16, 40:14, 41:11, 43:1, 43:6, 43:8, 43:9, 43:21, 45:21, 45:22, 46:21, 47:10, 47:11, 49:16, 49:24
correctly [1] - 42:1
council [1] - 35:25
counsel [4] - 4:6, 15:14, 51:11, 51:13
counsel's [1] - 21:24
County [1] - 12:13
COUNTY [1] - 1:1
couple [7] - 32:16, 38:6, 40:11, 43:11, 43:13, 45:16, 48:23
course [1] - 13:6
COURT [2] - 1:1, 1:21
court [1] - 4:8
Court [3] - 1:15, 51:4, 51:20
CPM-L-331-14 [1] - 1:2
create [1] - 20:5
created [1] - 27:1
creates [1] - 40:18
creation [3] - 23:1, 23:2, 23:14
Creek [3] - 28:7, 28:10
crossing [2] - 28:7, 28:11
cures [1] - 17:23
current [5] - 26:20, 33:21, 38:15, 42:17, 43:1
currents [1] - 15:3
curve [1] - 46:7
curved [1] - 40:3
cut [1] - 9:14
cuts [1] - 14:6

D

d'Amato [1] - 3:4
D'AMATO [24] - 2:2, 2:4, 4:13, 16:8, 16:24, 17:11, 17:16, 17:22, 18:3, 18:12, 18:17, 21:11, 21:14, 21:17, 21:20, 22:6,

22:9, 22:11, 25:24, 28:1, 39:6, 39:10, 39:21, 50:3
D'Amato [2] - 4:15, 48:25
D'Amato's [1] - 44:9
DAG [1] - 2:15
dangerous [1] - 14:22
darned [2] - 37:10, 37:11
date [1] - 10:25
deal [1] - 28:3
dealt [1] - 19:11
Deceased [1] - 28:5
deceased [1] - 28:18
December [2] - 5:13, 6:25
decide [1] - 10:7
deep [2] - 24:4, 24:12
Defendant [1] - 2:9
Defendants [1] - 1:11
defense [1] - 11:20
define [1] - 31:16
definition [1] - 40:20
deflated [1] - 35:22
Delinski [2] - 7:20, 20:15
Delinski-10 [1] - 10:23
Delinski-18 [1] - 34:18
Delinski-2 [1] - 34:3
Delinski-3 [1] - 34:3
Delinski-4 [1] - 34:1
Delinski-5 [3] - 7:20, 7:24, 9:3
Delinski-6 [2] - 8:13, 9:4
Delinski-9 [1] - 10:22
DEP [4] - 29:9, 29:12, 46:20, 46:23
Department [2] - 9:2, 10:13
department [2] - 32:13, 37:13
DEPARTMENT [1] - 2:12
departure [1] - 9:21
depict [1] - 39:18
DEPOSITION [1] - 1:5
deposition [5] - 4:4, 7:19, 15:8, 22:1, 50:5
Deposition [1] - 50:7
depth [3] - 24:13, 24:17, 24:19
describe [1] - 14:5
described [1] - 23:20
description [2] - 13:21, 16:17
DESCRIPTION [1] -

3:9
detect [1] - 37:17
developing [3] - 34:5, 34:7, 41:23
digress [1] - 7:17
DiJoseph [4] - 2:17, 4:18, 5:23, 6:8
direct [1] - 13:9
direction [1] - 24:9
disappeared [6] - 35:4, 35:5, 35:7, 35:8, 35:9, 35:24
discussed [1] - 44:13
discussion [11] - 6:5, 16:12, 27:10, 27:13, 27:16, 37:16, 37:21, 44:9, 44:10, 44:12, 47:6
discussions [3] - 30:3, 36:3, 36:24
DIVISION [2] - 1:1, 2:12
DO [1] - 51:10
DOCKET [1] - 1:2
document [1] - 29:12
DOE [2] - 1:9
done [2] - 21:8, 34:24
dot [1] - 20:24
dots [1] - 17:3
double [1] - 37:8
doubled [1] - 37:7
down [8] - 9:9, 9:13, 11:13, 15:20, 25:3, 35:21, 37:16, 45:10
Dr [5] - 19:8, 19:12, 27:4, 27:8, 40:21
draw [1] - 39:24
drawn [1] - 40:3
drew [2] - 40:12, 41:19
drinking [6] - 31:9, 31:15, 44:22, 45:5, 45:6, 46:15
drive [1] - 24:24
drowned [1] - 38:2
drowning [11] - 5:24, 6:1, 16:22, 25:4, 28:18, 33:5, 33:13, 33:19, 34:22, 37:15, 37:24
drownings [1] - 37:22
due [2] - 31:8, 44:22
duly [2] - 4:11, 51:7
dunes [1] - 45:24
during [2] - 11:18, 28:13
During [2] - 9:24, 12:22

| E | F | | | I |
|--|---|--|---|--|
| <p>e-mail [1] - 43:24 eats [1] - 15:18 ebb [2] - 15:3, 19:18 edge [3] - 35:14, 36:21, 37:8 edged [1] - 37:8 effect [2] - 41:24, 42:2 effects [1] - 41:22 Egg [1] - 2:3 elaborate [1] - 9:21 employed [2] - 6:24, 19:11 employee [3] - 11:8, 51:11, 51:13 employees [5] - 7:13, 9:1, 9:5, 10:13, 11:8 employment [2] - 29:13, 38:15 end [3] - 10:19, 27:20, 35:15 enforced [1] - 32:12 Engineers [1] - 25:8 enter [1] - 11:17 entire [1] - 45:20 environmental [1] - 48:15 erected [1] - 23:10 ESQUIRE [2] - 2:4, 2:9 established [1] - 43:17 ESTATE [1] - 1:4 estimate [2] - 46:3, 46:9 evening [1] - 19:21 exacerbation [1] - 23:2 exact [1] - 33:11 Examination [3] - 3:4, 3:5, 3:5 examination [1] - 51:6 EXAMINATION [3] - 4:12, 38:13, 48:21 example [2] - 41:13, 48:7 EXECUTRIX [1] - 1:4 exhibit [2] - 22:7, 39:4 Exhibit [2] - 4:2, 21:23 exhibits [2] - 22:23, 25:10 existence [1] - 15:23 experience [4] - 11:12, 22:25, 23:18, 36:19 expert [2] - 40:22, 40:23 extend [1] - 45:25 extent [1] - 39:14</p> | <p>fact [1] - 7:8 factual [1] - 24:20 fair [3] - 13:20, 40:16, 46:1 fairly [1] - 16:19 familiar [5] - 9:25, 19:20, 25:4, 25:7, 49:8 far [4] - 9:12, 23:25, 42:24, 49:7 Farrell [5] - 19:8, 19:12, 27:5, 27:8, 40:21 fat [1] - 22:2 father [1] - 12:8 Fax [1] - 1:23 February [1] - 5:6 feet [2] - 24:4, 24:13 fell [1] - 17:2 felt [1] - 47:8 few [3] - 27:7, 35:6, 38:21 fifth [1] - 24:2 fill [1] - 27:17 filled [1] - 27:19 film [1] - 34:6 financially [1] - 51:14 fine [3] - 9:1, 9:8, 40:1 finger [2] - 39:13, 39:16 Fire [1] - 2:3 firefighters [1] - 38:2 FIRM [1] - 2:2 first [13] - 4:11, 6:23, 11:15, 27:17, 28:5, 31:11, 38:15, 38:19, 38:22, 43:23, 44:20, 45:19, 49:5 Fish [8] - 11:17, 30:16, 46:24, 47:1, 47:16, 47:18, 47:24, 48:6 fish [2] - 32:4, 32:14 fished [1] - 12:7 fishing [3] - 12:15, 14:14, 29:15 flags [1] - 34:19 flow [1] - 44:17 follows [1] - 4:11 footage [1] - 24:21 footprint [1] - 23:12 FOR [1] - 1:21 forces [1] - 30:18 forget [1] - 17:18 form [19] - 6:16, 7:25, 8:3, 8:15, 13:22, 14:23, 14:25, 16:7, 22:17, 23:4, 23:5,</p> | <p>23:15, 23:16, 23:21, 24:15, 25:18, 30:1, 31:2, 36:13 former [5] - 28:3, 29:18, 31:6, 34:14, 44:20 Former [2] - 31:6, 31:23 forth [15] - 19:9, 19:24, 19:25, 20:4, 24:21, 29:7, 30:17, 32:12, 33:7, 34:15, 34:17, 39:19, 45:11, 46:8, 46:9 four [1] - 4:16 fourth [1] - 37:5 frequently [1] - 27:4 Friday [1] - 43:24 front [4] - 10:19, 18:11, 24:3, 35:14 FURTHER [1] - 51:10 furthest [1] - 49:15</p> <p>G</p> <p>game [2] - 32:4, 32:15 Game [5] - 11:17, 47:16, 47:18, 47:24, 48:6 GELFAND [1] - 2:7 generally [1] - 24:8 gentleman [1] - 11:6 gentlemen [1] - 11:19 GEORGE [1] - 1:5 given [2] - 11:12, 22:24 grass [2] - 11:22, 11:25 Greek [1] - 24:3 green [5] - 20:23, 39:22, 39:24, 42:21, 43:5 groin [1] - 27:17 ground [2] - 35:11, 35:12 guarded [4] - 49:8, 49:11, 49:23, 49:25 guards [1] - 37:12 guide [1] - 21:25</p> <p>H</p> <p>habitat [1] - 45:14 Hall [1] - 1:17 hampered [1] - 46:19 hand [6] - 7:21, 8:22, 9:6, 10:15, 10:24, 13:13 handing [1] - 39:12 Harbor [7] - 2:3, 5:18,</p> | <p>5:20, 14:7, 19:10, 19:11, 27:5 Harry [1] - 4:4 HARRY [3] - 1:6, 3:3, 51:6 hazard [10] - 33:6, 33:10, 33:13, 38:24, 39:14, 39:19, 39:25, 40:5, 42:22, 43:5 hazardous [2] - 33:20, 37:17 heard [5] - 5:24, 12:21, 17:1, 19:5, 38:3 help [3] - 15:2, 21:16, 33:8 Henfey [14] - 28:4, 28:6, 28:18, 29:5, 29:18, 30:9, 30:12, 31:6, 31:24, 32:3, 32:5, 34:14, 36:8, 36:24 Henfey's [1] - 31:1 HER [1] - 1:5 hereby [1] - 51:5 Hereford [10] - 13:10, 13:20, 14:5, 15:25, 18:24, 19:16, 24:10, 28:8, 28:12, 28:24 high [1] - 19:19 hired [1] - 5:9 history [2] - 19:2, 34:15 hold [2] - 13:6, 32:20 Hughes [1] - 2:13 hum [7] - 32:8, 32:10, 32:19, 33:15, 40:7, 41:16, 42:23 hundred [1] - 18:10 HUNKINS [45] - 2:15, 6:16, 7:25, 8:3, 8:15, 13:22, 14:23, 14:25, 16:2, 16:9, 16:13, 16:25, 17:12, 17:21, 17:24, 18:4, 21:9, 21:12, 21:15, 21:19, 22:7, 22:10, 22:15, 22:17, 23:4, 23:6, 23:15, 23:21, 24:15, 25:18, 25:21, 26:1, 26:7, 26:10, 26:13, 30:1, 31:2, 36:13, 38:6, 38:11, 38:14, 39:7, 43:12, 43:15, 48:18 Hunkins [1] - 3:5 HUSBAND [1] - 1:5 hydrology [1] - 41:7</p> | <p>ID [1] - 3:9 idea [1] - 34:9 identification [4] - 4:2, 6:7, 10:22, 21:23 immediately [1] - 35:5 impact [1] - 19:15 important [2] - 18:1, 41:14 imposing [1] - 47:3 impression [2] - 44:8, 44:15 incident [2] - 26:3, 26:25 indicated [1] - 22:20 INDIVIDUALLY [1] - 1:4 information [2] - 5:3, 19:14 ink [1] - 39:17 Inlet [61] - 7:24, 8:2, 8:4, 8:5, 8:8, 8:14, 8:17, 8:21, 9:13, 9:25, 10:5, 10:7, 10:10, 10:14, 12:2, 12:7, 12:17, 13:10, 13:16, 13:19, 13:20, 14:5, 15:25, 18:24, 19:16, 20:11, 22:14, 24:8, 24:10, 25:5, 27:11, 27:14, 27:15, 28:8, 28:12, 28:23, 28:24, 29:19, 30:13, 30:21, 31:17, 31:18, 31:19, 31:20, 31:21, 31:25, 32:23, 33:4, 36:11, 36:21, 37:1, 37:6, 37:23, 45:2, 49:7, 49:10, 49:15 Inlet [22] - 8:12, 9:6, 12:2, 12:18, 14:22, 15:6, 19:8, 24:3, 24:23, 27:19, 28:11, 28:19, 28:22, 36:22, 40:17, 40:24, 41:2, 42:18, 46:7, 49:2, 49:20, 49:21 inlet's [1] - 13:24 installed [1] - 34:21 Intelligence [1] - 4:18 intent [1] - 16:24 interested [1] - 51:14 interject [1] - 26:7 interpose [1] - 16:4 interrupting [1] - 16:3 intersection [1] - 26:4 interview [1] - 4:17 investigator [5] - 4:20, 44:9, 44:12, 44:25,</p> |

| | | | | | | | | | |
|--|--|--|---|---|--|---|---|---|---|
| <p>45:4 involved [3] - 32:23, 36:3, 47:18 issue [5] - 18:1, 34:5, 34:7, 45:4, 46:14 issues [1] - 47:13 item [1] - 28:5 itself [4] - 8:10, 13:10, 23:10, 30:17</p> | <p>J</p> <p>JAMES [1] - 2:7 Jeep [1] - 38:2 JERSEY [4] - 1:1, 1:9, 1:22, 2:11 Jersey [12] - 1:16, 1:18, 2:3, 2:8, 2:14, 2:15, 4:19, 28:19, 30:23, 31:7, 38:20, 51:5 JFK [5] - 27:18, 27:24, 49:18, 49:19, 49:20 JOHN [1] - 1:9 join [1] - 8:1 joyriding [1] - 11:20 July [6] - 5:25, 8:18, 14:2, 14:8, 14:20, 15:22 jump [1] - 23:24 Justice [1] - 2:13 justification [1] - 48:14</p> | <p>K</p> <p>kid [1] - 12:20 kind [2] - 42:2, 46:7 knowing [1] - 36:15 known [1] - 27:11 knows [1] - 17:9 Kramer [1] - 24:22</p> | <p>L</p> <p>labeled [1] - 22:8 Lasco [2] - 31:7, 31:11 last [3] - 18:19, 30:20, 35:3 lasted [1] - 35:6 LATE [1] - 1:5 late [1] - 19:22 LAW [4] - 1:1, 2:2, 2:12, 2:12 laypeople [1] - 29:23 layperson [1] - 22:25 lead [1] - 36:19 learn [1] - 33:18 learned [1] - 33:13 leave [1] - 9:18</p> | <p>leaving [1] - 7:3 legal [1] - 29:22 License [2] - 1:16, 51:21 licensed [1] - 4:20 life [1] - 33:22 lifeguards [2] - 10:9, 37:16 lifetime [1] - 22:24 light [1] - 23:24 line [9] - 22:20, 39:24, 39:25, 40:3, 41:19, 42:21, 43:5, 45:25, 46:2 lines [1] - 18:9 Linwood [1] - 2:8 listen [1] - 33:12 LLC [1] - 1:21 loader [4] - 10:19, 35:13, 35:14, 35:15 location [5] - 17:25, 21:1, 42:5, 42:10, 49:1 locationwise [1] - 17:14 look [4] - 13:15, 21:8, 42:21, 44:19 looking [10] - 7:23, 11:19, 11:21, 13:7, 13:8, 18:22, 19:25, 22:12, 24:2, 44:15 looks [3] - 33:25, 49:4 loosely [1] - 41:13 lost [1] - 13:6 Lou [4] - 2:17, 15:14, 31:13, 34:13 Louis [1] - 4:18 low [1] - 19:20 lower [1] - 10:24 LYNN [2] - 1:15, 51:4</p> | <p>M</p> <p>mail [1] - 43:24 maintain [2] - 10:18, 19:12 Map [2] - 3:12, 21:22 March [1] - 13:12 marine [1] - 41:9 mark [2] - 21:12, 34:17 marked [12] - 4:1, 6:7, 7:20, 10:21, 21:21, 21:22, 22:13, 33:2, 39:5, 39:8, 42:5, 43:18 marker [4] - 20:23, 22:2, 34:8, 39:22 Market [1] - 2:13 MARY [1] - 1:9 mass [1] - 19:19</p> | <p>material [1] - 20:5 MAY [1] - 1:1 mayor [8] - 28:3, 29:18, 34:10, 34:11, 34:14, 36:7, 44:21, 47:15 Mayor [10] - 28:5, 28:18, 30:9, 30:12, 31:1, 31:6, 31:23, 32:2, 36:6, 36:24 mean [5] - 8:9, 17:12, 24:25, 29:24, 37:8 meaning [1] - 12:17 meant [1] - 18:8 meet [2] - 27:4, 28:13 meeting [5] - 32:4, 47:15, 47:17, 47:19, 48:11 meets [1] - 28:12 members [1] - 6:5 memory [1] - 37:25 mentioned [3] - 36:17, 38:19, 40:21 met [1] - 28:18 microphone [1] - 16:10 mid [1] - 24:25 might [3] - 17:4, 36:7, 43:12 migration [2] - 19:9, 19:15 mind [6] - 16:5, 16:9, 21:9, 21:17, 25:16, 39:14 minute [1] - 44:4 minutes [1] - 41:24 misstating [1] - 49:16 mistake [1] - 6:15 months [2] - 35:6, 42:15 Moore's [38] - 7:24, 8:2, 8:4, 8:5, 8:7, 8:14, 8:17, 8:21, 9:13, 10:1, 10:4, 10:7, 13:16, 13:19, 20:10, 22:14, 24:8, 25:8, 27:11, 27:14, 29:19, 30:13, 30:22, 31:17, 31:18, 31:20, 31:22, 32:7, 36:11, 36:21, 37:1, 37:6, 37:23, 45:1, 45:2, 45:20, 47:7 morning [1] - 7:19 move [1] - 5:1 moves [1] - 28:16 moving [4] - 15:5, 15:7, 15:16, 36:22 MR [86] - 4:13, 6:16, 7:25, 8:1, 8:3, 8:15,</p> | <p>8:16, 13:22, 14:23, 14:25, 15:1, 16:2, 16:8, 16:9, 16:13, 16:24, 16:25, 17:11, 17:12, 17:16, 17:21, 17:22, 17:24, 18:3, 18:4, 18:7, 18:12, 18:14, 18:17, 21:7, 21:9, 21:11, 21:12, 21:14, 21:15, 21:17, 21:19, 21:20, 22:6, 22:7, 22:9, 22:10, 22:11, 22:15, 22:17, 22:18, 23:4, 23:5, 23:6, 23:15, 23:16, 23:21, 23:22, 24:15, 24:16, 25:18, 25:20, 25:21, 25:24, 26:1, 26:7, 26:10, 26:13, 27:23, 27:25, 28:1, 30:1, 30:2, 31:2, 36:13, 36:14, 38:6, 38:11, 38:14, 39:6, 39:7, 39:10, 39:21, 43:11, 43:12, 43:14, 43:15, 48:18, 48:22, 50:1, 50:3 municipality [1] - 5:15 mysterious [1] - 19:23</p> | <p>N</p> <p>name [1] - 11:7 name's [1] - 4:14 names [1] - 6:2 near [1] - 25:8 necessarily [1] - 44:16 need [6] - 16:3, 38:8, 39:1, 39:2, 45:15, 46:16 needed [2] - 10:20, 33:22 never [3] - 35:10, 35:17, 43:4 NEW [4] - 1:1, 1:9, 1:22, 2:11 New [15] - 1:16, 1:18, 2:3, 2:7, 2:8, 2:14, 2:15, 4:19, 19:22, 20:2, 28:19, 30:22, 31:7, 38:20, 51:5 newspaper [1] - 6:4 next [14] - 7:3, 7:11, 9:17, 9:20, 9:24, 12:6, 12:22, 24:10, 28:2, 28:17, 29:17, 31:5, 31:19, 31:23 nice [1] - 22:2 NO [1] - 1:2 north [1] - 20:10</p> | <p>NORTH [2] - 1:8, 1:22 North [24] - 1:17, 1:18, 2:9, 5:5, 5:14, 6:24, 7:4, 7:13, 8:19, 9:2, 9:5, 9:22, 9:24, 12:10, 12:23, 14:7, 15:9, 19:2, 19:10, 19:13, 21:25, 27:6, 29:14, 35:25 noted [1] - 4:6 notes [1] - 49:4 nothing [2] - 50:3, 51:8 nuisance [5] - 29:20, 29:25, 30:4, 30:11, 30:14 number [1] - 12:24 NUMBER [1] - 3:9</p> <p>O</p> <p>Object [1] - 22:17 object [19] - 6:16, 7:25, 8:3, 8:15, 13:22, 14:23, 14:25, 16:6, 22:15, 23:4, 23:5, 23:15, 23:16, 23:21, 24:15, 25:18, 30:1, 31:2, 36:13 objection [12] - 8:1, 8:16, 15:1, 16:4, 18:8, 22:18, 23:6, 23:22, 24:16, 25:20, 30:2, 36:14 observed [1] - 42:25 obvious [1] - 20:4 obviously [1] - 40:12 occasion [2] - 41:18, 42:1 occasionally [1] - 12:14 occurred [2] - 16:23, 25:5 occurring [1] - 37:23 ocean [1] - 15:16 Ocean [1] - 49:21 OF [9] - 1:1, 1:4, 1:5, 1:8, 1:9, 1:6, 2:11, 2:12, 2:12 officers [1] - 8:20 older [1] - 21:3 one [23] - 6:21, 11:22, 13:13, 17:25, 19:21, 25:23, 26:3, 26:8, 26:9, 33:25, 35:8, 35:20, 37:25, 38:3, 39:6, 39:7, 41:18, 42:1, 47:13 ones [3] - 35:19, 35:23, 47:3</p> |
|--|--|--|---|---|--|---|---|---|---|

open [1] - 10:19
operate [1] - 14:9
operating [1] - 11:9
opinion [5] - 15:13, 29:4, 30:25, 31:4, 36:9
opinions [1] - 41:2
orange [4] - 33:25, 34:4, 34:7, 35:3
original [1] - 27:16
outfall [1] - 10:16
outgoing [1] - 26:20
outward [2] - 28:15, 28:16
oversaw [1] - 12:23
overseeing [1] - 22:20
own [2] - 31:25, 32:12

P

p.m [3] - 1:19, 4:5, 50:7
PAGE [1] - 3:2
page [6] - 6:18, 21:25, 24:1, 31:5, 37:4, 44:19
paraphrased [1] - 16:14
part [6] - 8:2, 27:20, 31:13, 46:16, 48:7, 48:13
particular [5] - 6:2, 7:21, 16:16, 16:21, 17:7
parties [1] - 51:12
PARTNERSHIPS [1] - 1:10
parts [1] - 48:8
partying [7] - 31:9, 31:15, 44:23, 45:5, 45:6, 46:15, 47:7
passing [1] - 32:20
past [5] - 5:13, 24:25, 29:11, 33:9, 49:21
patience [1] - 38:7
Patrol [1] - 15:9
patrol [4] - 31:24, 32:6, 34:24, 35:1
patrolling [2] - 8:20, 30:18
patrons [1] - 31:9
PAUL [1] - 2:4
Paul [1] - 4:15
pen [1] - 39:16
people [13] - 7:24, 10:4, 21:3, 30:6, 33:9, 33:23, 36:9, 36:20, 36:25, 37:11, 37:14, 45:9, 45:11
percent [1] - 18:10

period [3] - 11:18, 12:11, 44:10
periodically [1] - 10:18
permission [1] - 21:24
permit [2] - 29:8, 29:14
permitted [1] - 36:10
personally [2] - 42:24, 43:4
Ph [1] - 1:23
phases [2] - 12:24, 22:21
photograph [5] - 7:21, 8:21, 13:3, 13:8, 22:12
photographs [10] - 7:16, 7:18, 10:25, 11:1, 11:23, 13:5, 13:9, 13:11, 13:15, 33:1
phrase [1] - 30:4
pick [3] - 9:2, 9:6, 11:25
picture [1] - 11:18
piece [2] - 15:18, 17:1
pier [1] - 29:15
Pine [2] - 20:1, 24:3
pipe [1] - 10:16
pipng [8] - 32:9, 45:7, 45:11, 45:20, 47:9, 48:1, 48:8, 48:10
place [3] - 6:3, 33:8, 41:24
placed [4] - 35:9, 35:13, 36:17, 39:19
placement [2] - 35:8, 43:2
Plaintiff [1] - 1:6
Plaintiffs [1] - 2:5
plans [2] - 27:16, 29:6
plover [8] - 32:9, 45:7, 45:12, 45:20, 47:9, 48:1, 48:8, 48:11
plural [1] - 25:22
point [27] - 6:23, 7:11, 12:6, 12:22, 20:12, 20:15, 22:3, 22:23, 24:2, 25:2, 25:15, 25:22, 25:25, 26:4, 26:19, 27:18, 27:20, 28:17, 29:17, 30:20, 31:23, 37:5, 38:23, 39:13, 39:16, 44:20, 49:15
pointed [2] - 25:10, 26:6
points [5] - 6:14, 6:21, 28:3, 44:11, 44:16
poles [2] - 34:19,

34:21
police [8] - 8:20, 8:23, 10:15, 31:25, 32:12, 37:13, 46:15, 47:8
Police [1] - 4:19
position [3] - 5:7, 5:20, 9:18
positioned [1] - 32:22
positive [1] - 36:8
posted [2] - 8:10, 32:22
posting [1] - 36:4
posts [1] - 32:16
potentially [2] - 18:1, 41:14
power [1] - 47:22
preface [2] - 16:17, 16:22
prepared [1] - 43:20
present [2] - 2:17, 35:25
president [1] - 35:25
pretty [3] - 19:6, 24:23, 40:19
previous [1] - 23:10
previously [1] - 19:11
private [1] - 4:20
proactionary [1] - 33:23
problem [1] - 16:15
problematic [1] - 17:15
procured [1] - 29:11
project [3] - 27:20, 32:24, 49:14
projects [1] - 27:9
property [5] - 28:20, 29:2, 30:16, 30:22, 33:7
protected [2] - 46:6, 46:17
protecting [1] - 47:25
Public [13] - 5:9, 7:5, 7:9, 7:12, 8:19, 9:2, 9:5, 10:13, 11:2, 11:25, 19:5, 34:24, 38:17
PUBLIC [1] - 2:12
publishes [1] - 22:1
pulling [1] - 16:18
put [13] - 18:7, 18:8, 18:20, 20:22, 20:24, 22:2, 22:23, 29:7, 33:4, 35:11, 38:12, 39:22

Q

questions [7] - 4:21, 16:14, 38:7, 38:21,

45:17, 48:19, 49:1
quickly [2] - 44:6, 44:7
quote [1] - 33:11
quotes [1] - 30:14

R

R.J [1] - 2:13
railroad [2] - 28:7, 28:10
raised [3] - 12:10, 12:12
rake [1] - 9:9
read [3] - 23:19, 25:22, 43:23
really [2] - 16:15, 32:17
reason [3] - 38:9, 47:5, 48:3
received [3] - 4:1, 21:22, 43:24
record [6] - 4:5, 16:11, 16:12, 18:16, 37:21, 50:5
red [9] - 22:2, 30:15, 32:21, 33:3, 33:25, 34:4, 40:13, 41:19, 42:5
refer [1] - 37:7
referred [4] - 18:24, 29:18, 31:21, 32:6
referring [9] - 13:19, 25:13, 25:15, 28:23, 28:25, 29:18, 42:1, 45:1
regarding [1] - 31:8
regular [1] - 35:22
relationship [1] - 30:8
relative [2] - 51:10, 51:13
remember [1] - 26:14
remove [1] - 20:5
rephrase [1] - 48:9
replenishing [2] - 27:11, 27:14
replenishment [4] - 29:6, 49:2, 49:14, 49:17
reporter [1] - 4:8
Reporter [3] - 1:16, 51:4, 51:20
REPORTERS [1] - 1:21
REPORTING [1] - 1:21
reports [1] - 6:4
represent [2] - 4:15, 38:20
requirement [1] - 45:6
residents [1] - 19:22
resources [1] - 32:5

respect [3] - 10:14, 24:9, 26:11
response [1] - 32:14
responsibility [1] - 30:7
responsible [1] - 7:12
restriction [2] - 46:20, 47:9
restrictions [3] - 32:9, 45:9, 47:4
retired [2] - 4:18, 5:19
review [1] - 6:10
reviewing [1] - 44:1
right-hand [1] - 10:24
rip [9] - 15:3, 21:18, 33:21, 40:16, 40:18, 40:19, 41:13, 42:17, 42:25
ripped [2] - 21:24, 39:8
rising [1] - 28:13
river [1] - 15:7
Road [2] - 2:3, 2:7
roadside [1] - 29:1
rock [2] - 26:21, 27:17
rolled [2] - 35:16, 35:17
Rosenello [2] - 36:6, 36:7
roughly [1] - 46:11
Rozell [1] - 3:5
ROZELL [21] - 2:9, 8:1, 8:16, 15:1, 18:7, 18:14, 21:7, 22:18, 23:5, 23:16, 23:22, 24:16, 25:20, 27:23, 27:25, 30:2, 36:14, 43:11, 43:14, 48:22, 50:1
run [1] - 24:13
Runnemed [2] - 38:18
running [1] - 40:18
runs [1] - 42:18

S

safe [1] - 36:11
SAFETY [1] - 2:12
safety [1] - 36:20
Sal [1] - 36:2
sand [6] - 8:25, 19:9, 19:15, 20:1, 20:2, 36:19
SANDY [1] - 1:3
save [1] - 6:9
saw [4] - 20:9, 22:3, 41:18, 42:4
sea [2] - 11:22, 11:25
seasonal [2] - 11:8

seawall [9] - 12:25, 13:2, 22:21, 22:22, 23:1, 23:10, 25:9, 25:17, 29:1
Second [3] - 27:18, 27:23, 49:17
second [5] - 7:17, 16:6, 33:2, 49:6, 49:19
section [7] - 9:6, 9:9, 12:1, 27:19, 27:21, 29:15, 45:24
security [1] - 37:12
see [17] - 6:14, 8:20, 8:21, 10:24, 11:2, 11:22, 13:16, 17:23, 18:4, 21:3, 21:7, 22:6, 24:11, 28:17, 33:10, 41:22, 42:12
send [2] - 6:8, 31:25
series [1] - 34:19
several [1] - 38:1
sewer [1] - 5:21
shape [1] - 20:19
shelf [2] - 26:20, 27:1
shirt [1] - 11:3
show [8] - 7:17, 8:13, 10:21, 10:22, 13:2, 20:13, 34:18, 39:4
shown [1] - 9:3
side [2] - 29:10, 49:21
sign [2] - 8:10, 33:10
signage [1] - 33:7
sit [2] - 36:10, 36:25
sitting [1] - 11:4
small [1] - 13:5
Smith [10] - 5:24, 15:13, 15:19, 15:20, 25:4, 28:18, 33:19, 34:21, 37:15, 37:24
SMITH [4] - 1:3, 1:5, 1:15, 51:4
Smith's [2] - 4:15, 32:20
solid [1] - 46:8
someplace [1] - 13:3
somewhat [1] - 16:14
soon [1] - 35:11
sorry [3] - 13:4, 39:3, 43:14
sort [2] - 45:23, 49:17
sounds [1] - 16:21
south [3] - 20:11, 24:9, 27:14
southeast [2] - 10:6, 24:9
southeastward [1] - 12:4
specific [1] - 48:15
specifically [2] - 15:2,

45:3
specifics [1] - 9:21
spend [1] - 44:1
splits [1] - 28:16
start [2] - 5:4, 39:13
started [3] - 5:8, 5:14, 7:7
starting [1] - 20:12
STATE [2] - 1:9, 2:11
state [7] - 29:2, 29:9, 30:15, 31:24, 44:21, 47:1, 48:12
State [8] - 1:16, 2:15, 4:19, 28:19, 30:22, 31:7, 38:20, 51:5
Statement [1] - 3:11
statement [18] - 4:1, 4:22, 5:2, 6:7, 6:11, 6:22, 9:16, 17:10, 18:23, 26:11, 26:15, 26:22, 28:20, 28:25, 31:10, 43:16, 43:17, 44:15
stemmed [1] - 45:7
stems [1] - 46:9
steps [1] - 16:5
still [1] - 37:11
Stone [6] - 5:18, 5:20, 14:7, 19:9, 19:11, 27:5
stopped [1] - 5:11
storm [1] - 23:11
STREET [1] - 1:22
Street [1] - 2:13
streets [1] - 5:22
string [1] - 32:16
strong [2] - 42:17, 43:1
subsection [1] - 45:23
sucked [1] - 15:20
suction [1] - 20:5
suggestion [1] - 21:10
SUITE [1] - 1:22
Suite [1] - 2:3
summarize [1] - 44:13
summer [1] - 32:17
summertime [1] - 24:12
superintendent [7] - 5:9, 7:5, 7:8, 7:11, 8:19, 11:13, 38:17
SUPERIOR [1] - 1:1
supervisor [1] - 5:21
surf [1] - 14:14
Surf [3] - 9:14, 12:4, 46:10
swallowed [2] - 35:12, 36:18
swear [1] - 4:8
swim [1] - 14:11

swimmers [1] - 14:22
sword [2] - 37:8, 37:9
sworn [2] - 4:11, 51:7

T

TAKEN [1] - 1:15
tape [1] - 30:15
technical [1] - 41:5
tenure [3] - 9:24, 12:23, 19:5
term [8] - 29:22, 30:12, 38:24, 40:12, 40:16, 41:13, 49:8
terminated [1] - 9:18
terms [5] - 40:11, 41:6, 41:12, 41:14, 42:20
testified [2] - 4:11, 38:22
testify [1] - 51:7
TESTIMONY [1] - 1:6
testimony [5] - 16:20, 17:18, 23:25, 25:12, 49:14
THE [5] - 1:4, 26:9, 26:12, 27:24, 38:10
therefore [1] - 30:25
thinks [1] - 17:5
thirds [1] - 25:3
three [3] - 18:18, 35:6, 35:23
tidal [1] - 26:20
tide [12] - 19:18, 19:20, 23:23, 24:25, 26:25, 40:16, 40:18, 40:19, 41:13, 42:17, 42:25
tides [3] - 15:3, 28:13
ties [1] - 17:14
title [1] - 5:20
today [2] - 4:3, 6:11
Tom [1] - 2:18
took [8] - 6:3, 7:19, 11:1, 15:8, 33:22, 41:24
top [3] - 6:19, 31:6, 44:19
touched [1] - 44:11
tourism [1] - 21:25
toward [1] - 9:13
towards [1] - 29:2
town [5] - 6:3, 6:5, 19:21, 42:16, 47:8
Township [1] - 2:3
township [1] - 5:16
tractors [2] - 9:8, 9:12
training [1] - 41:6
transcript [3] - 4:7, 16:19, 18:11

transition [1] - 27:18
trash [4] - 9:2, 9:6, 10:16, 11:21
Trenton [1] - 2:14
true [1] - 31:10
trust [1] - 41:1
truth [3] - 51:7, 51:8
try [1] - 46:15
trying [4] - 19:12, 26:14, 33:9, 33:12
Tuesday [1] - 1:19
Turtle [2] - 28:7, 28:10
two [10] - 12:24, 13:5, 13:11, 22:21, 22:23, 25:3, 35:5, 35:21, 38:2, 46:13
two-thirds [1] - 25:3
type [1] - 48:15
typically [1] - 24:11

U

ultimately [1] - 26:14
um-hum [8] - 32:8, 32:19, 33:15, 40:7, 41:16, 42:23
Um-hum [1] - 32:10
under [3] - 26:21, 29:16, 35:10
understood [2] - 41:25, 47:5
unguarded [2] - 49:8, 49:11
unique [1] - 14:21
unless [1] - 37:12
up [18] - 9:2, 9:6, 10:19, 11:25, 14:2, 14:3, 15:22, 17:12, 24:4, 24:24, 34:10, 35:12, 35:21, 36:16, 36:18, 37:12, 45:25, 47:13

V

variation [1] - 24:18
various [1] - 6:13
vehicle [3] - 11:5, 11:9, 11:17
vehicles [2] - 45:11, 46:16
verbalize [1] - 39:1
Videographer [1] - 2:18
VIDEOGRAPHER [4] - 4:3, 16:10, 18:15, 50:4
VIDEOGRAPHERS [1] - 1:21
VIDEOTAPED [1] - 1:5

videotaped [2] - 4:4, 50:5
view [1] - 40:23
viewed [1] - 43:25
vortex [30] - 15:17, 15:20, 15:23, 16:23, 17:10, 17:13, 18:1, 18:5, 18:25, 19:3, 19:6, 19:17, 19:18, 20:4, 20:10, 22:3, 22:24, 23:3, 23:14, 23:20, 25:11, 33:21, 40:12, 40:13, 40:19, 41:13, 41:18, 42:10, 42:12, 43:5
vs [1] - 1:7

W

wagon [1] - 11:10
walk [5] - 10:6, 10:8, 10:9, 10:15, 24:8
walked [3] - 14:3, 15:19, 33:9
walking [4] - 24:11, 36:20, 37:16, 46:5
wall [1] - 26:21
washed [1] - 35:21
watch [1] - 16:10
water [28] - 5:21, 13:18, 13:19, 13:24, 14:4, 15:5, 15:6, 15:24, 18:23, 19:16, 19:18, 19:19, 19:24, 24:10, 24:12, 28:6, 28:11, 28:24, 29:2, 29:10, 34:16, 35:17, 36:22, 37:18, 40:17, 42:2, 45:25, 46:2
water's [2] - 35:14, 36:20
waters [1] - 24:3
waterway [2] - 29:7, 33:8
week [1] - 35:21
whirlpool [4] - 15:17, 15:24, 18:25, 19:4
white [1] - 34:19
whole [3] - 13:24, 20:3, 51:7
width [1] - 46:4
wife [1] - 4:15
Wildlife [4] - 11:17, 30:16, 46:24, 47:1
WILDWOOD [1] - 1:8
Wildwood [24] - 1:17, 1:18, 2:9, 5:5, 5:15, 6:24, 7:4, 7:13, 8:20, 9:2, 9:5, 9:22, 9:25, 12:10, 12:23, 14:7,

| | |
|--|---|
| 15:9, 19:3, 19:10, 19:14, 21:25, 27:6, 29:14, 36:1 WILL [1] - 2:9 withdraw [1] - 18:19 withstand [1] - 34:16 WITNESS [5] - 3:2, 26:9, 26:12, 27:24, 38:10 Witness [3] - 21:4, 22:4, 38:25 witness [4] - 4:9, 16:5, 17:5, 17:9 WOODBURY [1] - 1:22 WORD [2] - 1:21 words [2] - 45:24, 49:20 Works [13] - 5:10, 7:5, 7:9, 7:12, 8:19, 9:2, 9:5, 10:13, 11:2, 11:25, 19:5, 34:25, 38:17 WOZUNK [3] - 1:6, 3:3, 51:6 Wozunk [17] - 4:4, 6:23, 7:4, 7:12, 9:17, 9:20, 9:25, 12:6, 12:23, 25:3, 25:7, 26:20, 28:6, 28:18, 28:19, 30:21, 37:5 Wozunk-1 [3] - 3:11, 4:2, 43:18 Wozunk-2 [9] - 3:12, 21:23, 22:9, 22:11, 22:13, 39:8, 40:13, 41:19, 42:22 wrote [1] - 42:22 | Z Zampirri [1] - 36:2 Zanaras [1] - 2:18 zone [1] - 9:14 |
| X | |
| XIO1520 [2] - 1:17, 51:21 XYZ [1] - 1:10 | |
| Y | |
| yardage [1] - 46:9 yards [2] - 46:5, 49:19 year [2] - 20:7, 27:7 years [7] - 5:6, 5:17, 15:10, 19:6, 38:1, 42:16 yesterday [1] - 43:25 York [2] - 19:23, 20:2 young [5] - 11:4, 11:6, 14:2, 14:17, 22:25 younger [1] - 12:8 | |

1 SUPERIOR COURT OF NEW JERSEY
2 LAW DIVISION - CAPE MAY COUNTY
3 DOCKET NO. CPM-L-331-14
4 SANDY SMITH, :
5 INDIVIDUALLY AND AS :
6 EXECUTRIX OF THE ESTATE : CIVIL ACTION
7 OF HER LATE HUSBAND :
8 GEORGE BRADLEY SMITH, : DEPOSITION
9 : TESTIMONY OF:
10 : RONALD SIMONE
11 Plaintiff, :
12 vs. :
13 :
14 CITY OF NORTH WILDWOOD, :
15 STATE OF NEW JERSEY, :
16 JOHN DOE, MARY DOE, ABC :
17 PARTNERSHIPS and XYZ :
18 CORPORATIONS, :
19 Defendants. :
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WORD FOR WORD REPORTING, LLC

2 WITNESS PAGE

3
4 RONALD SIMONE
5 Examination By Mr. D'Amato 4
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8

EXHIBITS

| 9 | NUMBER | DESCRIPTION | ID. |
|----|--------|----------------------------|-----|
| 10 | P-51 | Third Page of Exhibit P-30 | 29 |
| 11 | P-52 | Color Copy of Exhibit P-30 | 32 |
| 12 | P-53 | Page from Police Records | 36 |
| 13 | P-54 | Third Page of Exhibit P-30 | 41 |

(Exhibits retained)

WORD FOR WORD REPORTING, LLC

APPEARANCES:

2
3 D'AMATO LAW FIRM
4 2900 Fire Road, Suite 200
5 Egg Harbor Township, New Jersey 08234
6 BY: PAUL R. D'AMATO, ESQUIRE
7 For the Plaintiffs
8
9 BARKER, GELFAND & JAMES
10 210 New Road
11 Linwood, New Jersey 08221
12 (609) 601-8677
13 BY: WILL ROZELL, ESQUIRE
14 For the Defendant, North Wildwood
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WORD FOR WORD REPORTING, LLC

1 VIDEOGRAPHER: Today is February the
2 18th, 2016. This is the videotaped deposition of
3 Ronald Simone. Going on the record, and the time is
4 1:14 p.m. The appearance of counsel will be noted in
5 the transcript.
6 Will the court reporter please swear
7 in the witness.
8 R O N A L D S I M O N E,
9 having been first duly sworn, testified as follows:
10 EXAMINATION BY MR. D'AMATO:
11 Q. Sir, you told me in the presence of counsel,
12 before we began this deposition, that this is your
13 first time going through the process that we lawyers
14 call a deposition.
15 A. Yes.
16 Q. All right. I'm sure that the law firm
17 representing North Wildwood in this litigation had an
18 opportunity to prepare you for this deposition?
19 A. Yes.
20 Q. All right. Do you need any more time to
21 speak to Will before we begin?
22 A. No, I don't believe so.
23 Q. All right. To expedite this process --
24 A. Um-hum.
25 Q. -- I just want to go over some real basic

WORD FOR WORD REPORTING, LLC

1 recommendations.
2 **A. Okay.**
3 **Q.** Let me finish my question before you answer.
4 Most people in your circumstance want to get the
5 deposition over with as quickly as possible, because
6 I guess, from your perspective, it's not a pleasant
7 process --
8 **A. Um-hum.**
9 **Q.** -- having to answer questions by an attorney.
10 But if you start speaking before I finish the
11 question, then it's difficult for our stenographer to
12 make a transcript of the question and answer.
13 But also, Will and Brian, who are
14 sitting at this conference room table, they have a
15 right to say objection to the form of the question.
16 **A. Um-hum.**
17 **Q.** I highly doubt that they're going to instruct
18 you not to answer the question, because I've been
19 doing this long enough to know I wouldn't ask certain
20 questions which they would have a right to say, I'm
21 going to instruct the witness not to answer the
22 question.
23 **A. Um-hum.**
24 **Q.** So, when they say objection to the form of
25 the question, just -- you can go ahead and answer the

WORD FOR WORD REPORTING, LLC

1 question, unless Will should tell you not to answer
2 the question.
3 **A. Okay.**
4 **Q.** All right? I told you off the record that
5 I'm going to be asking you about this document that
6 was marked as Exhibit 30 at a deposition on February
7 9, 2016.
8 **A. Um-hum.**
9 **Q.** And I think that's basically what I'm going
10 to be doing here with you today.
11 **A. Okay.**
12 **Q.** Do you have any questions of me before we
13 begin?
14 **A. No, I do not.**
15 **Q.** All right. Now, this document indicates that
16 you are an administrative assistant?
17 **A. Correct.**
18 **Q.** Correct? To whom?
19 **A. To the mayor and administrator, Kevin Yecco.**
20 **Q.** Okay. And when did Kevin Yecco become the
21 administrator of North Wildwood?
22 **A. 2013, I'd say, end of the summer, right**
23 **around the end of the summer.**
24 **Q.** Okay. When did you become an employee of the
25 City of North Wildwood?

WORD FOR WORD REPORTING, LLC

1 **A. I became a full-time employee of the City of**
2 **North Wildwood in November. I was a seasonal**
3 **employee of the City of North Wildwood for six years**
4 **previously, as a beach patrol lifeguard.**
5 **Q.** Okay. Let's go over that answer one more
6 time. Let's start off with when you first became an
7 employee of North Wildwood. What year was that?
8 **A. 2007, I started as a lifeguard on the beach**
9 **patrol.**
10 **Q.** Okay. I think you said seasonal?
11 **A. Seasonal, yeah. So, I was only a beach**
12 **patrol lifeguard three months out of the year.**
13 **Q.** Okay. And you continued to be a seasonal
14 lifeguard until what year?
15 **A. 2012, I was a seasonal lifeguard. And then**
16 **2013, I became an intern in the mayor's office.**
17 **Q.** Okay. So, were you working the day that Brad
18 Smith became missing?
19 **A. Yes, I was.**
20 **Q.** All right. Your official start date when you
21 became an intern for the City of North Wildwood was
22 when in 2013?
23 **A. May 20th of 2013.**
24 **Q.** Okay. When you started on May 20, 2013, was
25 your title administrative assistant, or intern?

WORD FOR WORD REPORTING, LLC

1 **A. It was intern.**
2 **Q.** Okay. And when did you become an
3 administrative assistant?
4 **A. I was approved at a council meeting in**
5 **November of 2013 as full-time.**
6 **Q.** Could you summarize for us what your duties
7 and responsibilities are as the -- as administrative
8 assistant?
9 **A. Absolutely. So, I handle constituent**
10 **services, anyone that calls, requests a certain job,**
11 **duty, concern pertaining to a certain department, I**
12 **would log it into a constituent services database,**
13 **which is basically just an Excel spread sheet that I**
14 **made up with all their contact information. I'd**
15 **forward that complaint, concern, request over to the**
16 **relative department, and, you know, followup until**
17 **it's remediated.**
18 **I also work on some environmental**
19 **aspects for the city, with Lomax Consulting,**
20 **community for industry management plan, vegetation**
21 **management plan. And I also do on-line auctions for**
22 **municipal vehicles, via govdeals.com. It's like an**
23 **on-line auction database.**
24 **Q.** Um-hum.
25 **A. And I also help with fixed asset inventory,**

WORD FOR WORD REPORTING, LLC

1 so.
2 Q. All right. Now, when -- during the time
3 period of 2007 to the end of 2012, when you were a
4 lifeguard --
A. Um-hum.
6 Q. -- what were you doing the other nine months
7 of the year?
8 A. I was going to school at the Catholic
9 University of America, and I was interning for a year
10 and a half on Capitol Hill.
11 Q. Oh, really? For whom?
12 A. Bob Brady, Congressman, first district
13 Pennsylvania.
14 Q. Yeah. I went to law school in Washington.
15 A. Oh, did you really?
16 Q. Yeah, yeah. And I worked on Capitol Hill
17 while I was going to law school.
18 A. Oh, okay, yeah.
19 Q. So, after the dep, we'll talk.
20 A. Definitely.
21 Q. Yeah. And also, the mayor went to Catholic
22 University.
23 A. Um-hum. The mayor? Um-hum.
24 Q. Yeah. Beautiful campus. It's one of the
25 most beautiful campuses.

WORD FOR WORD REPORTING, LLC

10

1 A. I love it, Basilica. It's the most beautiful
2 church I've ever been in.
3 Q. Yeah. Anyhow, well, have you always been a
4 resident of North Wildwood?
5 A. I'm actually from the northeast Philadelphia
6 area. Summerton, Huntington Valley, right around
7 there.
8 Q. When did you start, you know, coming to North
9 Wildwood?
10 A. I mean, my mom and my grandmom have always --
11 we've owned a house in Wildwood Crest since I was in
12 fifth grade. And my grandmom owned the house in
13 Wildwood Crest since I was one. So, 1990, late '80s,
14 something like that. So, I've been coming down here
15 ever since I was born.
16 Q. And so, no one calls you a shoobie; do they?
17 A. No. More like a transplant.
18 Q. Okay. All right. Good.
19 When -- I want to break this deposition
20 down into three categories.
21 A. Okay.
22 Q. One, the time that you were a lifeguard.
23 Two, the time that you were an administrative
24 assistant.
25 A. Okay.

WORD FOR WORD REPORTING, LLC

1 Q. And then three, questions about this document
2 here.
3 A. The document.
4 Q. I'm going to try to do it sequentially, like
5 that.
6 A. Okay.
7 Q. At the deposition of the chief --
8 (Discussion off the record.)
9 Q. -- of the beach patrol, Chief Cavalier, I
10 told him that I wanted to define terms before we
11 began the deposition.
12 A. Okay.
13 Q. And I said to him, in doing research for this
14 case, I came across the words The Point, Moore's
15 Beach, Moore's Inlet Beach, the inlet beach?
16 A. Um-hum.
17 Q. And the spit.
18 A. I've never heard that one.
19 Q. Okay. I believe the chief didn't hear it
20 either.
21 But during the time that you were a
22 lifeguard, did you ever get involved in any rescues
23 of people that had been -- well, you know what, I'm
24 going to have to withdraw that question, because I
25 have to do with you what I did with Mr. Belasco, what

WORD FOR WORD REPORTING, LLC

12

1 I did with the chief.
2 A. Okay.
3 Q. Let me show you Exhibit 48. And the lawyers
4 were here for those two depositions I just mentioned.
5 I said to the chief, When you refer to
6 Moore's Beach, can you mark on this exhibit where
7 Moore's Beach is. And that's where he put the red
8 circle you see there.
9 A. Um-hum.
10 Q. Now, I said, I want you to bracket where, in
11 your mind, the inlet beach starts, and where it ends.
12 And he said, Okay. It starts right about here, and
13 it ends at that green bracket.
14 Do you see that?
15 A. Um-hum.
16 Q. Okay. And then I asked him, if you're
17 wondering what that X is, that X represents where the
18 Brad Smith event took place.
19 A. Um-hum.
20 Q. All right? Now, so, in the deposition, I
21 would ask him about Moore's Beach, and then I would
22 ask him about the inlet beach. And he said that
23 where the green bracket is down there, that's where
24 the protected beach starts.
25 A. Um-hum.

WORD FOR WORD REPORTING, LLC

1 Q. Where there's a lifeguard.
2 Now, when we did Mr. Belasco, he said
3 to me, I really don't distinguish between Moore's
4 Beach and inlet beach. I call the entire area, from
5 the bracket up to the red circle, the inlet, or the
6 inlet beach.

7 A. Um-hum.

8 Q. Okay? Now, let me ask you, as a former
9 lifeguard, and now as an administrative assistant,
10 what terminology do you use to refer to the area that
11 I asked the chief about?

12 A. Both Moore's inlet and inlet beach.

13 Q. Okay.

14 A. As two separate.

15 Q. All right. Now, I'm sure if I were to depose
16 a hundred North Wildwood employees or residents, I
17 might get varying responses. But the chief has the
18 Moore's Beach ending at that top bracket that you see
19 right there.

20 A. Um-hum.

21 Q. Would you agree with him, or would you place
22 the bracket someplace else? Where Moore's Beach ends
23 and the inlet beach starts.

24 A. I might put it a little bit further out, like
25 I would say probably to where that curve begins, is

WORD FOR WORD REPORTING, LLC

14

1 as far as where Moore's --

2 Q. Okay. So --

3 A. -- inlet beach, in my opinion.

4 Q. Right. So, you would have Moore's Beach
5 going up to where the X is?

6 A. Where the X is, right around there, yeah.

7 Q. Okay. And then from where the X is would
8 begin to run the inlet beach?

9 A. Um-hum. I would say -- I would say a little
10 bit further than the X. Like, right around where
11 that yellow is.

12 Q. Okay. Let's take this red Magic Marker, and
13 make a nice solid line where you say the inlet beach
14 starts. And we're talking about Exhibit 48.

15 A. Okay.

16 Q. The inlet beach.

17 A. Where the inlet beach is, all right.

18 Q. Where it starts.

19 A. I would say right around there.

20 Q. Okay. And just underneath there, put your
21 two initials, right underneath that, so we know who
wrote that.

22 A. Okay.

23 Q. All right.

24 A. Here you are.

WORD FOR WORD REPORTING, LLC

1 Q. Okay. Now, now that we know what we're
2 talking about in terms of terminology.

3 A. Um-hum.

4 Q. During the time you were a lifeguard, if
5 you're walking from where the condominiums are at
6 Moore's Beach, and you're going south, the first
7 protected beach, where there was a lifeguard, during
8 the years of 2007 to the end of the summer season of
9 2000 -- you said what, '13, or '12?

10 A. 2012.

11 Q. '12? '12. Where was the first protected
12 beach?

13 A. You know, I never really sat inlet that
14 often, so if I were -- I mean, this would be a real
15 guess. Like, I mean, I know that there was one
16 lifeguard stand right around where that green mark is
17 made.

18 Q. At the bottom there?

19 A. Yeah. Right around there. And then I
20 believe it had two lifeguard stands.

21 Q. I think somebody said First and Surf. Is
22 that First and Surf there?

23 A. I -- I think that would be more Second and --
24 Second and Surf maybe.

25 Q. Okay.

WORD FOR WORD REPORTING, LLC

16

1 A. Because, like. This would -- this would be
2 more -- like, that's Second Avenue. Right? No, this
3 is Second Avenue, then. Yeah, I guess it would be
4 considered First and Surf.

5 Q. Okay. And there were two lifeguard stands
6 there?

7 A. Yeah. There usually, when I was there, was
8 two lifeguard stands. Either one or two. It varied,
9 honestly, according to, you know --

10 Q. Okay. Why were they --

11 A. -- work force.

12 Q. Why would they post two lifeguard stands at
13 the beach around First and Surf, as opposed to one?

14 A. Probably for manpower needs. They did
15 operate a Jet Ski at that location, so they needed,
16 you know, extra manpower to push the Jet Ski out when
17 there was an immediate emergency in that area.

18 Q. Did you ever operate the Jet Ski?

19 A. I had, yes. Not in the inlet. I used it for
20 training, because I got my boater's license to
21 operate the Jet Ski when they do triathlons, et
22 cetera. Because they guard all the swimmers that go
23 out in the DelMonte triathlon every year. So, I was
24 on the back of the Jet Ski.

25 Q. Okay.

WORD FOR WORD REPORTING, LLC

1 **A. Um-hum.**
2 **Q.** Were there occasions when you were a
3 lifeguard that you had to participate in a rescue of
4 someone that was swimming from Moore's Beach or inlet
5 beach to Champagne Island?
6 **A. I was not involved in any inlet rescues, no.**
7 **Q.** Okay. Were you involved in any rescues where
8 people had been at Moore's Beach and decided to go
9 for a swim, and then needed assistance?
10 **A. No.**
11 **Q.** Okay. Were you involved in any rescues where
12 someone had been sitting on the inlet beach, as you
13 have geographically defined it, and decided to go for
14 a swim?
15 **A. No.**
16 **Q.** Other than the Brad Smith drowning, were you
17 involved in any rescue attempts for any other
18 drownings?
19 **A. Yes.**
20 **Q.** How many?
21 **A. Oh, man. Probably 30 on duty.**
22 **Q.** Okay. Now, when we say drownings, are you,
23 in your mind, that's where the person's deceased?
24 **A. Oh, no.**
25 **Q.** All right.

WORD FOR WORD REPORTING, LLC

18

1 **A. Rescues, like water rescues, not drownings.**
2 **Q.** Okay.
3 **A. Apologize for the confusion.**
4 **Q.** All right. Were you involved in any water
5 rescues, where the person died, other than Brad
6 Smith?
7 **A. No.**
8 **MR. ROZELL:** I'm going object to the
9 form. But you can answer.
10 **A. And I was not involved in the rescue, or**
11 **drowning of Bradley Smith.**
12 **Q.** Oh, you -- you weren't? Oh, I thought you
13 said you were before, no?
14 **A. No, no. I was on -- I was on the beach**
15 **patrol, but I was not involved in the rescue.**
16 **Q.** I'm sorry. That's what you said, I stand
17 corrected. And your attorney picked up on that, and
18 I thank him for that.
19 **Now, incidentally, did you have an**
20 **opportunity to speak with Chief Cavalier about his**
21 **deposition?**
22 **A. No.**
23 **Q.** All right. Did you have the opportunity to
24 speak to the mayor about the deposition of the chief?
25 **A. No.**

WORD FOR WORD REPORTING, LLC

1 **Q.** Okay. Okay. I don't want to know what was
2 said, but did you speak to the law firm that's
3 defending the city about the deposition of the chief?
4 That's a yes or a no.
5 **A. No.**
6 **Q.** Okay. If I had asked you, before July 27,
7 2012, is it wise for me to go to the inlet beach and
8 to go for a swim in the inlet, what would you have
9 said to me?
10 **A. In the inlet area, while lifeguards are on**
11 **duty, I would say it's fine.**
12 **Q.** Okay.
13 **A. I'd say after hours, after 5:30 p.m., I**
14 **wouldn't advise anyone to go swimming in the inlet**
15 **area.**
16 **Q.** Okay. Now, I heard your answer. And when
17 you say the inlet area --
18 **A. Um-hum.**
19 **Q.** -- what are you referring to? What --
20 geographically?
21 **A. Geographically, probably from that green line**
22 **over to Moore's. I would advise no one to swim**
23 **there. But I mean, I wouldn't advise anyone to swim**
24 **in the ocean when lifeguards aren't on duty.**
25 **Q.** Right. Okay. But you -- for the record,

WORD FOR WORD REPORTING, LLC

20

1 when you were just referring to --
2 **A. Um-hum.**
3 **Q.** -- Exhibit 48, you were referring to the --
4 the --
5 **A. The green -- the green line, over to the red**
6 **circle.**
7 **Q.** Okay. All right. So, if you saw me, let's
8 say, at Moore's Beach --
9 **A. Um-hum.**
10 **Q.** -- going just for a swim, like 10, 20 feet
11 into the water.
12 **A. Um-hum.**
13 **Q.** You would have no objection to that, as a
14 former lifeguard?
15 **MR. HUNKINS:** Object to the form.
16 **A. It depends what time, and what time of the**
17 **year. You know, obviously, I wouldn't advise anybody**
18 **to go swimming now. But if lifeguards were on duty,**
19 **and they were swimming in front of a lifeguard in the**
20 **inlet section of the beach, I would say it's not a**
21 **problem. There's -- it's a guarded beach area, and**
22 **lifeguards are on duty at the time.**
23 **Q.** Well, based upon your experience --
24 **A. Um-hum.**
25 **Q.** -- from what we're calling the inlet beach

WORD FOR WORD REPORTING, LLC

1 from this green line --
2 **A. Um-hum.**
3 **Q.** -- at the bottom on Exhibit 48, up to the
4 circle, where were lifeguards posted there?
5 **A. There were lifeguards usually right in**
6 **between the yellow dot, I believe. Maybe a little**
7 **bit further north of the yellow dot, like right**
8 **around here.**
9 **Q.** Okay. What I'm going to do is --
10 **A. Right around here.**
11 **Q.** -- if you could make a nice firm X where the
12 lifeguard stands were --
13 **A. Okay.**
14 **Q.** -- located.
15 **A. Can I do like a box, like, you know, like X**
16 **here and X there?**
17 **Q.** Yeah, do like a box.
18 **A. Okay. I would says it's right around in**
19 **between that, and --**
20 **Q.** Now, you just made an X.
21 **A. Yeah.**
22 **Q.** All right.
23 **A. Just made an X right there, and then an X**
24 **right there.**
25 **Q.** Okay. And we're going to be taking former
WORD FOR WORD REPORTING, LLC

22

1 Lieutenant Lindsay's deposition.
2 **A. Um-hum.**
3 **Q.** And in his reports, he's always referring to
4 The Point. All right? And does -- did you ever use
5 that phrase, The Point?
6 **A. No. I mean, I would never really use that.**
7 **He would have more terminologies than I would,**
8 **because that was his zone. He was always the inlet**
9 **lieutenant. Like, that was his designated zone every**
10 **Monday through Saturday, or whatever his days for**
11 **work were.**
12 **Q.** Now, when you say the inlet zone --
13 **A. Um-hum.**
14 **Q.** -- that's a phrase that I saw in one of these
15 documents that's right under here. Is there
16 something here in city hall that defines what the
17 inlet zone is for the beach patrol?
18 **A. No, I don't believe so. The zones were**
19 **always designated, in my opinion, by the beach patrol**
20 **chief. It wasn't, you know, written in stone or**
21 **anything, so. But it was broken into central and**
22 **north, central and south, inlet. Four, four**
23 **sections, so.**
24 **Q.** And you were thinking to yourself. Could you
25 please say it for the record.

WORD FOR WORD REPORTING, LLC

1 **A. Yeah, I just wanted to make sure, before I**
2 **said it for the record, that -- that I had all of my**
3 **ducks in a row. It's south zone, central zone, north**
4 **zone, and inlet zone. Four zones.**
5 **Q.** Okay. And from your experience on the beach
6 patrol, the inlet zone would run from where to where?
7 **A. Probably right where, like, that jetty is,**
8 **right there.**
9 **Q.** Okay. Now, let's use the blue marker --
10 **A. Um-hum.**
11 **Q.** All right. No, let's use the red marker. If
12 you could circle that jetty, please.
13 **A. Okay.**
14 **Q.** On Exhibit 48.
15 **A. (Witness complies.)**
16 MR. DIJOSEPH: What street is that on?
17 MR. D'AMATO: What?
18 MR. DIJOSEPH: What street?
19 **Q.** What would be the adjacent street?
20 **A. That would be right around First Avenue, I**
21 **believe.**
22 **Q.** Okay. And the inlet zone would run up to
23 what, Moore's Beach?
24 **A. Probably right around where that RS, where I**
25 **marked, right there before.**

WORD FOR WORD REPORTING, LLC

24

1 **Q.** Okay. Adjacent to the RS, which are --
2 **A. With the -- with the red line.**
3 **Q.** Okay.
4 **A. So, in between that jetty and that red line**
5 **would be inlet zone.**
6 **Q.** Now, did you ever man the lifeguard stands at
7 those two locations in the inlet zone?
8 **A. My rookie year, I've sat up there, in '07. I**
9 **wouldn't remember much from it, because it was a day**
10 **that, you know, we had to run to our lifeguard -- you**
11 **had to run to the lifeguard stand, you sat with an**
12 **older guard, just to learn the ropes. I think I sat**
13 **with Kevin McGarry that day.**
14 **Q.** Okay. Kevin McGarry, I heard his name
15 before. He's --
16 **A. Kevin McGarry. He's a lawyer, actually.**
17 **Q.** Where does he practice?
18 **A. Up in Lancaster.**
19 **Q.** Okay. All right.
20 Now, let's go from 2007, when you
21 become a lifeguard, up until July 27, 2012. That's,
22 like, a five-year period there.
23 Would you observe employees of Public
24 Works Department cleaning what you call the inlet
25 zone with, like, a tractor, or anything?

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1 **A. I don't recall. I've never -- I've never**
2 **really sat down on the inlet beach. Like, that's not**
3 **a beach that I flock to, to sit at. And, you know, I**
4 **didn't work on that beach when I was on the beach**
5 **patrol very often. So, I didn't witness anybody**
6 **coming by with a beach rake, or emptying trash cans**
7 **or anything.**

8 **Q. During the time period that I'm referring to,**
9 **2007 until July 27, 2012, would you personally**
10 **observe police officers of the North Wildwood Police**
11 **Department having to provide services in the inlet**
12 **zone area?**

13 **A. I'm sure they drove by the inlet zone with**
14 **quads. I personally didn't witness, you know, any**
15 **occasions where police were driving the quad around**
16 **the inlet. I mean, I've heard of --**

17 **Q. Okay.**

18 **A. -- police officers patrolling that area,**
19 **though.**

20 **Q. Those quads that you refer to, we have a**
21 **picture or two of those, what do you call them;**
22 **police quads --**

23 **A. I always just called them quads. Police**
24 **four-wheel terrain vehicles.**

25 **Q. Okay. Did the North Wildwood Beach Patrol,**
WORD FOR WORD REPORTING, LLC

26

1 when you were a lifeguard, have its own quads that it
2 could patrol?

3 **A. I think we had one.**

4 **Q. Okay. And where was it typically stationed?**

5 **A. It would vary, I believe. You know, I never**
6 **operated the quad. I'd see it down south, around**
7 **22nd Avenue. And mostly, it was used for emergency**
8 **medical needs. I think the quad had a first aid kit**
9 **on the back, and a bunch of medical supplies, so if**
10 **there was ever, you know, heat exhaustion, or an**
11 **emergency medical need --**

12 **Q. Got you.**

13 **A. -- the quad would speed over.**

14 **Q. Since you became an intern, then an**
15 **administrative assistant, did you ever deal with a**
16 **Dr. Stewart Farrell?**

17 **A. Yes.**

18 **Q. From the Coastal Research Center at Stockton?**

19 **A. Yes.**

20 **Q. What was generally your involvement with him?**

21 **A. My general involvement would be sitting in**
22 **and taking some notes on any beach replenishment, you**
23 **know, meeting with Mayor Henfey at the time, down on**
24 **the beach, so Stewart Farrell could, you know, give**
25 **his points of view regarding the current beach**

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1 **replenishment project that was co-existing in the**
2 **summer of 2013.**

3 **Q. Okay. Do you know of any beach replenishment**
4 **projects that were done in the inlet zone area?**

5 **A. Not that I'm aware of. I think it would be a**
6 **very hard zone to do beach replenishment on.**

7 **Q. And why is that?**

8 **A. Just this location right around here, current**
9 **rips through.**

10 **Q. The current rips through, yeah.**

11 **A. Um-hum. It would be very hard for sand to**
12 **stay, I think, in that location.**

13 **Q. A what?**

14 **A. I think it would be very hard for sand to**
15 **stay at that location. But at one point in time, it**
16 **was growing. Not our doing, you know, mother**
17 **nature's, but --**

18 **Q. Yeah. Dr. Stewart Farrell -- you met Lou**
19 **DiJoseph, this gentleman here?**

20 **A. Yes.**

21 **Q. Yes. Okay. Did I tell you that he used to**
22 **work in the intelligence bureau of the New Jersey**
23 **State Police?**

24 **A. Oh, no. I didn't know that.**

25 **Q. Yeah, yeah. And he interviewed Dr. Farrell.**
WORD FOR WORD REPORTING, LLC

28

1 **A. Yeah.**

2 **Q. And Dr. Farrell says that in the inlet that**
3 **we're referring to that is shown in part on Exhibit**
4 **48, that when the back bays are going out to the**
5 **ocean, and vice-versa, that there is this -- the**
6 **currents are very, very strong in that area.**

7 **A. Um-hum.**

8 **Q. Would you agree with that statement?**

9 **A. I would, yes.**

10 **Q. All right. And I even asked the chief that,**
11 **and he said that the speed of those currents going**
12 **back and forth can be between five and nine miles per**
13 **hour.**

14 **A. Oh, I wouldn't -- I wouldn't, you know, know**
15 **the exact --**

16 **Q. You wouldn't know. Okay.**

17 **A. -- mile per hour, or anything.**

18 **Q. Okay. But Dr. Farrell told Mr. DiJoseph, and**
19 **the chief confirmed, that when this phenomenon takes**
20 **place of the back bays going into the ocean and**
21 **vice-versa, that there is a vortex or a whirlpool**
22 **that occurs, and the chief told us it's about 25**
23 **yards long.**

24 Did you ever hear of this vortex or
25 whirlpool?

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1 **A. No.**
2 **Q.** Okay. Did you have any involvement in the
3 investigation of the drowning of Brad Smith, the
4 investigation?
5 **A. No.**
6 **Q.** Okay. Okay. Now, if we could go to Exhibit
7 30, and if you could go to the third page, where
8 there's -- yeah, you have it there.
9 And what we're going to do is --
10 MR. D'AMATO: 51, that's the next?
11 Yeah.
12 (Third Page of Exhibit P-30 is received
13 and marked for identification as Exhibit P-51.)
14 **Q.** Okay. If you could put this sticker at the
15 bottom of that, this way, we'll know what we're
16 referring to. Thank you.
17 **A. (Witness complies.)**
18 MR. DIJOSEPH: What number is that?
19 MR. D'AMATO: 51. Thank you.
20 **Q.** All right. Now, there are certain markings,
21 these dark little dots?
22 **A. Um-hum.**
23 **Q.** Okay. What do they represent?
24 **A. Water rescues, and, you know, they varied in**
25 **colors when I was plotting them.**
WORD FOR WORD REPORTING, LLC

30

1 **Q.** Okay.
2 **A. I think the green ones were, you know, no**
3 **fatality. It was a regular water rescue. And then**
4 **the red was some sort of fatality.**
5 **Q.** Yeah. I have to tell you, we never got a
6 color version of this.
7 **A. Oh, really?**
8 **Q.** No.
9 MR. ROZELL: Let me see if I have it.
10 **Q.** Our version is black and white.
11 MR. DIJOSEPH: Yeah, we never got a
12 color.
13 MR. D'AMATO: No. I mean, it would
14 really save us time if we had a color.
15 MR. ROZELL: Yeah. I'm sorry. Let me
16 see if I have it.
17 MR. D'AMATO: Do you have a color
18 copier here?
19 THE WITNESS: Yeah.
20 MR. ROZELL: Yeah, we have the color
21 one here.
MR. D'AMATO: Let me see.
MR. ROZELL: Sure.
24 MR. D'AMATO: All right.
25 Oh, the -- yeah, we need this.
WORD FOR WORD REPORTING, LLC

1 And I'm looking at this quickly.
2 Is the only page that is color is the
3 one that we're referring to now?
4 MR. DIJOSEPH: No, the next one.
5 **A. I believe so. There might be --**
6 **Q.** Okay. How about the --
7 **A. There might be another breakdown of each**
8 **department, yeah.**
9 **So, that would be the police reports**
10 **that I plotted. And the fire department reports I**
11 **plotted.**
12 **Q.** All right. So, Will doesn't even have a
13 complete color copy here.
14 **A. Oh, okay.**
15 **Q.** You see what I'm saying?
16 **A. Yeah.**
17 **Q.** If you look at his markings back over here --
18 **A. Yeah.**
19 **Q.** -- North Wildwood Fire Department, that's not
20 even color.
21 **A. Um-hum.**
22 **Q.** So, could we impose upon you to stop this
23 deposition, and if you could make us one, two, three,
24 four, and one for you, five copies, so this way, we
25 can move through this really quickly?
WORD FOR WORD REPORTING, LLC

32

1 **A. Absolutely, I can do that.**
2 MR. D'AMATO: Is that okay?
3 MR. ROZELL: Sure, no problem.
4 MR. D'AMATO: Okay. So, we'll go off
5 the record.
6 VIDEOGRAPHER: Going off the record,
7 1:47.
8 (There was a brief recess.)
9 (Color Copy of Exhibit P-30, received
10 and marked for identification as Exhibit P-52.)
11 VIDEOGRAPHER: We're back on the
12 record, 1:57.
13 BY MR. D'AMATO:
14 **Q.** Ron, I want to thank you for getting us a
15 color copy of Exhibit 30. We have remarked it as
16 Exhibit 52 with today's date. And let us go to the
17 third page. That's where we were last time.
18 **A. Okay.**
19 **Q.** And could you -- I know it's self-evident,
20 but I got to get the words out of you. Explain what
21 we are looking at here.
22 **A. You are looking at the plotting of rescues**
23 **and/or fatalities on North Wildwood Beach from**
24 **summers 2010 through 2015.**
25 **Q.** Okay. Now, I want to direct your attention
WORD FOR WORD REPORTING, LLC

1 to what I'm going to call the inlet zone.
2 **A. Okay.**
3 **Q.** All right? I see at Westchester Avenue, if
4 you run it straight down, you go into a green rescue,
5 which means no fatalities.
6 Do you see what I'm saying?
7 **A. Um-hum.**
8 **Q.** Okay. That -- now, that's not the inlet
9 zone; is it, or is it?
10 **A. I would consider -- wait. Which one? The --**
11 **Q.** Here.
12 **A. Because there's two green ones. There's one**
13 **on Champagne Island, and then there's one --**
14 MR. DiJOSEPH: The parking lot's right
15 here. Parking lot's right here. It's Pine Avenue.
16 MR. D'AMATO: Right, okay.
17 **Q.** Let's do this: If you could take the red
18 marker here.
19 **A. Okay.**
20 **Q.** And just put A next to that green one right
21 there --
22 **A. Okay.**
23 **Q.** -- that is --
24 **A. On -- it's, like, First, Chestnut? Right**
25 **around there.**

WORD FOR WORD REPORTING, LLC

34

1 **Q.** Yeah, yeah.
2 **A. Okay.**
3 **Q.** All right. That's a red arrow?
4 **A. Oh, I thought you said write an A next to it.**
5 **Q.** Okay. A, that's fine.
6 **A. Okay.**
7 **Q.** A is good.
8 Now, is that the inlet zone?
9 **A. Yeah, I would consider that the inlet zone.**
10 **Q.** Okay. Now, going north on this particular
11 exhibit, we see two red dots. Correct?
12 **A. Um-hum.**
13 **Q.** And that's a fatality. Correct?
14 **A. Yes.**
15 **Q.** All right. And where would we go in this
16 particular exhibit that we've marked as Exhibit 52 to
17 find the reference to those -- it's a red
18 configuration with two black dots in it. Where do we
19 go?
20 **A. All right. It would be in -- you kind of**
21 **have to scan through. I went through -- you know,**
22 **all the records were handwritten that I went through,**
23 **so -- for the red dots, or?**
24 **Q.** Yeah, for the two red dots.
25 **A. For the two red dots.**

WORD FOR WORD REPORTING, LLC

1 **Q.** You see --
2 **A. Actually, they wouldn't be included in the**
3 **beach patrol reports, because all of them were**
4 **handwritten after, you know, the day was done. And**
5 **any fatalities that occurred that I marked on there**
6 **were after hours, was after 5:30. So, they wouldn't**
7 **have recorded it on here. I got those red dots, and**
8 **mapped them because I knew that the beach patrol,**
9 **fire department, and police all responded to those**
10 **immediate emergencies. But the documentation of**
11 **their response was within the police and fire data.**
12 **Q.** Okay. But where in this document is there an
13 explanation of those two red dots to which you placed
14 an A?
15 **A. If you go to police records.**
16 **Q.** Okay. I got to find it.
17 Okay. I'm at this page here, that says
18 --
19 **A. No. As reported -- the next page.**
20 MR. DiJOSEPH: It's right here, Paul.
21 **A. It would be drowning.**
22 **Q.** Oh, the next page?
23 **A. Drowning fatalities, the three of them are**
24 **listed right there.**
25 **Q.** Okay. Wait a second.

WORD FOR WORD REPORTING, LLC

36

1 (Discussion off the record.)
2 **Q.** Can I see what you're referring to?
3 **A. Oh, absolutely.**
4 **Q.** What is -- is this Christina Tsi --
5 **A. It would be Christina Tsitsias, and Bradley**
6 **Smith were the two.**
7 **Q.** Okay.
8 **A. And I marked them, you know, according to**
9 **what information I was provided by the police**
10 **department.**
11 **Q.** All right.
12 **A. Per records.**
13 **Q.** If you could mark that page as Exhibit 53.
14 **A. Okay.**
15 (Page from Police Records, received and
16 marked for identification as Exhibit P-53.)
17 **A. Sorry. It stuck to your finger.**
18 **Q.** Sorry. There you go.
19 (Discussion off the record.)
20 **Q.** So, Bradley Smith would be Victim 2 --
21 **A. Um-hum.**
22 **Q.** -- if we look at the page before this.
23 Right?
24 **A. Yes.**
25 **Q.** Now, for Bradley Smith, you have placed the

WORD FOR WORD REPORTING, LLC

1 red mark for Victim 2 out in the inlet water.
2 **A. Yes.**
3 **Q.** Okay. Why did you do that?
4 **A. Because that's -- you know, I just did it**
5 **according to, you know, what police reports said.**
6 **Q.** Okay.
7 **A. You know, he was lost out in the water, inlet**
8 **beach. Tried to mark it exactly where the street was**
9 **designated on their, you know, rough data reports.**
10 **Q.** Okay. Now, with respect to Victim 1.
11 **A. Um-hum.**
12 **Q.** Christina, is it Tsio -- how do you say that?
13 **A. T-S-I -- I -- Tsiots --**
14 **Q.** You don't know how to pronounce it. Okay.
15 All right. But it's Victim 1. What is -- the date
16 of that incident is July 22, 2011?
17 **A. Um-hum.**
18 **Q.** Okay. Now, are there police reports for
19 this?
20 **A. Yes.**
21 **Q.** Okay. Are there any North Wildwood Beach
22 Patrol reports for this?
23 **A. No. Because it was another after hours**
24 **rescue.**
25 **Q.** Okay.

WORD FOR WORD REPORTING, LLC

38

1 **A. Well, not after hours rescue, after hours**
2 **drowning fatality, but.**
3 **Q.** All right. And you had the benefit of
4 looking at police department reports relative to the
5 drowning of Christina?
6 **A. Yes.**
7 **Q.** Okay. I'm going to write to Will and Mike
8 for a copy of those reports.
9 **A. Okay.**
10 MR. ROZELL: You should have them.
11 **A. It should be --**
12 MR. ROZELL: We sent you all the
13 reports that Ron used.
14 **A. It was in, like, a --**
15 MR. DIJOSEPH: I don't think we have
16 one on Christina.
17 MR. ROZELL: Okay. I remember -- okay,
18 maybe we didn't send it. I remember seeing one, but
19 I thought we sent it.
20 MR. DIJOSEPH: Yeah, I just went
21 through all the discovery in the last couple of days,
22 and I didn't see any.
23 MR. ROZELL: Okay.
24 MR. D'AMATO: Yeah, I didn't either,
25 so.

WORD FOR WORD REPORTING, LLC

1 **A. I thought it was in there. I apologize if it**
2 **wasn't.**
3 **Q.** Now, so we understand the significance of
4 this entry on this page here --
5 **A. Um-hum.**
6 **Q.** -- where it has Christina and Brad Smith and
7 a juvenile. These events took place during the time
8 period of 2010 to 2015. Correct?
9 **A. Yes.**
10 **Q.** Okay. How did you go about determining the
11 existence of these drownings during that time period?
12 Was there a computer you accessed?
13 **A. Can you repeat the question? I don't quite**
14 **follow.**
15 **Q.** Yeah. To me, this document says that from
16 2010 --
17 **A. Um-hum.**
18 **Q.** -- to the end of the summer season of 2015,
19 there were three drowning fatalities.
20 **A. Um-hum.**
21 **Q.** Okay? How did you go about determining that?
22 **A. I received drowning and rescue reports from**
23 **the beach patrol, fire, and police departments, after**
24 **I pursued all three department heads, via e-mail, and**
25 **they all dropped off, you know, a series of data --**

WORD FOR WORD REPORTING, LLC

40

1 **data sets, and I tried to combined it all into one**
2 **conjoined document, and plot all of them on a map.**
3 **Q.** Do you know if any of those departments that
4 you just mentioned, in order to give you what you
5 requested, were able to use a search engine to scan
6 reports?
7 **A. I wouldn't know. Yeah. As far as scanning**
8 **systems, or software that they use for the reports,**
9 **you know, they just printed it out and gave it all to**
10 **me.**
11 **Q.** Okay. All right. Now, let's go back to the
12 first color page that we, I believe, marked for
13 identification?
14 **A. Okay.**
15 **Q.** It was page 3.
16 Oh, and we didn't mark that, or did we?
17 **A. What, on page --**
18 **Q.** That particular page.
19 **A. Oh, no. I marked it on this one, so.**
20 **Q.** Okay. Well, let's do this then.
21 **A. So. I got to mark that page on --**
22 MR. DIJOSEPH: This is 52, that's 53,
23 that should be 54.
24 MR. D'AMATO: Exactly, right. So, what
25 we're going to do is, that page, which is the third

WORD FOR WORD REPORTING, LLC

1 page of this exhibit, we're going to mark as Exhibit
2 54. Okay?
3 (Third Page of Exhibit P-30, received
4 and marked for identification as Exhibit P-54.)
5 **Q.** All right. Now, looking at the top of that
6 page, where there's a green marking with a black dot
7 in it for Champagne Island --
8 **A.** Um-hum.
9 **Q.** -- where would be the reference in this body
10 of report to that incident?
11 **A.** It would be -- I'd have to scan through and
12 find it. But --
13 **Q.** You know, I have a thought. Okay?
14 **A.** Okay.
15 **Q.** To save time, why don't we do it this way.
16 **A.** Um-hum.
17 **Q.** Okay. What we're going to do is this now:
18 We've marked as Exhibit 54 a page. And I want you to
19 go to the next page.
20 **A.** Okay.
21 **Q.** And for the record, at the top, it says, 2010
22 Rescues.
23 **A.** Um-hum.
24 **Q.** All right? Here's what I want to do. I want
25 to go through those rescues that took place in the
WORD FOR WORD REPORTING, LLC

42

1 inlet, or the inlet zone, to be more precise.
2 So, let's look at the first one. May
3 30, 2010, Third Avenue. Is that in the zone?
4 **A.** No.
5 **Q.** Okay. How about the one for July 8, 2010,
6 four victim rescue, location Surf Avenue?
7 **A.** Yes.
8 **Q.** That would be in the zone?
9 **A.** Um-hum.
10 **Q.** Okay. Let's go to the next page. It goes --
11 now, I want to direct your attention to the 2011
12 rescues. And let's all do this together and look for
13 any of -- any references to rescues that took place
14 in this zone area, or the inlet area we've been
15 talking about.
16 Okay. How about on the next page, July
17 3, 2011, location Third Avenue?
18 **A.** No.
19 **Q.** All right. Okay. We can keep on going. I'm
20 going down looking at every location here.
21 Okay. How about August 4, 2012, Jet
22 Ski rescue, sand bar Second Avenue?
23 **A.** It would be, most likely, north beach, which
24 would be --
25 **Q.** First and Surf?

WORD FOR WORD REPORTING, LLC

1 **A.** South of the jetty. It would be south of
2 that Second Avenue jetty, out on that sand bar. But
3 it looks like inlet responded. If a Jet Ski was --
4 if a Jet Ski was, you know, needed or sparked, it
5 would have came from the inlet, so.
6 **Q.** Okay. Where did they typically keep the Jet
7 Ski when you were a lifeguard from 2007 to 2012?
8 **A.** On the inlet beach.
9 **Q.** Okay. You put two markings to show us the
10 two lifeguard stands.
11 **A.** Um-hum.
12 **Q.** Was the Jet Ski kept at one more than the
13 other, or one all the time?
14 **A.** Usually, like, dead center, in the middle, so
15 they could, you know, just -- because it was on,
16 like, a -- like, bouncy wheels, you know. And then
17 they would just -- they'd rush it out, push it, and
18 whoever was --
19 **Q.** Okay. It was on a trailer, affixed to a
20 quad?
21 **A.** It was on a trailer affixed to the truck.
22 And it was actually taken off the trailer, and then
23 put onto a more mobile like trailer with --
24 **Q.** Okay.
25 **A.** -- tires that could easily be pushed through
WORD FOR WORD REPORTING, LLC

44

1 soft sand.
2 **Q.** Got you. Okay. Okay. I'm going to send a
3 letter to Will. I'm going to need --
4 MR. D'AMATO: Will, do you know, do we
5 have the report for that, this one here, August 4,
6 2012?
7 MR. ROZELL: Yeah. It would be a
8 handwritten report.
9 MR. DIJOSEPH: Yeah, we have a ton of
10 handwritten beach patrol reports.
11 MR. D'AMATO: So, can I assume that any
12 reference in this particular exhibit, which is 52, we
13 would have been provided the reports?
14 MR. ROZELL: Yes.
15 MR. D'AMATO: Okay. Thank you.
16 MR. ROZELL: Yep.
17 MR. D'AMATO: Okay.
18 MR. ROZELL: We sent you -- I thought
19 we had sent you everything we received from Ron, but
20 if you see anything that's missing, other -- besides
21 that Tsiotsias report, let me know.
22 MR. D'AMATO: Yeah, okay.
23 **Q.** Now, can you go to August 25, 2013. August
24 25, 2013. It's in the lower right-hand corner. Jet
25 Ski, personal watercraft, location Second Avenue sand
WORD FOR WORD REPORTING, LLC

1 bar. Can you tell from this if that's the inlet
2 zone?
3 **A. I'd have to look at the map. Hold on.**
4 **No. That would be still north, north**
5 **beach. Anywhere north of Second Avenue is considered**
6 **north beach. And anywhere -- or anywhere on south of**
7 **Second Avenue is considered north beach. Anywhere**
8 **north would be considered inlet.**
9 **Q.** Okay. Now, if you go to the page, I'm almost
10 at the end, that says August 12, 2012, 19:15 - First
11 Avenue, woman rescued from the water after swimming
12 incident.
13 **A. Where's this?**
14 **Q.** August 12, 2012, in the lower left-hand
15 corner. It's the third page from the back.
16 **A. August 12th, 2000 --**
17 **Q.** Go all the way to the bottom.
18 Here's what I'm looking at.
19 MR. ROZELL: From the very back.
20 **A. Oh, the very back? Oh, okay.**
21 **Q.** Yeah, I'm sorry. August 12, 2012.
22 Is that the inlet?
23 **A. Yes.**
24 **Q.** Okay. Okay. If we go to the next to the
25 last page for 2013, it says August 25, 2013.

WORD FOR WORD REPORTING, LLC

46

1 **A. Um-hum.**
2 **Q.** Rescued a man at Moore's Inlet Beach. That's
3 obviously the inlet zone.
4 **A. Yes.**
5 **Q.** How about for August 3, 2015, at the very
6 bottom there, Second Avenue. Can you tell --
7 **A. August 3rd.**
8 **Q.** August 3, 2015.
9 **A. Okay.**
10 **Q.** That's at the bottom of the next to the last
11 page.
12 **A. Okay. Yeah. Denied ever being in distress,**
13 **and refused treatment.**
14 **That would be still considered north**
15 **beach, if it was -- if the report said Second Avenue.**
16 **Q.** Okay.
17 **A. Wouldn't be considered inlet, no.**
18 **Q.** All right. Okay. Let me ask you this: You
19 defined for us the, geographically, what the inlet
20 zone was, and then you said there was north --
21 **A. Um-hum.**
22 **Q.** -- central, and south.
23 **A. North, central, and south, yes.**
24 **Q.** Okay. Can you give me your best estimation
25 of where north would start and end, if you're going

WORD FOR WORD REPORTING, LLC

1 south, and then the same for central, and then south?
2 **A. Between Second and Ninth Avenue would be**
3 **considered north. Tenth through 17th would be**
4 **considered central. And 18th through 25th would be**
5 **considered south.**
6 **Q.** Okay. And from your experience on the beach
7 patrol here in North Wildwood, would the more senior
8 lifeguards be assigned to the inlet zone?
9 **A. I think it varied, more than anything. You**
10 **know, a lot of people, a lot of the older guards did**
11 **like to sit the inlet, because it was a little bit**
12 **quieter in a sense, you know.**
13 **Q.** Yeah.
14 **A. Got more time to work out.**
15 **Q.** And are you a resident of North Wildwood now?
16 **A. No.**
17 **Q.** Okay. Do you use the North Wildwood beaches?
18 **A. Yes.**
19 **Q.** Okay. Are -- after you finished being a
20 lifeguard in 2012.
21 **A. Um-hum.**
22 **Q.** All right? To the end of the summer season
23 of 2015. All right? So, that would be basically the
24 summer season of 2014, the summer season of 2015.
25 **A. Um-hum.**

WORD FOR WORD REPORTING, LLC

48

1 **Q.** Were there lifeguard stands in the inlet
2 zone, as you had marked on Exhibit 48?
3 **A. Yes, I believe so.**
4 **Q.** Okay. Did you ever see them?
5 **A. Yes.**
6 **Q.** Okay.
7 **A. As far as the designation, if there was two**
8 **or one.**
9 **Q.** Okay.
10 **A. I'm not too sure. But I do know that there**
11 **were lifeguard stands down at the inlet, when I was**
12 **--**
13 **Q.** Do you know if there's been any discussion
14 that you're aware of, from the time you started
15 working as the lifeguard, up until the present, about
16 having a lifeguard stand at Moore's Beach?
17 **A. Never heard that consideration.**
18 **Q.** All right. Have you heard of any discussion,
19 whether you were part of it or just heard about it,
20 about closing Moore's Beach, that is, not allowing
21 people to even sit on the beach, let alone swim
22 there?
23 **A. No.**
24 **Q.** Okay.
25

MR. D'AMATO: I have nothing further.

WORD FOR WORD REPORTING, LLC

1 I want to thank you for your time. And thank you for
2 getting that color copy of this report.

3 THE WITNESS: Thank you.

4 MR. D'AMATO: It saved us a lot of
time.

6 THE WITNESS: Happy to provide it.

7 MR. HUNKINS: No questions. Thank you.

8 THE WITNESS: Thank you.

9 VIDEOGRAPHER: This concludes the
10 videotaped deposition. Off the record, 2:22.

11 (Deposition concludes at 2:22 p.m.)

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WORD FOR WORD REPORTING, LLC

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C E R T I F I C A T E

3

4 I, LYNN SMITH, a Certified Court Reporter of the
5 State of New Jersey, do hereby certify that prior to
6 the commencement of the examination, RONALD SIMONE
7 was duly sworn by me to testify the truth, the whole
8 truth and nothing but the truth.

9

10 I DO FURTHER CERTIFY that I am neither a relative nor
11 employee nor attorney nor counsel of any of the
12 parties to this action, and that I am neither a
13 relative nor employee of such attorney or counsel,
14 and that I am not financially interested in the
15 action.

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| | | | | |
|---|---|--|---|---|
| | 20th [1] - 7:23 210 [1] - 2:7 22 [1] - 37:16 22nd [1] - 26:7 25 [5] - 2:13, 28:22, 44:23, 44:24, 45:25 25th [1] - 47:4 27 [3] - 19:6, 24:21, 25:9 29 [1] - 3:10 2900 [1] - 2:3 2:22 [2] - 49:10, 49:11 | 9 | assume [1] - 44:11 attempts [1] - 17:17 attention [2] - 32:25, 42:11 attorney [4] - 5:9, 18:17, 50:11, 50:13 auction [1] - 8:23 auctions [1] - 8:21 August [12] - 42:21, 44:5, 44:23, 45:10, 45:14, 45:16, 45:21, 45:25, 46:5, 46:7, 46:8 Avenue [18] - 16:2, 16:3, 23:20, 26:7, 33:3, 33:15, 42:3, 42:6, 42:17, 42:22, 43:2, 44:25, 45:5, 45:7, 45:11, 46:6, 46:15, 47:2 aware [2] - 27:5, 48:14 | 7:16, 7:18, 7:21, 26:14 become [4] - 6:20, 6:24, 8:2, 24:21 BEFORE [1] - 1:15 began [2] - 4:12, 11:11 begin [3] - 4:21, 6:13, 14:8 begins [1] - 13:25 Belasco [2] - 11:25, 13:2 benefit [1] - 38:3 best [1] - 46:24 between [6] - 13:3, 21:6, 21:19, 24:4, 28:12, 47:2 bit [4] - 13:24, 14:10, 21:7, 47:11 black [3] - 30:10, 34:18, 41:6 blue [1] - 23:9 boater's [1] - 16:20 Bob [1] - 9:12 body [1] - 41:9 born [1] - 10:15 bottom [6] - 15:18, 21:3, 29:15, 45:17, 46:6, 46:10 bouncy [1] - 43:16 box [2] - 21:15, 21:17 bracket [6] - 12:10, 12:13, 12:23, 13:5, 13:18, 13:22 Brad [6] - 7:17, 12:18, 17:16, 18:5, 29:3, 39:6 BRADLEY [1] - 1:5 Bradley [4] - 18:11, 36:5, 36:20, 36:25 Brady [1] - 9:12 break [1] - 10:19 breakdown [1] - 31:7 Brian [1] - 5:13 BRIAN [1] - 2:14 brief [1] - 32:8 BROAD [1] - 1:23 broken [1] - 22:21 Building [1] - 1:18 bunch [1] - 26:9 bureau [1] - 27:22 BY [5] - 2:4, 2:8, 2:14, 4:10, 32:13 |
| 0 | 3 | A | B | |
| 08096 [1] - 1:23 08221 [1] - 2:7 08234 [1] - 2:3 08625 [1] - 2:13 | 3 [4] - 40:15, 42:17, 46:5, 46:8 30 [5] - 6:6, 17:21, 29:7, 32:15, 42:3 32 [1] - 3:11 36 [1] - 3:12 384-2770 [1] - 1:24 384-2779 [1] - 1:24 3rd [1] - 46:7 | ABC [1] - 1:9 able [1] - 40:5 absolutely [3] - 8:9, 32:1, 36:3 accessed [1] - 39:12 according [3] - 16:9, 36:8, 37:5 action [2] - 50:12, 50:15 ACTION [1] - 1:4 adjacent [2] - 23:19, 24:1 Administration [1] - 1:17 administrative [7] - 6:16, 7:25, 8:3, 8:7, 10:23, 13:9, 26:15 administrator [2] - 6:19, 6:21 advise [4] - 19:14, 19:22, 19:23, 20:17 affixed [2] - 43:19, 43:21 agree [2] - 13:21, 28:8 ahead [1] - 5:25 aid [1] - 26:8 allowing [1] - 48:20 almost [1] - 45:9 alone [1] - 48:21 America [1] - 9:9 AND [2] - 1:4, 2:11 answer [10] - 5:3, 5:9, 5:12, 5:18, 5:21, 5:25, 6:1, 7:5, 18:9, 19:16 anyhow [1] - 10:3 apologize [2] - 18:3, 39:1 appearance [1] - 4:4 approved [1] - 8:4 area [14] - 10:6, 13:4, 13:10, 16:17, 19:10, 19:15, 19:17, 20:21, 25:12, 25:18, 27:4, 28:6, 42:14 arrow [1] - 34:3 AS [1] - 1:4 aspects [1] - 8:19 asset [1] - 8:25 assigned [1] - 47:8 assistance [1] - 17:9 assistant [7] - 6:16, 7:25, 8:3, 8:8, 10:24, 13:9, 26:15 | bar [3] - 42:22, 43:2, 45:1 BARKER [1] - 2:6 based [1] - 20:23 basic [1] - 4:25 Basilica [1] - 10:1 bays [2] - 28:4, 28:20 beach [53] - 7:4, 7:8, 7:11, 11:9, 11:15, 12:11, 12:22, 12:24, 13:4, 13:6, 13:12, 13:23, 14:3, 14:8, 14:13, 14:16, 14:17, 15:7, 15:12, 16:13, 17:5, 17:12, 18:14, 19:7, 20:20, 20:21, 20:25, 22:17, 22:19, 23:5, 25:2, 25:3, 25:4, 25:6, 26:22, 26:24, 26:25, 27:3, 27:6, 35:3, 35:8, 37:8, 39:23, 42:23, 43:8, 44:10, 45:5, 45:6, 45:7, 46:15, 47:6, 48:21 Beach [20] - 11:15, 12:6, 12:7, 12:21, 13:4, 13:18, 13:22, 14:4, 15:6, 17:4, 17:8, 20:8, 23:23, 25:25, 32:23, 37:21, 46:2, 48:16, 48:20 beaches [1] - 47:17 beautiful [3] - 9:24, 9:25, 10:1 became [6] - 7:1, 7:6, | 7:16, 7:18, 7:21, 26:14 become [4] - 6:20, 6:24, 8:2, 24:21 BEFORE [1] - 1:15 began [2] - 4:12, 11:11 begin [3] - 4:21, 6:13, 14:8 begins [1] - 13:25 Belasco [2] - 11:25, 13:2 benefit [1] - 38:3 best [1] - 46:24 between [6] - 13:3, 21:6, 21:19, 24:4, 28:12, 47:2 bit [4] - 13:24, 14:10, 21:7, 47:11 black [3] - 30:10, 34:18, 41:6 blue [1] - 23:9 boater's [1] - 16:20 Bob [1] - 9:12 body [1] - 41:9 born [1] - 10:15 bottom [6] - 15:18, 21:3, 29:15, 45:17, 46:6, 46:10 bouncy [1] - 43:16 box [2] - 21:15, 21:17 bracket [6] - 12:10, 12:13, 12:23, 13:5, 13:18, 13:22 Brad [6] - 7:17, 12:18, 17:16, 18:5, 29:3, 39:6 BRADLEY [1] - 1:5 Bradley [4] - 18:11, 36:5, 36:20, 36:25 Brady [1] - 9:12 break [1] - 10:19 breakdown [1] - 31:7 Brian [1] - 5:13 BRIAN [1] - 2:14 brief [1] - 32:8 BROAD [1] - 1:23 broken [1] - 22:21 Building [1] - 1:18 bunch [1] - 26:9 bureau [1] - 27:22 BY [5] - 2:4, 2:8, 2:14, 4:10, 32:13 |
| 1 | 4 | | | |
| 1 [2] - 37:10, 37:15 10 [1] - 20:10 12 [3] - 45:10, 45:14, 45:21 12th [1] - 45:16 17th [1] - 47:3 18 [1] - 1:19 18th [2] - 4:2, 47:4 1990 [1] - 10:13 19:15 [1] - 45:10 1:14 [2] - 1:20, 4:4 1:47 [1] - 32:7 1:57 [1] - 32:12 | 4 [4] - 1:18, 3:4, 42:21, 44:5 41 [1] - 3:14 48 [7] - 12:3, 14:14, 20:3, 21:3, 23:14, 28:4, 48:2 | | | |
| 2 | 5 | | | |
| 2 [2] - 36:20, 37:1 20 [2] - 7:24, 20:10 200 [1] - 2:3 2000 [2] - 15:9, 45:16 2007 [6] - 7:8, 9:3, 15:8, 24:20, 25:9, 43:7 2010 [6] - 32:24, 39:8, 39:16, 41:21, 42:3, 42:5 2011 [3] - 37:16, 42:11, 42:17 2012 [13] - 7:15, 9:3, 15:10, 19:7, 24:21, 25:9, 42:21, 43:7, 44:6, 45:10, 45:14, 45:21, 47:20 2013 [11] - 6:22, 7:16, 7:22, 7:23, 7:24, 8:5, 27:2, 44:23, 44:24, 45:25 2014 [1] - 47:24 2015 [7] - 32:24, 39:8, 39:18, 46:5, 46:8, 47:23, 47:24 2016 [3] - 1:19, 4:2, 6:7 202 [1] - 1:23 | 51 [2] - 29:10, 29:19 52 [4] - 32:16, 34:16, 40:22, 44:12 53 [2] - 36:13, 40:22 54 [3] - 40:23, 41:2, 41:18 5:30 [2] - 19:13, 35:6 | | | |
| | 6 | | | |
| | 6 [1] - 1:23 601-8677 [1] - 2:8 609 [2] - 2:8, 2:14 | | | |
| | 7 | | | |
| | 777-4872 [1] - 2:14 | | | |
| | 8 | | | |
| | 8 [1] - 42:5 856 [2] - 1:24 | | C | |
| | | | campus [1] - 9:24 campuses [1] - 9:25 cans [1] - 25:6 CAPE [1] - 1:1 | |

Cape [2] - 1:17, 1:18
Capitol [2] - 9:10, 9:16
case [1] - 11:14
categories [1] - 10:20
Catholic [2] - 9:8, 9:21
Cavalier [2] - 11:9, 18:20
Center [1] - 26:18
center [1] - 43:14
central [7] - 22:21, 22:22, 23:3, 46:22, 46:23, 47:1, 47:4
certain [4] - 5:19, 8:10, 8:11, 29:20
certified [1] - 50:20
Certified [2] - 1:15, 50:4
CERTIFIED [1] - 1:22
certify [1] - 50:5
CERTIFY [1] - 50:10
cetera [1] - 16:22
Champagne [3] - 17:5, 33:13, 41:7
Chestnut [1] - 33:24
chief [12] - 11:7, 11:19, 12:1, 12:5, 13:11, 13:17, 18:24, 19:3, 22:20, 28:10, 28:19, 28:22
Chief [2] - 11:9, 18:20
Christina [6] - 36:4, 36:5, 37:12, 38:5, 38:16, 39:6
church [1] - 10:2
circle [5] - 12:8, 13:5, 20:6, 21:4, 23:12
circumstance [1] - 5:4
city [3] - 8:19, 19:3, 22:16
City [4] - 6:25, 7:1, 7:3, 7:21
CITY [1] - 1:8
CIVIL [1] - 1:4
cleaning [1] - 24:24
closing [1] - 48:20
co [1] - 27:1
co-existing [1] - 27:1
Coastal [1] - 26:18
color [11] - 30:6, 30:12, 30:14, 30:17, 30:20, 31:2, 31:13, 31:20, 32:15, 40:12, 49:2
Color [2] - 3:11, 32:9
colors [1] - 29:25
combined [1] - 40:1
coming [3] - 10:8, 10:14, 25:6
commencement [1] - 50:6

commencing [1] - 1:19
community [1] - 8:20
complaint [1] - 8:15
complete [1] - 31:13
Complex [1] - 2:12
complies [2] - 23:15, 29:17
computer [1] - 39:12
concern [2] - 8:11, 8:15
concludes [2] - 49:9, 49:11
condominiums [1] - 15:5
conference [1] - 5:14
configuration [1] - 34:18
confirmed [1] - 28:19
confusion [1] - 18:3
Congressman [1] - 9:12
conjoined [1] - 40:2
consider [2] - 33:10, 34:9
consideration [1] - 48:17
considered [9] - 16:4, 45:5, 45:7, 45:8, 46:14, 46:17, 47:3, 47:4, 47:5
constituent [2] - 8:9, 8:12
Consulting [1] - 8:19
contact [1] - 8:14
continued [1] - 7:13
copier [1] - 30:18
copies [1] - 31:24
Copy [2] - 3:11, 32:9
copy [4] - 31:13, 32:15, 38:8, 49:2
corner [2] - 44:24, 45:15
CORPORATIONS [1] - 1:10
correct [5] - 6:17, 6:18, 34:11, 34:13, 39:8
corrected [1] - 18:17
council [1] - 8:4
counsel [4] - 4:4, 4:11, 50:11, 50:13
COUNTY [1] - 1:1
County [1] - 1:17
couple [1] - 38:21
court [1] - 4:6
COURT [2] - 1:1, 1:22
Court [4] - 1:15, 1:18, 50:4, 50:20
CPM-L-331-14 [1] -

1:2
Crest [2] - 10:11, 10:13
current [3] - 26:25, 27:8, 27:10
currents [2] - 28:6, 28:11
curve [1] - 13:25

D

D'AMATO [22] - 2:2, 2:4, 4:10, 23:17, 29:10, 29:19, 30:13, 30:17, 30:22, 30:24, 32:2, 32:4, 32:13, 33:16, 38:24, 40:24, 44:4, 44:15, 44:17, 44:22, 48:25, 49:4
d'Amato [2] - 3:4, 44:11
DAG [1] - 2:14
dark [1] - 29:21
data [4] - 35:11, 37:9, 39:25, 40:1
database [2] - 8:12, 8:23
date [3] - 7:20, 32:16, 37:15
days [2] - 22:10, 38:21
dead [1] - 43:14
deal [1] - 26:15
deceased [1] - 17:23
decided [2] - 17:8, 17:13
Defendant [1] - 2:9
Defendants [1] - 1:11
defending [1] - 19:3
define [1] - 11:10
defined [2] - 17:13, 46:19
defines [1] - 22:16
definitely [1] - 9:20
DelMonte [1] - 16:23
denied [1] - 46:12
dep [1] - 9:19
Department [3] - 24:24, 25:11, 31:19
department [8] - 8:11, 8:16, 31:8, 31:10, 35:9, 36:10, 38:4, 39:24
DEPARTMENT [1] - 2:11
departments [2] - 39:23, 40:3
depote [1] - 13:15
DEPOSITION [1] - 1:5
Deposition [1] - 49:11
deposition [16] - 4:2,

4:12, 4:14, 4:18, 5:5, 6:6, 10:19, 11:7, 11:11, 12:20, 18:21, 18:24, 19:3, 22:1, 31:23, 49:10
depositions [1] - 12:4
DESCRIPTION [1] - 3:9
designated [3] - 22:9, 22:19, 37:9
designation [1] - 48:7
determining [2] - 39:10, 39:21
died [1] - 18:5
difficult [1] - 5:11
DiJoseph [14] - 2:17, 23:16, 23:18, 27:19, 28:18, 29:18, 30:11, 31:4, 33:14, 35:20, 38:15, 38:20, 40:22, 44:9
direct [2] - 32:25, 42:11
discovery [1] - 38:21
discussion [5] - 11:8, 36:1, 36:19, 48:13, 48:18
distinguish [1] - 13:3
distress [1] - 46:12
district [1] - 9:12
DIVISION [2] - 1:1, 2:12
DO [1] - 50:10
DOCKET [1] - 1:2
document [7] - 6:5, 6:15, 11:1, 11:3, 35:12, 39:15, 40:2
documentation [1] - 35:10
documents [1] - 22:15
DOE [2] - 1:9
done [2] - 27:4, 35:4
dot [3] - 21:6, 21:7, 41:6
dots [8] - 29:21, 34:11, 34:18, 34:23, 34:24, 34:25, 35:7, 35:13
doubt [1] - 5:17
down [9] - 10:14, 10:20, 12:23, 25:2, 26:6, 26:23, 33:4, 42:20, 48:11
Dr [5] - 26:16, 27:18, 27:25, 28:2, 28:18
driving [1] - 25:15
dropped [1] - 39:25
drove [1] - 25:13
drowning [9] - 17:16, 18:11, 29:3, 35:21,

35:23, 38:2, 38:5, 39:19, 39:22
drownings [4] - 17:18, 17:22, 18:1, 39:11
ducks [1] - 23:3
duly [2] - 4:9, 50:7
during [7] - 9:2, 11:21, 15:4, 15:7, 25:8, 39:7, 39:11
duties [1] - 8:6
duty [6] - 8:11, 17:21, 19:11, 19:24, 20:18, 20:22

E

e-mail [1] - 39:24
easily [1] - 43:25
Egg [1] - 2:3
either [3] - 11:20, 16:8, 38:24
emergencies [1] - 35:10
emergency [3] - 16:17, 26:7, 26:11
employee [8] - 6:24, 7:1, 7:3, 7:7, 50:11, 50:13
employees [2] - 13:16, 24:23
emptying [1] - 25:6
end [8] - 6:22, 6:23, 9:3, 15:8, 39:18, 45:10, 46:25, 47:22
ending [1] - 13:18
ends [3] - 12:11, 12:13, 13:22
engine [1] - 40:5
entire [1] - 13:4
entry [1] - 39:4
environmental [1] - 8:18
ESQUIRE [2] - 2:4, 2:8
ESTATE [1] - 1:4
estimation [1] - 46:24
et [1] - 16:21
event [1] - 12:18
events [1] - 39:7
evident [1] - 32:19
exact [1] - 28:15
exactly [2] - 37:8, 40:24
examination [1] - 50:6
Examination [1] - 3:4
EXAMINATION [1] - 4:10
Excel [1] - 8:13
EXECUTRIX [1] - 1:4
exhaustion [1] - 26:10
Exhibit [25] - 3:10,

| | | | | |
|---|--|--|--|---|
| <p>3:11, 3:13, 6:6, 12:3, 14:14, 20:3, 21:3, 23:14, 28:3, 29:6, 29:12, 29:13, 32:9, 32:10, 32:15, 32:16, 34:16, 36:13, 36:16, 41:1, 41:3, 41:4, 41:18, 48:2</p> <p>exhibit [5] - 12:6, 34:11, 34:16, 41:1, 44:12</p> <p>Exhibits [1] - 3:15</p> <p>existence [1] - 39:11</p> <p>existing [1] - 27:1</p> <p>expedite [1] - 4:23</p> <p>experience [3] - 20:23, 23:5, 47:6</p> <p>explain [1] - 32:20</p> <p>explanation [1] - 35:13</p> <p>extra [1] - 16:16</p> | <p>five-year [1] - 24:22</p> <p>fixed [1] - 8:25</p> <p>flock [1] - 25:3</p> <p>follow [1] - 39:14</p> <p>follows [1] - 4:9</p> <p>followup [1] - 8:16</p> <p>FOR [1] - 1:22</p> <p>force [1] - 16:11</p> <p>form [4] - 5:15, 5:24, 18:9, 20:15</p> <p>former [3] - 13:8, 20:14, 21:25</p> <p>forth [1] - 28:12</p> <p>forward [1] - 8:15</p> <p>four [6] - 22:22, 23:4, 25:24, 31:24, 42:6</p> <p>four-wheel [1] - 25:24</p> <p>front [1] - 20:19</p> <p>full [2] - 7:1, 8:5</p> <p>full-time [2] - 7:1, 8:5</p> <p>FURTHER [1] - 50:10</p> | <p>happy [1] - 49:6</p> <p>Harbor [1] - 2:3</p> <p>hard [3] - 27:6, 27:11, 27:14</p> <p>heads [1] - 39:24</p> <p>hear [2] - 11:19, 28:24</p> <p>heard [7] - 11:18, 19:16, 24:14, 25:16, 48:17, 48:18, 48:19</p> <p>heat [1] - 26:10</p> <p>help [1] - 8:25</p> <p>Henfey [1] - 26:23</p> <p>HER [1] - 1:5</p> <p>hereby [1] - 50:5</p> <p>highly [1] - 5:17</p> <p>Hill [2] - 9:10, 9:16</p> <p>hold [1] - 45:3</p> <p>honestly [1] - 16:9</p> <p>hour [2] - 28:13, 28:17</p> <p>hours [5] - 19:13, 35:6, 37:23, 38:1</p> <p>house [2] - 10:11, 10:12</p> <p>House [1] - 1:18</p> <p>Hughes [1] - 2:12</p> <p>hum [49] - 4:24, 5:8, 5:16, 5:23, 6:8, 8:24, 9:5, 9:23, 11:16, 12:9, 12:15, 12:19, 12:25, 13:7, 13:20, 14:9, 15:3, 17:1, 19:18, 20:2, 20:9, 20:12, 20:24, 21:2, 22:2, 22:13, 23:10, 27:11, 28:7, 29:22, 31:21, 33:7, 34:12, 36:21, 37:11, 37:17, 39:5, 39:17, 39:20, 41:8, 41:16, 41:23, 42:9, 43:11, 46:1, 46:21, 47:21, 47:25</p> <p>hundred [1] - 13:16</p> <p>HUNKINS [3] - 2:14, 20:15, 49:7</p> <p>Huntington [1] - 10:6</p> <p>HUSBAND [1] - 1:5</p> | <p>included [1] - 35:2</p> <p>indicates [1] - 6:15</p> <p>INDIVIDUALLY [1] - 1:4</p> <p>industry [1] - 8:20</p> <p>information [2] - 8:14, 36:9</p> <p>initials [1] - 14:21</p> <p>Inlet [2] - 11:15, 46:2</p> <p>inlet [64] - 11:15, 12:11, 12:22, 13:4, 13:5, 13:6, 13:12, 13:23, 14:3, 14:8, 14:13, 14:16, 14:17, 15:13, 16:19, 17:4, 17:6, 17:12, 19:7, 19:8, 19:10, 19:14, 19:17, 20:20, 20:25, 22:8, 22:12, 22:17, 22:22, 23:4, 23:6, 23:22, 24:5, 24:7, 24:24, 25:2, 25:11, 25:13, 25:16, 27:4, 28:2, 33:1, 33:8, 34:8, 34:9, 37:1, 37:7, 42:1, 42:14, 43:3, 43:5, 43:8, 45:1, 45:8, 45:22, 46:3, 46:17, 46:19, 47:8, 47:11, 48:1, 48:11</p> <p>instruct [2] - 5:17, 5:21</p> <p>Intelligence [1] - 27:22</p> <p>interested [1] - 50:14</p> <p>intern [5] - 7:16, 7:21, 7:25, 8:1, 26:14</p> <p>interning [1] - 9:9</p> <p>interviewed [1] - 27:25</p> <p>inventory [1] - 8:25</p> <p>investigation [2] - 29:3, 29:4</p> <p>involved [8] - 11:22, 17:6, 17:7, 17:11, 17:17, 18:4, 18:10, 18:15</p> <p>involvement [3] - 26:20, 26:21, 29:2</p> <p>Island [3] - 17:5, 33:13, 41:7</p> | <p>27:22, 50:5</p> <p>Jet [11] - 16:15, 16:16, 16:18, 16:21, 16:24, 42:21, 43:3, 43:4, 43:6, 43:12, 44:24</p> <p>jetty [5] - 23:7, 23:12, 24:4, 43:1, 43:2</p> <p>job [1] - 8:10</p> <p>JOHN [1] - 1:9</p> <p>July [8] - 19:6, 24:21, 25:9, 37:16, 42:5, 42:16</p> <p>Justice [1] - 2:12</p> <p>juvenile [1] - 39:7</p> |
| F | G | | | K |
| <p>far [3] - 14:1, 40:7, 48:7</p> <p>Farrell [6] - 26:16, 26:24, 27:18, 27:25, 28:2, 28:18</p> <p>fatalities [5] - 32:23, 33:5, 35:5, 35:23, 39:19</p> <p>fatality [4] - 30:3, 30:4, 34:13, 38:2</p> <p>Fax [1] - 1:24</p> <p>February [3] - 1:19, 4:1, 6:6</p> <p>feet [1] - 20:10</p> <p>fifth [1] - 10:12</p> <p>financially [1] - 50:14</p> <p>fine [2] - 19:11, 34:5</p> <p>finger [1] - 36:17</p> <p>finish [2] - 5:3, 5:10</p> <p>finished [1] - 47:19</p> <p>fire [4] - 31:10, 35:9, 35:11, 39:23</p> <p>Fire [2] - 2:3, 31:19</p> <p>firm [3] - 4:16, 19:2, 21:11</p> <p>FIRM [1] - 2:2</p> <p>first [9] - 4:9, 4:13, 7:6, 9:12, 15:6, 15:11, 26:8, 40:12, 42:2</p> <p>First [8] - 15:21, 15:22, 16:4, 16:13, 23:20, 33:24, 42:25, 45:10</p> <p>five [3] - 24:22, 28:12, 31:24</p> | <p>GELFAND [1] - 2:6</p> <p>general [1] - 26:21</p> <p>generally [1] - 26:20</p> <p>gentleman [1] - 27:19</p> <p>geographically [4] - 17:13, 19:20, 19:21, 46:19</p> <p>GEORGE [1] - 1:5</p> <p>govdeals.com [1] - 8:22</p> <p>grade [1] - 10:12</p> <p>grandmom [2] - 10:10, 10:12</p> <p>green [12] - 12:13, 12:23, 15:16, 19:21, 20:5, 21:1, 30:2, 33:4, 33:12, 33:20, 41:6</p> <p>growing [1] - 27:16</p> <p>guard [2] - 16:22, 24:12</p> <p>guarded [1] - 20:21</p> <p>guards [1] - 47:10</p> <p>guess [3] - 5:6, 15:15, 16:3</p> | | | <p>keep [2] - 42:19, 43:6</p> <p>kept [1] - 43:12</p> <p>Kevin [5] - 6:19, 6:20, 24:13, 24:14, 24:16</p> <p>kind [1] - 34:20</p> <p>kit [1] - 26:8</p> |
| | | | | L |
| | | | | <p>Lancaster [1] - 24:18</p> <p>last [4] - 32:17, 38:21, 45:25, 46:10</p> <p>late [1] - 10:13</p> <p>LATE [1] - 1:5</p> <p>law [4] - 4:16, 9:14, 9:17, 19:2</p> <p>LAW [4] - 1:1, 2:2, 2:11, 2:12</p> <p>lawyer [1] - 24:16</p> <p>lawyers [2] - 4:13, 12:3</p> <p>learn [1] - 24:12</p> <p>left [1] - 45:14</p> <p>left-hand [1] - 45:14</p> <p>letter [1] - 44:3</p> <p>license [1] - 16:20</p> <p>License [2] - 1:16, 50:21</p> <p>Lieutenant [1] - 22:1</p> <p>lieutenant [1] - 22:9</p> <p>lifeguard [33] - 7:4, 7:8, 7:12, 7:14, 7:15, 9:4, 10:22, 11:22, 13:1, 13:9, 15:4, 15:7, 15:16, 15:20, 16:5, 16:8, 16:12, 17:3, 20:14, 20:19, 21:12, 24:6, 24:10, 24:11, 24:21, 26:1, 43:7, 43:10, 47:20, 48:1, 48:11, 48:15, 48:16</p> <p>lifeguards [7] - 19:10,</p> |
| | H | I | | J |
| <p>half [1] - 9:10</p> <p>hall [1] - 22:16</p> <p>hand [2] - 44:24, 45:14</p> <p>handle [1] - 8:9</p> <p>handwritten [4] - 34:22, 35:4, 44:8, 44:10</p> | | <p>ID [1] - 3:9</p> <p>identification [5] - 29:13, 32:10, 36:16, 40:13, 41:4</p> <p>immediate [2] - 16:17, 35:10</p> <p>impose [1] - 31:22</p> <p>incident [3] - 37:16, 41:10, 45:12</p> <p>incidentally [1] - 18:19</p> | | <p>JAMES [1] - 2:6</p> <p>JERSEY [4] - 1:1, 1:9, 1:23, 2:11</p> <p>Jersey [8] - 1:16, 1:19, 2:3, 2:7, 2:13, 2:15,</p> |

| | | | | | |
|--|---|---|---|--|--|
| <p>19:24, 20:18, 20:22, 21:4, 21:5, 47:8</p> <p>likely [1] - 42:23</p> <p>Lindsay's [1] - 22:1</p> <p>line [8] - 8:21, 8:23, 14:13, 19:21, 20:5, 21:1, 24:2, 24:4</p> <p>Linwood [1] - 2:7</p> <p>listed [1] - 35:24</p> <p>litigation [1] - 4:17</p> <p>LLC [1] - 1:22</p> <p>located [1] - 21:14</p> <p>location [8] - 16:15, 27:8, 27:12, 27:15, 42:6, 42:17, 42:20, 44:25</p> <p>locations [1] - 24:7</p> <p>log [1] - 8:12</p> <p>Lomax [1] - 8:19</p> <p>look [5] - 31:17, 36:22, 42:2, 42:12, 45:3</p> <p>looking [7] - 31:1, 32:21, 32:22, 38:4, 41:5, 42:20, 45:18</p> <p>looks [1] - 43:3</p> <p>lost [1] - 37:7</p> <p>lot's [2] - 33:14, 33:15</p> <p>Lou [2] - 2:17, 27:18</p> <p>love [1] - 10:1</p> <p>lower [2] - 44:24, 45:14</p> <p>LYNN [2] - 1:15, 50:4</p> | <p>MARY [1] - 1:9</p> <p>MAY [1] - 1:1</p> <p>mayor [4] - 6:19, 9:21, 9:23, 18:24</p> <p>Mayor [1] - 26:23</p> <p>mayor's [1] - 7:16</p> <p>McGarry [3] - 24:13, 24:14, 24:16</p> <p>mean [7] - 10:10, 15:14, 15:15, 19:23, 22:6, 25:16, 30:13</p> <p>means [1] - 33:5</p> <p>medical [3] - 26:8, 26:9, 26:11</p> <p>meeting [2] - 8:4, 26:23</p> <p>mentioned [2] - 12:4, 40:4</p> <p>met [1] - 27:18</p> <p>middle [1] - 43:14</p> <p>might [4] - 13:17, 13:24, 31:5, 31:7</p> <p>Mike [1] - 38:7</p> <p>mile [1] - 28:17</p> <p>miles [1] - 28:12</p> <p>mind [2] - 12:11, 17:23</p> <p>missing [2] - 7:18, 44:20</p> <p>mobile [1] - 43:23</p> <p>mom [1] - 10:10</p> <p>Monday [1] - 22:10</p> <p>months [2] - 7:12, 9:6</p> <p>Moore [1] - 1:18</p> <p>Moore's [20] - 11:14, 11:15, 12:6, 12:7, 12:21, 13:3, 13:12, 13:18, 13:22, 14:1, 14:4, 15:6, 17:4, 17:8, 19:22, 20:8, 23:23, 46:2, 48:16, 48:20</p> <p>most [4] - 5:4, 9:25, 10:1, 42:23</p> <p>mostly [1] - 26:7</p> <p>mother [1] - 27:16</p> <p>move [1] - 31:25</p> <p>MR [48] - 4:10, 18:8, 20:15, 23:16, 23:17, 23:18, 29:10, 29:18, 29:19, 30:9, 30:11, 30:13, 30:15, 30:17, 30:20, 30:22, 30:23, 30:24, 31:4, 32:2, 32:3, 32:4, 32:13, 33:14, 33:16, 35:20, 38:10, 38:12, 38:15, 38:17, 38:20, 38:23, 38:24, 40:22, 40:24, 44:4, 44:7, 44:9,</p> | <p>44:11, 44:14, 44:15, 44:16, 44:17, 44:22, 45:19, 48:25, 49:4, 49:7</p> <p>municipal [1] - 8:22</p> | <p>N</p> <p>name [1] - 24:14</p> <p>nature's [1] - 27:17</p> <p>need [4] - 4:20, 26:11, 30:25, 44:3</p> <p>needed [3] - 16:15, 17:9, 43:4</p> <p>needs [2] - 16:14, 26:8</p> <p>never [9] - 11:18, 15:13, 22:6, 25:1, 26:5, 30:5, 30:11, 48:17</p> <p>NEW [4] - 1:1, 1:9, 1:23, 2:11</p> <p>New [9] - 1:16, 1:18, 2:3, 2:7, 2:7, 2:13, 2:15, 27:22, 50:5</p> <p>next [11] - 29:10, 31:4, 33:20, 34:4, 35:19, 35:22, 41:19, 42:10, 42:16, 45:24, 46:10</p> <p>nice [2] - 14:13, 21:11</p> <p>nine [2] - 9:6, 28:12</p> <p>Ninth [1] - 47:2</p> <p>NO [1] - 1:2</p> <p>north [16] - 21:7, 22:22, 23:3, 34:10, 42:23, 45:4, 45:5, 45:6, 45:7, 45:8, 46:14, 46:20, 46:23, 46:25, 47:3</p> <p>North [19] - 2:9, 4:17, 6:21, 6:25, 7:2, 7:3, 7:7, 7:21, 10:4, 10:8, 13:16, 25:10, 25:25, 31:19, 32:23, 37:21, 47:7, 47:15, 47:17</p> <p>NORTH [2] - 1:8, 1:23</p> <p>northeast [1] - 10:5</p> <p>noted [1] - 4:4</p> <p>notes [1] - 26:22</p> <p>nothing [2] - 48:25, 50:8</p> <p>November [2] - 7:2, 8:5</p> <p>number [1] - 29:18</p> <p>NUMBER [1] - 3:9</p> | <p>5:24, 20:13</p> <p>observe [2] - 24:23, 25:10</p> <p>obviously [2] - 20:17, 46:3</p> <p>occasions [2] - 17:2, 25:15</p> <p>occurred [1] - 35:5</p> <p>occurs [1] - 28:22</p> <p>ocean [3] - 19:24, 28:5, 28:20</p> <p>OF [9] - 1:1, 1:4, 1:5, 1:8, 1:9, 1:6, 2:11, 2:11, 2:12</p> <p>office [1] - 7:16</p> <p>officers [2] - 25:10, 25:18</p> <p>official [1] - 7:20</p> <p>often [2] - 15:14, 25:5</p> <p>older [2] - 24:12, 47:10</p> <p>on-line [2] - 8:21, 8:23</p> <p>one [32] - 7:5, 9:24, 10:13, 10:16, 10:22, 11:18, 15:15, 16:8, 16:13, 19:22, 22:14, 26:3, 27:15, 30:21, 31:3, 31:4, 31:23, 31:24, 33:10, 33:12, 33:13, 33:20, 38:16, 38:18, 40:1, 40:19, 42:2, 42:5, 43:12, 43:13, 44:5, 48:8</p> <p>ones [2] - 30:2, 33:12</p> <p>operate [3] - 16:15, 16:18, 16:21</p> <p>operated [1] - 26:6</p> <p>opinion [2] - 14:3, 22:19</p> <p>opportunity [3] - 4:18, 18:20, 18:23</p> <p>opposed [1] - 16:13</p> <p>order [1] - 40:4</p> <p>own [1] - 26:1</p> <p>owned [2] - 10:11, 10:12</p> | <p>35:22, 36:13, 36:22, 39:4, 40:12, 40:15, 40:17, 40:18, 40:21, 40:25, 41:1, 41:6, 41:18, 41:19, 42:10, 42:16, 45:9, 45:15, 45:25, 46:11</p> <p>PAGE [1] - 3:2</p> <p>Page [6] - 3:10, 3:12, 3:13, 29:12, 36:15, 41:3</p> <p>parking [2] - 33:14, 33:15</p> <p>part [2] - 28:3, 48:19</p> <p>participate [1] - 17:3</p> <p>particular [4] - 34:10, 34:16, 40:18, 44:12</p> <p>parties [1] - 50:12</p> <p>PARTNERSHIPS [1] - 1:10</p> <p>patrol [15] - 7:4, 7:9, 7:12, 11:9, 18:15, 22:17, 22:19, 23:6, 25:5, 26:2, 35:3, 35:8, 39:23, 44:10, 47:7</p> <p>Patrol [2] - 25:25, 37:22</p> <p>patrolling [1] - 25:18</p> <p>Paul [1] - 35:20</p> <p>PAUL [1] - 2:4</p> <p>Pennsylvania [1] - 9:13</p> <p>people [5] - 5:4, 11:23, 17:8, 47:10, 48:21</p> <p>per [3] - 28:12, 28:17, 36:12</p> <p>period [5] - 9:3, 24:22, 25:8, 39:8, 39:11</p> <p>person [1] - 18:5</p> <p>person's [1] - 17:23</p> <p>personal [1] - 44:25</p> <p>personally [2] - 25:9, 25:14</p> <p>perspective [1] - 5:6</p> <p>pertaining [1] - 8:11</p> <p>Ph [1] - 1:24</p> <p>phenomenon [1] - 28:19</p> <p>Philadelphia [1] - 10:5</p> <p>phrase [2] - 22:5, 22:14</p> <p>picked [1] - 18:17</p> <p>picture [1] - 25:21</p> <p>Pine [1] - 33:15</p> <p>place [6] - 12:18, 13:21, 28:20, 39:7, 41:25, 42:13</p> <p>placed [2] - 35:13,</p> |
| <p>M</p> <p>Magic [1] - 14:12</p> <p>mail [1] - 39:24</p> <p>man [3] - 17:21, 24:6, 46:2</p> <p>management [2] - 8:20, 8:21</p> <p>manpower [2] - 16:14, 16:16</p> <p>map [2] - 40:2, 45:3</p> <p>mapped [1] - 35:8</p> <p>mark [8] - 12:6, 15:16, 36:13, 37:1, 37:8, 40:16, 40:21, 41:1</p> <p>marked [13] - 6:6, 23:25, 29:13, 32:10, 34:16, 35:5, 36:8, 36:16, 40:12, 40:19, 41:4, 41:18, 48:2</p> <p>marker [3] - 23:9, 23:11, 33:18</p> <p>Marker [1] - 14:12</p> <p>Market [1] - 2:13</p> <p>marking [1] - 41:6</p> <p>markings [3] - 29:20, 31:17, 43:9</p> | <p>MARY [1] - 1:9</p> <p>MAY [1] - 1:1</p> <p>mayor [4] - 6:19, 9:21, 9:23, 18:24</p> <p>Mayor [1] - 26:23</p> <p>mayor's [1] - 7:16</p> <p>McGarry [3] - 24:13, 24:14, 24:16</p> <p>mean [7] - 10:10, 15:14, 15:15, 19:23, 22:6, 25:16, 30:13</p> <p>means [1] - 33:5</p> <p>medical [3] - 26:8, 26:9, 26:11</p> <p>meeting [2] - 8:4, 26:23</p> <p>mentioned [2] - 12:4, 40:4</p> <p>met [1] - 27:18</p> <p>middle [1] - 43:14</p> <p>might [4] - 13:17, 13:24, 31:5, 31:7</p> <p>Mike [1] - 38:7</p> <p>mile [1] - 28:17</p> <p>miles [1] - 28:12</p> <p>mind [2] - 12:11, 17:23</p> <p>missing [2] - 7:18, 44:20</p> <p>mobile [1] - 43:23</p> <p>mom [1] - 10:10</p> <p>Monday [1] - 22:10</p> <p>months [2] - 7:12, 9:6</p> <p>Moore [1] - 1:18</p> <p>Moore's [20] - 11:14, 11:15, 12:6, 12:7, 12:21, 13:3, 13:12, 13:18, 13:22, 14:1, 14:4, 15:6, 17:4, 17:8, 19:22, 20:8, 23:23, 46:2, 48:16, 48:20</p> <p>most [4] - 5:4, 9:25, 10:1, 42:23</p> <p>mostly [1] - 26:7</p> <p>mother [1] - 27:16</p> <p>move [1] - 31:25</p> <p>MR [48] - 4:10, 18:8, 20:15, 23:16, 23:17, 23:18, 29:10, 29:18, 29:19, 30:9, 30:11, 30:13, 30:15, 30:17, 30:20, 30:22, 30:23, 30:24, 31:4, 32:2, 32:3, 32:4, 32:13, 33:14, 33:16, 35:20, 38:10, 38:12, 38:15, 38:17, 38:20, 38:23, 38:24, 40:22, 40:24, 44:4, 44:7, 44:9,</p> | <p>N</p> <p>name [1] - 24:14</p> <p>nature's [1] - 27:17</p> <p>need [4] - 4:20, 26:11, 30:25, 44:3</p> <p>needed [3] - 16:15, 17:9, 43:4</p> <p>needs [2] - 16:14, 26:8</p> <p>never [9] - 11:18, 15:13, 22:6, 25:1, 26:5, 30:5, 30:11, 48:17</p> <p>NEW [4] - 1:1, 1:9, 1:23, 2:11</p> <p>New [9] - 1:16, 1:18, 2:3, 2:7, 2:7, 2:13, 2:15, 27:22, 50:5</p> <p>next [11] - 29:10, 31:4, 33:20, 34:4, 35:19, 35:22, 41:19, 42:10, 42:16, 45:24, 46:10</p> <p>nice [2] - 14:13, 21:11</p> <p>nine [2] - 9:6, 28:12</p> <p>Ninth [1] - 47:2</p> <p>NO [1] - 1:2</p> <p>north [16] - 21:7, 22:22, 23:3, 34:10, 42:23, 45:4, 45:5, 45:6, 45:7, 45:8, 46:14, 46:20, 46:23, 46:25, 47:3</p> <p>North [19] - 2:9, 4:17, 6:21, 6:25, 7:2, 7:3, 7:7, 7:21, 10:4, 10:8, 13:16, 25:10, 25:25, 31:19, 32:23, 37:21, 47:7, 47:15, 47:17</p> <p>NORTH [2] - 1:8, 1:23</p> <p>northeast [1] - 10:5</p> <p>noted [1] - 4:4</p> <p>notes [1] - 26:22</p> <p>nothing [2] - 48:25, 50:8</p> <p>November [2] - 7:2, 8:5</p> <p>number [1] - 29:18</p> <p>NUMBER [1] - 3:9</p> | <p>P</p> <p>P-30 [6] - 3:10, 3:11, 3:13, 29:12, 32:9, 41:3</p> <p>P-51 [2] - 3:10, 29:13</p> <p>P-52 [2] - 3:11, 32:10</p> <p>P-53 [2] - 3:12, 36:16</p> <p>P-54 [2] - 3:13, 41:4</p> <p>p.m [4] - 1:20, 4:4, 19:13, 49:11</p> <p>page [25] - 29:7, 31:2, 32:17, 35:17, 35:19,</p> | <p>35:22, 36:13, 36:22, 39:4, 40:12, 40:15, 40:17, 40:18, 40:21, 40:25, 41:1, 41:6, 41:18, 41:19, 42:10, 42:16, 45:9, 45:15, 45:25, 46:11</p> <p>PAGE [1] - 3:2</p> <p>Page [6] - 3:10, 3:12, 3:13, 29:12, 36:15, 41:3</p> <p>parking [2] - 33:14, 33:15</p> <p>part [2] - 28:3, 48:19</p> <p>participate [1] - 17:3</p> <p>particular [4] - 34:10, 34:16, 40:18, 44:12</p> <p>parties [1] - 50:12</p> <p>PARTNERSHIPS [1] - 1:10</p> <p>patrol [15] - 7:4, 7:9, 7:12, 11:9, 18:15, 22:17, 22:19, 23:6, 25:5, 26:2, 35:3, 35:8, 39:23, 44:10, 47:7</p> <p>Patrol [2] - 25:25, 37:22</p> <p>patrolling [1] - 25:18</p> <p>Paul [1] - 35:20</p> <p>PAUL [1] - 2:4</p> <p>Pennsylvania [1] - 9:13</p> <p>people [5] - 5:4, 11:23, 17:8, 47:10, 48:21</p> <p>per [3] - 28:12, 28:17, 36:12</p> <p>period [5] - 9:3, 24:22, 25:8, 39:8, 39:11</p> <p>person [1] - 18:5</p> <p>person's [1] - 17:23</p> <p>personal [1] - 44:25</p> <p>personally [2] - 25:9, 25:14</p> <p>perspective [1] - 5:6</p> <p>pertaining [1] - 8:11</p> <p>Ph [1] - 1:24</p> <p>phenomenon [1] - 28:19</p> <p>Philadelphia [1] - 10:5</p> <p>phrase [2] - 22:5, 22:14</p> <p>picked [1] - 18:17</p> <p>picture [1] - 25:21</p> <p>Pine [1] - 33:15</p> <p>place [6] - 12:18, 13:21, 28:20, 39:7, 41:25, 42:13</p> <p>placed [2] - 35:13,</p> | |
| <p>M</p> <p>Magic [1] - 14:12</p> <p>mail [1] - 39:24</p> <p>man [3] - 17:21, 24:6, 46:2</p> <p>management [2] - 8:20, 8:21</p> <p>manpower [2] - 16:14, 16:16</p> <p>map [2] - 40:2, 45:3</p> <p>mapped [1] - 35:8</p> <p>mark [8] - 12:6, 15:16, 36:13, 37:1, 37:8, 40:16, 40:21, 41:1</p> <p>marked [13] - 6:6, 23:25, 29:13, 32:10, 34:16, 35:5, 36:8, 36:16, 40:12, 40:19, 41:4, 41:18, 48:2</p> <p>marker [3] - 23:9, 23:11, 33:18</p> <p>Marker [1] - 14:12</p> <p>Market [1] - 2:13</p> <p>marking [1] - 41:6</p> <p>markings [3] - 29:20, 31:17, 43:9</p> | <p>MARY [1] - 1:9</p> <p>MAY [1] - 1:1</p> <p>mayor [4] - 6:19, 9:21, 9:23, 18:24</p> <p>Mayor [1] - 26:23</p> <p>mayor's [1] - 7:16</p> <p>McGarry [3] - 24:13, 24:14, 24:16</p> <p>mean [7] - 10:10, 15:14, 15:15, 19:23, 22:6, 25:16, 30:13</p> <p>means [1] - 33:5</p> <p>medical [3] - 26:8, 26:9, 26:11</p> <p>meeting [2] - 8:4, 26:23</p> <p>mentioned [2] - 12:4, 40:4</p> <p>met [1] - 27:18</p> <p>middle [1] - 43:14</p> <p>might [4] - 13:17, 13:24, 31:5, 31:7</p> <p>Mike [1] - 38:7</p> <p>mile [1] - 28:17</p> <p>miles [1] - 28:12</p> <p>mind [2] - 12:11, 17:23</p> <p>missing [2] - 7:18, 44:20</p> <p>mobile [1] - 43:23</p> <p>mom [1] - 10:10</p> <p>Monday [1] - 22:10</p> <p>months [2] - 7:12, 9:6</p> <p>Moore [1] - 1:18</p> <p>Moore's [20] - 11:14, 11:15, 12:6, 12:7, 12:21, 13:3, 13:12, 13:18, 13:22, 14:1, 14:4, 15:6, 17:4, 17:8, 19:22, 20:8, 23:23, 46:2, 48:16, 48:20</p> <p>most [4] - 5:4, 9:25, 10:1, 42:23</p> <p>mostly [1] - 26:7</p> <p>mother [1] - 27:16</p> <p>move [1] - 31:25</p> <p>MR [48] - 4:10, 18:8, 20:15, 23:16, 23:17, 23:18, 29:10, 29:18, 29:19, 30:9, 30:11, 30:13, 30:15, 30:17, 30:20, 30:22, 30:23, 30:24, 31:4, 32:2, 32:3, 32:4, 32:13, 33:14, 33:16, 35:20, 38:10, 38:12, 38:15, 38:17, 38:20, 38:23, 38:24, 40:22, 40:24, 44:4, 44:7, 44:9,</p> | <p>N</p> <p>name [1] - 24:14</p> <p>nature's [1] - 27:17</p> <p>need [4] - 4:20, 26:11, 30:25, 44:3</p> <p>needed [3] - 16:15, 17:9, 43:4</p> <p>needs [2] - 16:14, 26:8</p> <p>never [9] - 11:18, 15:13, 22:6, 25:1, 26:5, 30:5, 30:11, 48:17</p> <p>NEW [4] - 1:1, 1:9, 1:23, 2:11</p> <p>New [9] - 1:16, 1:18, 2:3, 2:7, 2:7, 2:13, 2:15, 27:22, 50:5</p> <p>next [11] - 29:10, 31:4, 33:20, 34:4, 35:19, 35:22, 41:19, 42:10, 42:16, 45:24, 46:10</p> <p>nice [2] - 14:13, 21:11</p> <p>nine [2] - 9:6, 28:12</p> <p>Ninth [1] - 47:2</p> <p>NO [1] - 1:2</p> <p>north [16] - 21:7, 22:22, 23:3, 34:10, 42:23, 45:4, 45:5, 45:6, 45:7, 45:8, 46:14, 46:20, 46:23, 46:25, 47:3</p> <p>North [19] - 2:9, 4:17, 6:21, 6:25, 7:2, 7:3, 7:7, 7:21, 10:4, 10:8, 13:16, 25:10, 25:25, 31:19, 32:23, 37:21, 47:7, 47:15, 47:17</p> <p>NORTH [2] - 1:8, 1:23</p> <p>northeast [1] - 10:5</p> <p>noted [1] - 4:4</p> <p>notes [1] - 26:22</p> <p>nothing [2] - 48:25, 50:8</p> <p>November [2] - 7:2, 8:5</p> <p>number [1] - 29:18</p> <p>NUMBER [1] - 3:9</p> | <p>P</p> <p>P-30 [6] - 3:10, 3:11, 3:13, 29:12, 32:9, 41:3</p> <p>P-51 [2] - 3:10, 29:13</p> <p>P-52 [2] - 3:11, 32:10</p> <p>P-53 [2] - 3:12, 36:16</p> <p>P-54 [2] - 3:13, 41:4</p> <p>p.m [4] - 1:20, 4:4, 19:13, 49:11</p> <p>page [25] - 29:7, 31:2, 32:17, 35:17, 35:19,</p> | <p>35:22, 36:13, 36:22, 39:4, 40:12, 40:15, 40:17, 40:18, 40:21, 40:25, 41:1, 41:6, 41:18, 41:19, 42:10, 42:16, 45:9, 45:15, 45:25, 46:11</p> <p>PAGE [1] - 3:2</p> <p>Page [6] - 3:10, 3:12, 3:13, 29:12, 36:15, 41:3</p> <p>parking [2] - 33:14, 33:15</p> <p>part [2] - 28:3, 48:19</p> <p>participate [1] - 17:3</p> <p>particular [4] - 34:10, 34:16, 40:18, 44:12</p> <p>parties [1] - 50:12</p> <p>PARTNERSHIPS [1] - 1:10</p> <p>pat</p> | |

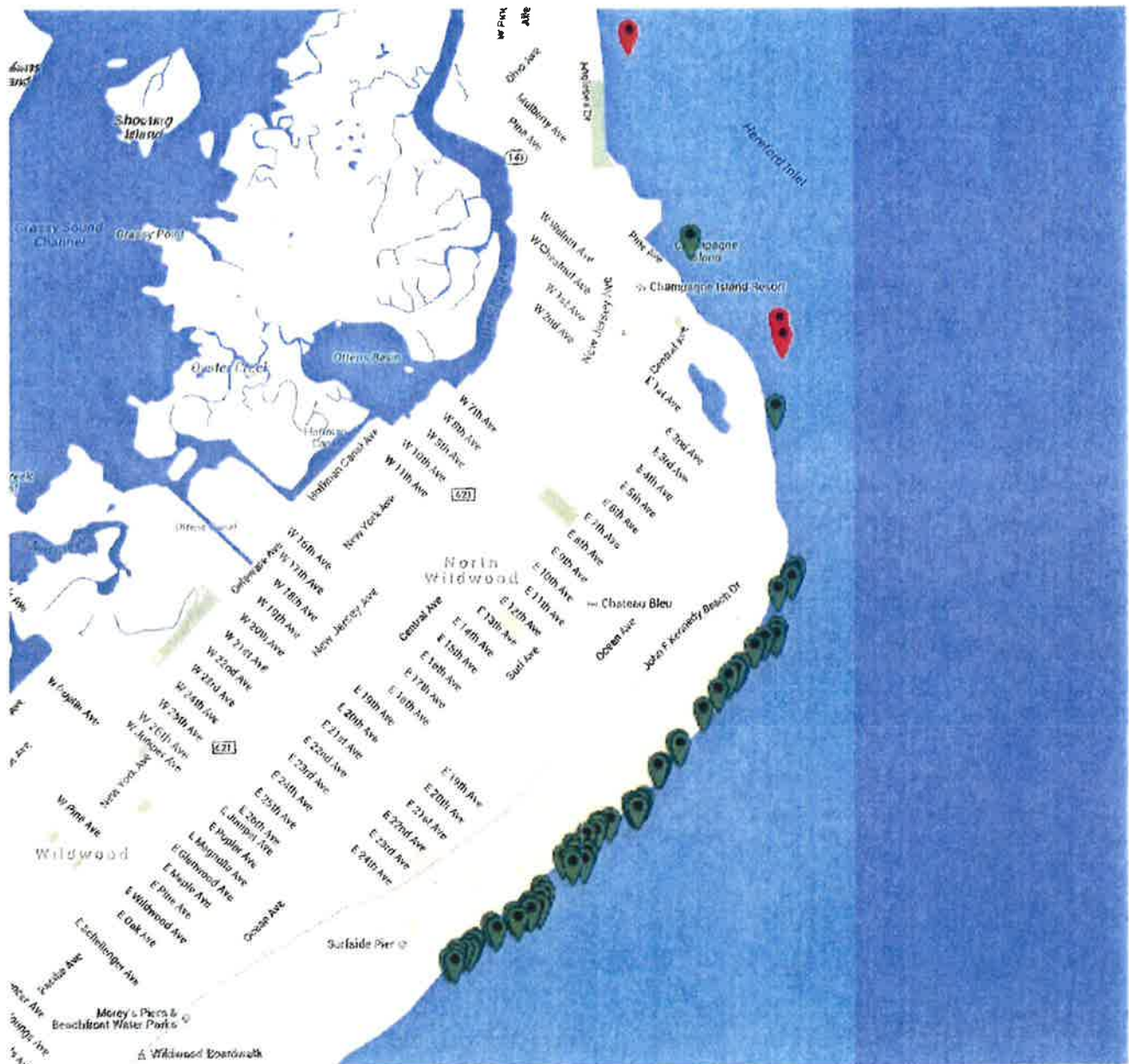
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|---|---|--|---|---|
| <p>36:25 Plaintiff [1] - 1:6 Plaintiffs [1] - 2:4 plan [2] - 8:20, 8:21 pleasant [1] - 5:6 plot [1] - 40:2 plotted [2] - 31:10, 31:11 plotting [2] - 29:25, 32:22 point [1] - 27:15 Point [3] - 11:14, 22:4, 22:5 points [1] - 26:25 Police [4] - 3:12, 25:10, 27:23, 36:15 police [14] - 25:10, 25:15, 25:18, 25:22, 25:23, 31:9, 35:9, 35:11, 35:15, 36:9, 37:5, 37:18, 38:4, 39:23 possible [1] - 5:5 post [1] - 16:12 posted [1] - 21:4 practice [1] - 24:17 precise [1] - 42:1 prepare [1] - 4:18 presence [1] - 4:11 present [2] - 2:17, 48:15 previously [1] - 7:4 printed [1] - 40:9 problem [2] - 20:21, 32:3 process [3] - 4:13, 4:23, 5:7 project [1] - 27:1 projects [1] - 27:4 pronounce [1] - 37:14 protected [3] - 12:24, 15:7, 15:11 provide [2] - 25:11, 49:6 provided [2] - 36:9, 44:13 PUBLIC [1] - 2:11 Public [1] - 24:23 pursued [1] - 39:24 push [2] - 16:16, 43:17 pushed [1] - 43:25 put [7] - 12:7, 13:24, 14:20, 29:14, 33:20, 43:9, 43:23</p> | <p>quads [5] - 25:14, 25:20, 25:22, 25:23, 26:1 questions [5] - 5:9, 5:20, 6:12, 11:1, 49:7 quickly [3] - 5:5, 31:1, 31:25 quieter [1] - 47:12 quite [1] - 39:13</p> | <p>38:17, 38:18 repeat [1] - 39:13 replenishment [4] - 26:22, 27:1, 27:3, 27:6 report [6] - 41:10, 44:5, 44:8, 44:21, 46:15, 49:2 reported [1] - 35:19 reporter [1] - 4:6 Reporter [3] - 1:16, 50:4, 50:20 REPORTERS [1] - 1:22 REPORTING [1] - 1:22 reports [16] - 22:3, 31:9, 31:10, 35:3, 37:5, 37:9, 37:18, 37:22, 38:4, 38:8, 38:13, 39:22, 40:6, 40:8, 44:10, 44:13 represent [1] - 29:23 representing [1] - 4:17 represents [1] - 12:17 request [1] - 8:15 requested [1] - 40:5 requests [1] - 8:10 rescue [11] - 17:3, 17:17, 18:10, 18:15, 30:3, 33:4, 37:24, 38:1, 39:22, 42:6, 42:22 rescued [2] - 45:11, 46:2 rescues [12] - 11:22, 17:6, 17:7, 17:11, 18:1, 18:5, 29:24, 32:22, 41:25, 42:12, 42:13 Rescues [1] - 41:22 research [1] - 11:13 Research [1] - 26:18 resident [2] - 10:4, 47:15 residents [1] - 13:16 respect [1] - 37:10 responded [2] - 35:9, 43:3 response [1] - 35:11 responses [1] - 13:17 responsibilities [1] - 8:7 retained [1] - 3:15 right-hand [1] - 44:24 rips [2] - 27:9, 27:10 Road [3] - 1:18, 2:3, 2:7 Ron [3] - 32:14, 38:13, 44:19</p> | <p>Ronald [1] - 4:3 RONALD [3] - 1:6, 3:3, 50:6 rookie [1] - 24:8 room [1] - 5:14 ropes [1] - 24:12 rough [1] - 37:9 row [1] - 23:3 ROZELL [16] - 2:8, 18:8, 30:9, 30:15, 30:20, 30:23, 32:3, 38:10, 38:12, 38:17, 38:23, 44:7, 44:14, 44:16, 44:18, 45:19 RS [2] - 23:24, 24:1 run [6] - 14:8, 23:6, 23:22, 24:10, 24:11, 33:4 rush [1] - 43:17</p> | <p>self-evident [1] - 32:19 send [2] - 38:18, 44:2 senior [1] - 47:7 sense [1] - 47:12 sent [4] - 38:12, 38:19, 44:18, 44:19 separate [1] - 13:14 sequentially [1] - 11:4 series [1] - 39:25 services [3] - 8:10, 8:12, 25:11 sets [1] - 40:1 sheet [1] - 8:13 shoobie [1] - 10:16 show [2] - 12:3, 43:9 shown [1] - 28:3 significance [1] - 39:3 Simone [1] - 4:3 SIMONE [3] - 1:6, 3:3, 50:6 sit [3] - 25:3, 47:11, 48:21 sitting [3] - 5:14, 17:12, 26:21 six [1] - 7:3 Ski [11] - 16:15, 16:16, 16:18, 16:21, 16:24, 42:22, 43:3, 43:4, 43:7, 43:12, 44:25 SMITH [4] - 1:3, 1:5, 1:15, 50:4 Smith [10] - 7:18, 12:18, 17:16, 18:6, 18:11, 29:3, 36:6, 36:20, 36:25, 39:6 soft [1] - 44:1 software [1] - 40:8 solid [1] - 14:13 someone [2] - 17:4, 17:12 someplace [1] - 13:22 sorry [5] - 18:16, 30:15, 36:17, 36:18, 45:21 sort [1] - 30:4 south [12] - 15:6, 22:22, 23:3, 26:6, 43:1, 45:6, 46:22, 46:23, 47:1, 47:5 sparked [1] - 43:4 speaking [1] - 5:10 speed [2] - 26:13, 28:11 spit [1] - 11:17 spread [1] - 8:13 stand [4] - 15:16, 18:16, 24:11, 48:16 stands [9] - 15:20, 16:5, 16:8, 16:12,</p> |
| <p>R</p> | | | | |
| <p>R.J [1] - 2:12 rake [1] - 25:6 real [2] - 4:25, 15:14 really [9] - 9:11, 9:15, 13:3, 15:13, 22:6, 25:2, 30:7, 30:14, 31:25 received [6] - 29:12, 32:9, 36:15, 39:22, 41:3, 44:19 recess [1] - 32:8 recommendations [1] - 5:1 record [13] - 4:3, 6:4, 11:8, 19:25, 22:25, 23:2, 32:5, 32:6, 32:12, 36:1, 36:19, 41:21, 49:10 recorded [1] - 35:7 Records [2] - 3:12, 36:15 records [3] - 34:22, 35:15, 36:12 red [18] - 12:7, 13:5, 14:12, 20:5, 23:11, 24:2, 24:4, 30:4, 33:17, 34:3, 34:11, 34:17, 34:23, 34:24, 34:25, 35:7, 35:13, 37:1 refer [3] - 12:5, 13:10, 25:20 reference [3] - 34:17, 41:9, 44:12 references [1] - 42:13 referring [9] - 19:19, 20:1, 20:3, 22:3, 25:8, 28:3, 29:16, 31:3, 36:2 refused [1] - 46:13 regarding [1] - 26:25 regular [1] - 30:3 relative [4] - 8:16, 38:4, 50:10, 50:13 remarked [1] - 32:15 remediated [1] - 8:17 remember [3] - 24:9,</p> | | | | |
| <p>Q</p> | | | | |
| <p>quad [5] - 25:15, 26:6, 26:8, 26:13, 43:20</p> | | | | |
| | | <p>S</p> | | |
| | | <p>SAFETY [1] - 2:11 sand [6] - 27:11, 27:14, 42:22, 43:2, 44:1, 44:25 SANDY [1] - 1:3 sat [5] - 15:13, 24:8, 24:11, 24:12, 25:2 Saturday [1] - 22:10 save [2] - 30:14, 41:15 saved [1] - 49:4 saw [2] - 20:7, 22:14 scan [3] - 34:21, 40:5, 41:11 scanning [1] - 40:7 school [3] - 9:8, 9:14, 9:17 search [1] - 40:5 season [5] - 15:8, 39:18, 47:22, 47:24 seasonal [5] - 7:2, 7:10, 7:11, 7:13, 7:15 Second [12] - 15:23, 15:24, 16:2, 16:3, 42:22, 43:2, 44:25, 45:5, 45:7, 46:6, 46:15, 47:2 second [1] - 35:25 section [1] - 20:20 sections [1] - 22:23 see [16] - 12:8, 12:14, 13:18, 26:6, 30:9, 30:16, 30:22, 31:15, 33:3, 33:6, 34:11, 35:1, 36:2, 38:22, 44:20, 48:4 seeing [1] - 38:18 self [1] - 32:19</p> | | |

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NORTH WILDWOOD BEACH PATROL RESCUE REPORT





2010 – 2014



2010 - 2015 Rescues and Drownings
As Reported
By:
North Wildwood Beach Patrol

Rescue Plots

-  : No Fatality
-  : Fatality

*See attached for more details on
2010-2014 drownings.*

54

2010 Rescues

5/30/10 – Assist in the water at 3rd Avenue

- Location: 3rd Avenue
- Assisting an elderly woman in the water
- No fatalities, victims were secured.

5/30/10 – 21st Avenue Pipe Rescue

- Location: 21st Avenue
- There were two rescues at the same location that day. (12:35 p.m. and 12:40 p.m.)
- No fatalities, victims were secured.

6/5/10 – Four single victim rescues at 15th and one at 18th Avenues

- Location: 15th and 18th Avenues
- No fatalities, victims were secured.

6/6/10 – 4 victim rescue

- Location: 15th Avenue
- No fatalities, victims were secured.

6/17/10 – 2 victim rescue

- Location: 19th Avenue
- No fatalities, victims were secured.

6/24/10 – 1 victim rescue

- Location: 25th Avenue
- No fatalities, victims were secured.

6/26/10 – 3 separate rescues

- Location: 19th, 18th, and 18th Avenues.
- No fatalities, victims were secured.

7/4/10 – 1 victim rescue

- Location: 19th Avenue
- No fatalities, victims were secured.

7/6/10 – 2 victim rescue

- Location: 21st Avenue
- No fatalities, victims were secured.

7/6/10 – 2 victim rescue

- Location: 17th Avenue
- No fatalities, victims were secured.

7/7/10 – 3 (1 victim) rescues at the same location

- Location: 6th Avenue
- No fatalities, victims were secured.

7/8/10 – 4 victim rescue

- Location: Surf Avenue
- No fatalities, victims were secured.

7/8/10 – 1 victim rescue

- Location: 5th/6th Street
- No fatalities, victims were secured.

7/9/10 – 1 victim rescue

- Location: 12th Avenue
- No fatalities, victims were secured.

7/9/10 – 2 victim rescue

- Location: 17th Avenue
- No fatalities, victims were secured.

7/9/10 – 1 victim rescue

- Location: 10th Avenue
- No fatalities, victims were secured.

7/10/10 – 2 victim rescue

- Location: 22nd Avenue
- No fatalities, victims were secured.

7/11/10 – 10 victim rescue

- Location: 20th Avenue
- No fatalities, victims were secured – guards did excellent job.
- 4 more rescues at 25th Avenue and 2 rescues at 24th Avenue.

7/11/10 – Rescues at various streets

- Locations: 12th, 18th (3 at 18th) and 15th Avenues.

- No fatalities, victims were secured, horrendous water.

7/12/10 – 1 victim rescue

- Location: 20th Avenue
- No fatalities, victims were secured.

7/12/10 – Rescues at various streets

- Location: 15th Avenue, 17th Avenue (Two rescues at this location).
- No fatalities, victims were secured.

NO OTHER RESCUES WERE REPORTED FOR 2010

2011 Rescues

5/11/11 – 1 victim rescue

- Location: 7th Avenue
- No fatalities, victims were secured.

5/29/11 – 2 victim rescue

- Location: 21st Avenue
- No fatalities, victims were secured.

5/30/11 – 2 victim rescue

- Location: 25th Avenue
- No fatalities, victims were secured.

6/11/11 – 2 victim rescue

- Location: 22nd Avenue
- No fatalities, victims were secured.

6/14/11 – 1 victim rescue

- Location: 18th Avenue
- No fatalities, victims were secured.

6/18/11 – 2-3 victim rescues at various streets

- Locations: 14th (2), 16th, 21st Avenue (2), 24th and 25th Avenue

- No fatalities, victims were secured.

6/22/11 – Various 1-2 victim rescues

- Location: 14th (2), 16th, 25th Avenues
- No fatalities, victims were secured.

6/25/11 – Various 2-3 victim rescues

- Location: 14th, 15th, 16th, 17th, 21st Avenue
- No fatalities, victims were secured.

6/26/11 – Two 1 victim rescues

- Location: 25th Avenue
- No fatalities, victims were secured.

6/27/11 – 1 victim rescue

- Location: 14th-15th Avenue
- No fatalities, victims were secured.

6/30/11 – 2 victim rescue

- Location: 14th Avenue
- No fatalities, victims were secured.

7/1/11 – Several rescues at various locations

- Locations: 24th Avenue (2), 21st Avenue and 19th Avenue (2).
- No fatalities, victims were secured.

7/3/11 – 1 victim rescue

- Location: 3rd Avenue
- No fatalities, victims were secured.

7/4/11 – Several rescues at various street locations

- Locations: 3rd Avenue, 14th (2), 15th, 16th, 19th, 20th, 22nd, 23rd Avenues.
- No fatalities, victims were secured.

7/9/11 – 1 victim rescue

- Location: 19th Avenue
- No fatalities, victims were secured.

7/12/11 – 1 victim rescue

- Location: 3rd Avenue
- No fatalities, victims were secured.

7/15/11 – 2 victim rescue and 1 victim rescue at 3rd Ave Pipe

- Location: 24th Avenue and 3rd Avenue
- No fatalities, victims were secured.

7/16/11 – 3 rescues at same location

- Location: 25th Avenue
- No fatalities, victims were secured.

7/17/11 – 2 victims rescue

- Location: 21st Avenue
- No fatalities, victims were secured.

7/21/11 – 1 victim rescue

- Location: 22nd Avenue
- No fatalities, victims were secured.

7/23/11 – Rescues at various locations

- Location: 21st Avenue (2), 22nd Avenue (2)
- No fatalities, victims were secured.

7/24/11 – Multi-victim rescue

- Location: 14th Avenue
- No fatalities, victims were secured.

7/25/11 – 2 victim rescue

- Location: 22nd Avenue
- No fatalities, victims were secured.

7/26/11 – 2 victim rescue

- Location: 5th Avenue
- No fatalities, victims were secured.

7/27/11 – 2 victim rescue

- Location: 22nd Avenue
- No fatalities, victims were secured.

7/27/11 – 1 major rescue and 1 smaller rescue

- Location: 4th Avenue (smaller), 15th Avenue (major)
- No fatalities, victims were secured.

8/5/11 – Several rescues at different locations

- Location: 3rd Avenue, 25th Avenue (2)
- No fatalities, victims were secured.

8/6/11 – 1 major rescue and 2 small rescues at same location

- Location: 15th Avenue
- No fatalities, victims were secured.

8/7/11 – 1 victim rescue

- Location: 8th Avenue
- No fatalities, victims were secured.

8/10/11 – 1 victim rescue

- Location: 25th Avenue
- No fatalities, victims were secured.

8/11/11 – Two 1 victim rescues

- Locations: 4th and 21st Avenue
- No fatalities, victims were secured.

8/20/11 – 2 victim rescue

- Location: 22nd Avenue
- No fatalities, victims were secured.

8/21/11 – 1 victim rescue

- Location: 22nd – 23rd Avenue
- No fatalities, victims were secured.

8/22/11 – 1 victim rescue

- Location: 22nd Avenue
- No fatalities, victims were secured.

8/24/11 – 1 victim pipe rescue

- Location: 21st Avenue
- No fatalities, victims were secured.

9/3/11 – 2 rescues at same location

- Location: 21st Avenue Pipe
- No fatalities, victims were secured.

9/5/11 – 2 victim rescue

- Location: 15th Avenue
- No fatalities, victims were secured.

NO OTHER RESCUES WERE REPORTED FOR 2011

2012 Rescues

6/3/12 – 1 victim rescue

- Location: 25th Avenue
- No fatalities, victims were secured.

6/20/12 – 1 victim rescue

- Location: 25th Avenue
- No fatalities, victims were secured.

6/21/12 – 1 victim rescue

- Location: 25th Avenue
- No fatalities, victims were secured.

6/22/12 – 1 victim rescue

- Location: 3rd Avenue
- No fatalities, victims were secured.

6/29/12 – 1 victim rescue

- Location: 24th Avenue
- No fatalities, victims were secured.

7/1/12 – 1 victim rescue

- Location: 22nd Avenue
- No fatalities, victims were secured.

7/2/12 – 1 victim rescue

- Location: 8th Avenue
- No fatalities, victims were secured.

7/4/12 – 2 victim rescue

- Location: 23rd Avenue
- No fatalities, victims were secured.

7/6/12 – 1 victim rescue

- Location: 23rd Avenue
- No fatalities, victims were secured.

7/9/12 – 1 victim rescue

- Location: 23rd Avenue
- No fatalities, victims were secured.

7/10/12 – 1 victim rescue

- Location: 22nd Avenue
- No fatalities, victims were secured.

7/11/12 – 3 victim rescue

- Location: 4th Avenue
- No fatalities, victims were secured.

7/12/12 – 3 victim rescue and 1 victim rescue

- Location: 25th Avenue (3 victims), and 7th Avenue (1 victim)
- No fatalities, victims were secured.

7/14/12 – 1 victim rescue

- Location: 7th Avenue
- No fatalities, victims were secured.

7/15/12 – 3 victim rescue and 1 victim rescue

- Location: 21st Avenue (3), 7th Avenue (1)
- No fatalities, victims were secured.

7/16/12 – 2 and 4 victim rescues

- Location: 23rd (2) and 24th (4) Avenues
- No fatalities, victims were secured.

7/17/12 – Two 1 victim rescues at the same location

- Location: 7th Avenue
- No fatalities, victims were secured.

7/21/12 – 2 victim rescue

- Location: 19th Avenue
- No fatalities, victims were secured.

7/24/12 – 2 victim rescue

- Location: 22nd Avenue
- No fatalities, victims were secured.

7/25/12 – 2 victim rescue

- Location: 19th Avenue
- No fatalities, victims were secured.

7/26/12 – 1 victim pipe rescue

- Location: 21st Avenue
- No fatalities, victims were secured.

7/27/12 – 1 victim rescue

- Location: 23rd Avenue
- No fatalities, victims were secured.

7/28/12 – Rescues at various locations

- Locations: 19th, 21st, 24/25th Avenues (3 in total)
- No fatalities, victims were secured.

7/29/12 – Two rescues at the same location

- Location: 7th Avenue
- No fatalities, victims were secured.

7/30/12 – One rescue at 6th Avenue

- Location: 6th Avenue
- No fatalities, victims were secured.

8/2/12 – Two 1 victim rescues

- Locations: 7th and 19th Avenues
- No fatalities, victims were secured.

8/3/12 – 1 victim rescue

- Location: 23rd Avenue
- No fatalities, victims were secured.

8/4/12 – Jetski rescue

- Location: Sandbar at 2nd Avenue
- No fatalities, victims were secured.

8/5/12 – 1 victim rescue and 3 victim rescue

- Location: 24th Avenue (1 victim), 6th Avenue (3 victim)
- No fatalities, victims were secured.

8/12/12 – 1 victim rescue

- Location: 25th Avenue
- No fatalities, victims were secured.

8/21/12 – 1 victim rescue

- Location: 23rd Avenue
- No fatalities, victims were secured.

8/23/12 – Rescues at various locations

- Locations: 21st, 22nd, 23rd, 24th Avenues (4 in total)
- No fatalities, victims were secured.

8/24/12 - Rescues at various locations

- Locations: 21st, 22nd, 23rd, 24th Avenues (4 in total)

- No fatalities, victims were secured.

8/28/12 – 2 victim rescue

- Locations: 24th Avenue
- No fatalities, victims were secured.

8/30/12 – 1 victim rescue

- Location: 19th Avenue
- No fatalities, victims were secured.

8/31/12 – Rescues at various locations

- Locations: 19th (2), 25th/26th (2) Avenues
- No fatalities, victims were secured.

9/1/12 – Rescues at various locations

- Locations: 21st (2), and 25th Avenues
- No fatalities, victims were secured.

9/2/12 – 1 victim rescue

- Location: 25th Avenue
- No fatalities, victims were secured.

NO OTHER RESCUES WERE REPORTED FOR 2012

2013 Rescues

6/9/13 – Three 1 victim rescues

- Locations: 22nd and 23rd (2) Avenues
- No fatalities, victims were secured.

6/15/13 – 1 victim rescue

- Location: 20th Avenue
- No fatalities, victims were secured.

6/19/13 – 1 victim rescue

- Location: 22nd Avenue
- No fatalities, victims were secured.

6/24/13 – 1 victim rescue

- Location: 22nd Avenue
- No fatalities, victims were secured.

7/4/13 – 4 separate rescues

- Locations: 21st Avenue (1), 22nd Avenue (3)
- No fatalities, victims were secured.

7/5/13 – 2 victim rescue

- Location: 22nd Avenue
- No fatalities, victims were secured.

7/6/13 – Two 2 victim rescues

- Location: 5th Avenue and 21st Avenue
- No fatalities, victims were secured.

7/7/13 – 2 victim rescue

- Location: 9th Avenue
- No fatalities, victims were secured.

7/13/13 – Two rescues at the same location

- Location: 9th-10th Avenue
- No fatalities, victims were secured.

7/17/13 – Two 1 victim rescues

- Location: 7th and 15th Avenue
- No fatalities, victims were secured.

7/20/13 – 1 victim rescue

- Location: 7th Avenue
- No fatalities, victims were secured.

7/21/13 – 1 victim rescue

- Location: 25th Avenue
- No fatalities, victims were secured.

7/22/13 – Multi-victim rescue

- Location: 16th Avenue
- No fatalities, victims were secured.

7/24/13 – 1 victim rescue

- Location: 10th Avenue
- No fatalities, victims were secured.

7/26/13 – 1 victim rescue

- Location: 7th Avenue
- No fatalities, victims were secured.

7/27/13 – Several rescues at multiple locations

- Locations: 7th, 8th, 22nd, 25th Avenues
- No fatalities, victims were secured.

7/28/13 – Multi-victim rescues

- Locations: 16th, 21st and 22nd Avenues
- No fatalities, victims were secured.

7/29/13 – 1 victim rescue

- Location: 3rd Avenue
- No fatalities, victims were secured.

7/31/13 – 1 victim rescue

- Location: 21st Avenue
- No fatalities, victims were secured.

8/2/13 – Two 2 victim rescues

- Locations: 25th and 16th Avenues
- No fatalities, victims were secured.

8/4/13 – Two rescues at same location, one at different location

- Location: 20th Avenue and 22nd Avenue
(Two rescues here)
- No fatalities, victims were secured.

8/9/13 – 2 victim rescue

- Location: 16th/17th Avenue
- No fatalities, victims were secured.

8/12/13 – 1 victim rescue

- Location: 18th Avenue
- No fatalities, victims were secured.

8/14/13 – 2 victim rescue

- Location: 14th/15th Avenue
- No fatalities, victims were secured.

8/25/13 – Jetski (PWC – Personal Watercraft) rescue

- Location: 2nd Avenue sandbar
- No fatalities, victims were secured.

NO OTHER RESCUES WERE REPORTED FOR 2013

2014 Rescues

5/25/14 – Two 1 victim rescues

- Locations: 22nd & 25th Avenues
- No fatalities, victims were secured.

6/14/14 – 1 victim rescue

- Location: 22nd Avenue
- No fatalities, victims were secured.

6/20/14 – 2 victim rescue and 1 victim rescue

- Locations: 19th Avenue (2) and 17th avenue (1)
- No fatalities, victims were secured.

6/25/14 – 1 victim rescue

- Location: 7th Avenue
- No fatalities, victims were secured.

6/27/14 – 1 victim rescue

- Location: 19th Avenue
- No fatalities, victims were secured.

7/3/14 – 3 victim rescue

- Location: 23rd Avenue
- No fatalities, victims were secured.

7/9/14 – 1 victim and 2 victim rescues

- Locations: 15th Avenue (1 victim) and 18th Avenue (2 victim)
- No fatalities, victims were secured.

7/14/14 – 1 victim rescue

- Location: 16th Avenue
- No fatalities, victims were secured.

7/15/14 – 2 multi-victim rescues

- Locations: 24th and 25th Avenues
- No fatalities, victims were secured.

7/17/14 – Three 1 victim rescues

- Location: 24th (2), and 21st Avenues
- No fatalities, victims were secured.

7/18/14 – Three 1 victim rescues

- Location: 22nd Avenue and 24th Avenue (2)
- No fatalities, victims were secured.

7/19/14 – 1 victim rescue

- Location: 16th Avenue
- No fatalities, victims were secured.

7/22/14 – 1 victim rescue

- Location: 22nd Avenue
- No fatalities, victims were secured.

7/25/14 – 1 victim rescue

- Location: 7th Avenue
- No fatalities, victims were secured.

7/28/14 – 1 victim rescue

- Location: 21st Avenue
- No fatalities, victims were secured.

8/4/14 – 1 victim rescue

- Location: 21st Avenue
- No fatalities, victims were secured.

8/5/14 – Multiple 1 victim rescues

- Locations: 4th, 8th, 20th and 24th Avenues
- No fatalities, victims were secured.

8/6/14 – Multiple (3) rescues at various locations

- Location: 22nd, 23rd and 24th Avenues
- No fatalities, victims were secured.

8/9/14 – Two rescues at same location

- Location: 24th Avenue
- No fatalities, victims were secured.

8/10/14 – 1 victim rescue

- Location: 16th Avenue
- No fatalities, victims were secured.

8/11/14 – Multiple 1 victim rescues

- Locations: 9th, 10th and 18th/19th Avenues
- No fatalities, victims were secured.

8/13/14 – 1 victim rescue

- Location: 10th Avenue
- No fatalities, victims were secured.

8/14/14 – 2 multi-victim rescues

- Locations: 19th and 21st Avenues
- No fatalities, victims were secured.

8/15/14 – 3 victim rescue

- Location: 17th Avenue
- No fatalities, victims were secured.

8/20/14 – 2 victim rescue and 1 victim rescue

- Locations: 19th Avenue (2) and 10th Avenue (1)
- No fatalities, victims were secured.

8/29/14 – Three multi-victim rescues

- Locations: 17th, 18th, and 22nd Avenue
- No fatalities, victims were secured.

8/31/14 – Two 1 victim rescues

- Locations: 23rd and 25th Avenues
- No fatalities, victims were secured.

9/1/14 – 1 victim rescue

- Location: 22nd Avenue
- No fatalities, victims were secured.

NO OTHER RESCUES WERE REPORTED FOR 2014

2015 Rescues and Record are Still Ongoing

AS REPORTED BY NWPD

Drowning Fatalities

Christina Tsiotsias – Victim 1

- **Location:** North Beach
- **Incident:** Reported missing by her friends after she did not arrive to a meeting. Victim was found 2-3 miles offshore by State Police.
- **Date/Time:** 7-22-2011, 2100 hrs. (9:00 p.m.)

Bradley Smith – Victim 2

- **Location:** 1 Hereford Ave. -Hereford Inlet (Initial Report); (Supp. Report) 1st Avenue @ Central
- **Incident:** It was reported that Brad Smith including several other victims were walking along the shoreline when they (the victims) tripped and fell into the water. All other victims were rescued, but Brad Smith was unaccounted for.
- **Date/Time:** 7/27/2012, 1736 hrs. (5:36 p.m.)

JUVENILE – Victim 5

- **Location:** 51 Anglesea Dr. At the Jetty
- **Incident:** Drowning victim was reported at the location addressed above. Dispatcher received information that a victim was screaming for help in the inlet/Anglesea section of North Wildwood.
- **Date/Time:** 06/30/2015, 0652 hrs. (6:52 a.m.)

Drowning Rescues – No Fatalities

Lila Brown – Victim 3

- **Location:** 15th Avenue & The Beach
- **Incident:** Neck injury from boogie boarding, had to be rescued. Transported to Cape Regional with full feeling of extremities.
- **Date/Time:** 8/5/2014, 1325 hrs. (1:25 p.m.)

Keith Woodbury – Victim 4

- **Location:** 12th Avenue & The Beach
- **Incident:** Victim 1-Kevin Henderson and Victim 2-Keith Woodbury were swimming at the location of 12th Avenue and the beach when Victim 1 lost sight of Victim 2. Victim 2 later never came out of the water. Victim 2 was later rescued by 2 officers, signed a



:No Fatality

See attached for more details on 2010-2015 drownings.

North Wildwood Fire Department Water Rescue Reports 2010 – 2015

2010

January – April: NO INCIDENTS

May:

#351 and #353 – Were the only incidents, non-water related: 351 was a cracked rib and 353 was a sprained ankle, both occurred back beach.

June:

6/25/10, 18:38 – 18th Avenue

- Crew dispatched to 18th Avenue, victims were already ashore but acknowledged they had trouble fighting a rip current.

July:

7/6/10, 14:00 – 2nd Avenue

- C-Spine and needed to be assisted out of the water. Victim was secured and released after medical assistance.

7/08/10, 20:57 – 18th Avenue

- Drowning victim was rescued and secured. Transported by ambulance to hospital.

7/08/10, 21:45 – 15th Avenue

- Drowning victim was rescued and secured. Patient denied medical assistance.

7/11/10, 16:37 – 15th Avenue

- Received oxygen after water rescue and was transported to ER at Cape Regional Medical Center.

August:

08/07/10, 17:59 – 25th Avenue

- Drowning occurred. Victims were rescued by NWBP, conditions reported, "Fine, just a little worked up."

08/07/10, 18:20 – 15th Avenue

- 24 y.o. male assisted out of the water by NWBP. Was caught in rip tide and had to be rescued by NWBP.

2011

January – May: NO INCIDENTS

June:

6/19/11, 2:20 – Maryland & Chestnut Avenues

- Rescue was requested for a man swimming in the bay. Man had already gotten out of the water and left the scene before dispatch arrived.

ALL OTHER INCIDENTS REPORTED BY NWFD WERE NON-WATER RELATED
MEDICAL EMERGENCY

2012

January – April: NO INCIDENTS

May:

5/04/12, 9:31 – 3rd Avenue

- Prepared for water rescue, victim was able to get ashore without any assistance.

June: NO INCIDENTS

July:

7/16/12, 16:25 – 5th Avenue

- Boogie boarder rescued after swallowing a lot of water. Due to difficulty breathing the patient was transported to CRMC ER.

7/27/12, 18:19 – 100 Block of E Spruce Avenue

- Juvenile and adult rescued, ambulance on scene. 1 fatality: Bradley Smith

August:

8/12/12, 19:15 – 1st Avenue

- Woman rescued from the water after swimming incident. Transported to CRMC to be monitored by ER staff.

YES

8/19/12, 19:22 – 15th Avenue

- Highly intoxicated man rescued from the waters. He stated that he believed he was in Atlantic City.

September:

9/16/12, 14:30 – 26th Avenue

- 10 year old was rescued along with two other siblings. The youngest (10 y.o.) was transported to Cape Regional and later transported to CHOP. Made full recovery.

NO OTHER INCIDENTS WERE REPORTED FOR 2012

2013

January – April: NO INCIDENTS

May – July: Only non-water related emergencies were responded to.

August:

8/25/13, 14:22 – Moore Inlet

- Rescued a man at Moore's inlet beach. Refused further evaluation.

2014

Start of EMS Charts for records. EMS Charts only show 4 additions to the date. No water related emergencies reported for 2014.

2015

January – April: NO INCIDENTS

June:

6/28/15, 1:36 – 12th Avenue

- Victim was rescued by 2 police officers. Alcohol was involved. Both refused treatment.

August:

8/3/15, 18:16 – 2nd Avenue

- Victim was rescued from the water. Denied ever being in distress and refused treatment.

8/5/15, 18:16 ~ 2nd Avenue

- Victim was rescued by NWBP. Refused treatment and stated that he was touching the bottom the whole time.

NO OTHER WATER RESCUES REPORTED FOR 2015

**NORTH WILDWOOD BEACH PATROL
DAILY REPORT**

DATE: 8-4-12 SUN. MON. TUES. WED. THUR. FRI. SAT.

TRUCK 09 CREW Taylor De Padua

WEATHER CONDITIONS:

Good

WATER CONDITIONS

Choppy

BOAT LAYOUT — AFTERNOON WORKOUT —

LOST CHILDREN-ADULTS

| NAME | M-F | AGE | TIME LOST | TIME FOUND | STREET LOST | FOUND | GUARD |
|--------|-----|-----|-----------|------------|-------------|-------|---------|
| Merion | F | 6 | 1:25 | 1:35 | 6th | 8th | Bischof |
| | | | | | | | |
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TRANSPORTS IN SECTION 4 SURF CHAIRS 4
NOTES-COMPLAINTS OF PUBLIC

OCEAN RESCUES

Jet ski north today - rescue on sand bar
two people unable to get back on ski. Tow ski
and people to 2nd st. 3 jet ski calls total
MEDICALS@TRUCK 4 MEDICALS HANDLED BY MEDIC 1

EQUIPMENT ISSUES

LIFEGUARD ISSUES-CONCERNS-COMP TIME USED

Smith v. North Wildwood
2013 NORTH WILDWOOD BEACH PATROL
DAILY REPORT

DATE: 8-4-13 0 SUN. MON. TUES. WED. THUR. FRI. SAT.

TRUCK inlet CREW LINDSAY

GAS 1/2

WEATHER CONDITIONS:

WATER CONDITIONS

BOAT LAYOUT AFTERNOON WORKOUT 10

LOST CHILDREN-ADULTS

| NAME | M-F | AGE | TIME FOUND | TIME REUNITED | STREET FOUND | STREET LOST | GUARD |
|--------------|----------|-----------|--------------|---------------|--------------|--------------|-------------|
| <u>Laura</u> | <u>F</u> | <u>20</u> | <u>13:45</u> | <u>14:25</u> | <u>Ocean</u> | <u>Ocean</u> | <u>Nick</u> |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |

MISSING CHILDREN-ADULTS

| NAME | M-F | AGE | TIME GONE MISSING | TIME FOUND | STREET MISSING FROM | STREET FOUND | GUARD |
|------|-----|-----|-------------------|------------|---------------------|--------------|-------|
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |

TRANSPORTS IN SECTION 5 SURF CHAIRS 2
NOTES-COMPLAINTS OF PUBLIC

OCEAN RESCUES

2 1st + Ocean Bully Stab

MEDICALS@ TRUCK 1 MEDICALS HANDLED BY MEDIC 0

EQUIPMENT ISSUES

N/A

LIFEGUARD ISSUES-CONCERNS-COMP TIME USED

N/A

INCIDENTS-BEACH EJECTIONS-ETC

NORTH WILDWOOD BEACH PATROL
DAILY REPORTDATE: 7-3-13 SUN. MON. TUES. WED. THUR. FRI SAT.TRUCK Medic CREW LindsayWEATHER CONDITIONS: Cloudy Rain SunWATER CONDITIONS flatBOAT LAYOUT no AFTERNOON WORKOUT no

LOST CHILDREN-ADULTS

| NAME | M-F | AGE | TIME LOST | TIME FOUND | STREET LOST | FOUND | GUARD |
|------|-----|-----|-----------|------------|-------------|-------|-------|
| N/A | | | | | | | |
| | | | | | | | |
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TRANSPORTS IN SECTION 1 SURF CHAIRS 1
NOTES-COMPLAINTS OF PUBLIC

OCEAN RESCUES

None. Clint did respond to Maria's Beach for a 911 call that turned out to be 4 people and boards that were not in trouble.

MEDICALS@TRUCK 1 MEDICALS HANDLED BY MEDIC 0

EQUIPMENT ISSUES

N/A

LIFEGUARD ISSUES-CONCERNS-COMP TIME USED

NORTH WILDWOOD BEACH PATROL
DAILY REPORT

DATE: 7-4-13 SUN. MON. TUES. WED. THUR FRI. SAT.

TRUCK Medic CREW Lindsay, Edwards

WEATHER CONDITIONS:

WATER CONDITIONS

BOAT LAYOUT no AFTERNOON WORKOUT no

LOST CHILDREN-ADULTS

| NAME | M-F | AGE | TIME LOST | TIME FOUND | STREET LOST | FOUND | GUARD |
|------|-----|-----|-----------|------------|-----------------------|-----------------------|----------|
| Amy | F | 6 | 14:10 | 14:18 | 2 nd Ocean | 2 nd Ocean | Milligan |
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TRANSPORTS IN SECTION 4 SURF CHAIRS 3+

NOTES-COMPLAINTS OF PUBLIC

Set up ramp to excess Morris beach at
high tide

OCEAN RESCUES

none

MEDICALS@ TRUCK 0 MEDICALS HANDLED BY MEDIC 0

EQUIPMENT ISSUES

None

LIFEGUARD ISSUES-CONCERNS-COMP TIME USED

Smith v. North Wildwood

NORTH WILDWOOD BEACH PATROL

DAILY REPORT

DATE: 6-8-14 (C) SUN MON. TUES, WED. THUR. FRI. SAT.

TRUCK 07 CREW LOCKAY

WEATHER CONDITIONS: Sunny, turned Windy Cloudy

WATER CONDITIONS flat

BOAT LAYOUT no AFTERNOON WORKOUT no

LOST CHILDREN-ADULTS

| NAME | M-F | AGE | TIME LOST | TIME FOUND | STREET LOST | FOUND | GUARD |
|------|-----|-----|-----------|------------|-------------|-------|-------|
| N/A | | | | | | | |
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TRANSPORTS IN SECTION 1 SURF CHAIRS 1

NOTES-COMPLAINTS OF PUBLIC

OCEAN RESCUES

respond to Monera inlet by request of NWPD
to assist a swimmer in the middle of channel.
Victim was on shore when Jettie arrived.

MEDICALS@TRUCK 1 MEDICALS HANDLED BY MEDIC 0

EQUIPMENT ISSUES

Back-up alarm doesn't work on 07 truck

LIFEGUARD ISSUES-CONCERNS-COMP TIME USED

NORTH WILDWOOD BEACH PATROL

DAILY REPORT

DATE: 6/19/10 DAY: SUN. MON. TUES. WED. THURS. FRI. SAT.

JEEP: Lt. Taylor Lindsey Dr. _____

WEATHER 88 TEMP.

☒ SUNNY ☐ FOG
☐ CLOUDY ☐ WINDY
☐ RAIN ☐ LIGHTING

WATER _____ TEMP.

☐ CALM
☒ CHOPPY
☐ ROUGH

SUGGESTIONS

LOST CHILDREN

| NAME | M | F | AGE | TIME LOST | TIME FOUND |
|------|---|---|-----|-----------|------------|
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MEDICALS HANDLED AT TRUCK 2
 INCIDENTS:

Rescue drunk woman off of Surf Ave.
Beach w/ Lifeguard Tyden. Rescue
Two boogie boarding adults from the inlet
w/ Guard Tyden. No other incidents on
a busy day.

SIGNATURE J. Taylor



**NORTH WILDWOOD BEACH PATROL
DAILY REPORT**DATE: 7/25/10 DAY: SUN. MON. TUES. WED. THURS. FRI. SAT.JEEP: Lt. Taylor Dr. DotyWEATHER 75 TEMP.☒ SUNNY ☐ FOG
☐ CLOUDY ☒ WINDY (Late)
☒ RAIN (Late) ☐ LIGHTINGWATER 65 TEMP.☒ CALM
☐ CHOPPY
☐ ROUGH**SUGGESTIONS**

| <u>LOST CHILDREN</u> | | | | | |
|-----------------------------|----------|----------|------------|------------------|-------------------|
| NAME | M | F | AGE | TIME LOST | TIME FOUND |

MEDICALS HANDLED AT TRUCK 1
INCIDENTS:

- 1 Medical Refusal
- 1 Inlet Rescue. Kayak in distress
was swam back to the beach.

SIGNATURE [Signature]

**NORTH WILDWOOD BEACH PATROL
DAILY REPORT**

DATE: 7/28/10 DAY: SUN. MON. TUES. WED. THURS. FRI. SAT.

JEEP: Lt. LINDSAY Dr. _____

WEATHER _____ TEMP. _____ WATER _____ TEMP. _____
☒ SUNNY _____ FOG _____
 _____ CLOUDY ☒ WINDY _____
 _____ RAIN _____ LIGHTING _____
 _____ CHOPPY _____
 _____ ROUGH _____

SUGGESTIONS

LOST CHILDREN

| NAME | M | F | AGE | TIME LOST | TIME FOUND |
|--------------|----------|---|----------|------------------|------------------|
| <u>Bobby</u> | <u>X</u> | | <u>6</u> | <u>1:17 p.m.</u> | <u>1:34 p.m.</u> |

MEDICALS HANDLED AT TRUCK 2
INCIDENTS:

Kite-surfer stuck in channel for 15 min
Para-sail boat picked him up and drop off at 10th St + Beach

SIGNATURE [Signature]



NORTH WILDWOOD BEACH PATROL

DAILY REPORT

DATE: 7-31-10 DAY: SUN. MON. TUES. WED. THURS. FRI. SAT.

JEEP: Lt. LINDSAY

Dr. Auty

WEATHER 86 TEMP.

☒ SUNNY ☐ FOG
☐ CLOUDY ☐ WINDY
☐ RAIN ☐ LIGHTING

WATER 68 TEMP.

☒ CALM
☐ CHOPPY
☐ ROUGH

SUGGESTIONS

LOST CHILDREN

| NAME | M | F | AGE | TIME LOST | TIME FOUND |
|------|---|---|-----|-----------|------------|
| N/A | | | | | |
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MEDICALS HANDLED AT TRUCK 2

INCIDENTS:

3:55 Guard Lydon saw a group of the point that was about 200 yds out. They drifted down from Moors and two of the victims were shaken up. All four guards were in the water and Supervisor Auty North beach was up. Lt. Taylor checked the two victims and released them. Excellent Job to all that were involved.

SIGNATURE [Signature]



NORTH WILDWOOD BEACH PATROL

DAILY REPORT

DATE: 8-23-10 DAY: SUN. (MON) TUES. WED. THURS. FRI. SAT.JEEP: Lt. LINDSA Dr. _____

WEATHER 82 TEMP. WATER 69 TEMP.
☒ SUNNY ☐ FOG ☐ CALM
☒ CLOUDY ☒ WINDY ☐ CHOPPY
☒ RAIN ☐ LIGHTING ☒ ROUGH

SUGGESTIONSLOST CHILDREN

| NAME | M | F | AGE | TIME LOST | TIME FOUND |
|------|---|---|-----|-----------|------------|
| N/A | | | | | |

MEDICALS HANDLED AT TRUCK 1

INCIDENTS:

2nd + Ocean Rescue at 12:30
2nd + Surf Rescue at the Point people
drifted down from Moors

SIGNATURE P. L. L.

NORTH WILDWOOD BEACH PATROL

DAILY REPORT

DATE: 8-23-10 DAY: SUN. MON. TUES. WED. THURS. FRI. SAT.

JEEP: Lt. LINDSAY Dr. _____

WEATHER _____ TEMP. _____ WATER _____ TEMP. _____
☒ SUNNY _____ FOG _____
☒ CLOUDY _____ WINDY _____
 _____ RAIN ☒ LIGHTING _____ CHOPPY _____
 _____ ROUGH _____

SUGGESTIONS

LOST CHILDREN

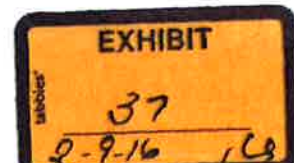
| NAME | M | F | AGE | TIME LOST | TIME FOUND |
|------|---|---|-----|-----------|------------|
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MEDICALS HANDLED AT TRUCK 0

INCIDENTS:

Main Rescue off Moore's Beach. Fisherman
falls off seawall

SIGNATURE [Signature]



NORTH WILDWOOD BEACH PATROL

DAILY REPORT

DATE: 8-31-10 DAY: SUN. MON. TUES WED. THURS. FRI. SAT.JEEP: Lt. LINDSEY Dr. _____

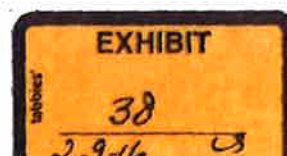
WEATHER 91 TEMP. _____ WATER 71 TEMP. _____
 _____ SUNNY _____ FOG _____ CALM _____
 _____ CLOUDY _____ WINDY _____ CHOPPY _____
 _____ RAIN _____ LIGHTING _____ X ROUGH _____

SUGGESTIONSLOST CHILDREN

| NAME | M | F | AGE | TIME LOST | TIME FOUND |
|--------------|----------|----------|-----|-----------------|-----------------|
| <u>Kevin</u> | <u>X</u> | <u>9</u> | | <u>12:43 pm</u> | <u>12:57 pm</u> |

MEDICALS HANDLED AT TRUCK 2

INCIDENTS:

Rescue at 2:07 2nd + OceanRescue at "The Point" 3:10C. Spine 4:20 treated + transportedC. Spine 5:05 treated + transportedSIGNATURE [Signature]

**NORTH WILDWOOD BEACH PATROL
DAILY REPORT**

DATE: 7/24/11 ~~SUN~~ MON. TUES, WED. THUR. FRI. SAT.
TRUCK 06 SECTION Fleet CREW Taylor Lindsey
WEATHER CONDITIONS:

WATER CONDITIONS Good
good

LOST CHILDREN-ADULTS

| NAME | M-F | AGE | TIME LOST | TIME FOUND | STREET LOST | FOUND | SPECIAL NOTES |
|-------|-----|-----|-----------|------------|-------------|-------|---------------|
| Hanna | F | 4 | 1:25 | 1:30 | Ocean | Surf | --- |
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TRANSPORTS 3 SURF CHAIRS 3 BOAT LAYOUT ---
WORKOUTS ✓
RED NO SWIM FLAGS 4 -
SIGNS-STREETS CLOSED 2nd JFL
NOTES-COMPLAINTS OF PUBLIC

OCEAN RESCUES

Edward Ryan Sanki - rescue on women 50 yds
outside swim zone, ignoring whistles

MEDICALS@ TRUCK 3 MEDICALS HANDLED BY MEDIC ---

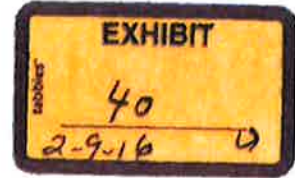
EQUIPMENT ISSUES

LIFEGUARD ISSUES-CONCERNS-COMP TIME USED

GAS FILL-UP ✓ Jet ski



**NORTH WILDWOOD BEACH PATROL
DAILY REPORT**



DATE: 5/26/12 SUN. MON. TUES, WED. THUR. FRI. SAT.

TRUCK _____ CREW Aoty / Lins

WEATHER CONDITIONS: 80° Sunny

WATER CONDITIONS 65° Rips @ outgoing tide

BOAT LAYOUT _____ AFTERNOON WORKOUT _____

LOST CHILDREN-ADULTS

| NAME | M-F | AGE | TIME LOST | TIME FOUND | STREET LOST | FOUND | GUARD |
|------|-----|-----|-----------|------------|-------------|-------|-------|
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TRANSPORTS IN SECTION _____ SURF CHAIRS 1
NOTES-COMPLAINTS OF PUBLIC

OCEAN RESCUES

2 Rescues, Guards Gosed Musso did a good job on controlling the crowd at 1st and Surf. There are heavy crowds at 1st street due to the parking lot.

MEDICALS@TRUCK 2 MEDICALS HANDLED BY MEDIC 2

EQUIPMENT ISSUES

LIFEGUARD ISSUES-CONCERNS-COMP TIME USED

**NORTH WILDWOOD BEACH PATROL
DAILY REPORT**



DATE: 7/4/12 SUN. MON. TUES, WED. THUR. FRI. SAT.

TRUCK 06 CREW Taylor Edwards

WEATHER CONDITIONS: Calm nice

WATER CONDITIONS Calm

BOAT LAYOUT AFTERNOON WORKOUT

LOST CHILDREN-ADULTS

| NAME | M-F | AGE | TIME LOST | TIME FOUND | STREET LOST | FOUND | GUARD |
|-------|-----|-----|-----------|------------|-------------|-------|-------|
| Devin | M | 4 | 1:05 | 1:10 | | | Goose |
| Avery | F | 5 | 1:30 | 1:35 | | | Goose |
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TRANSPORTS IN SECTION 2 SURF CHAIRS 2

NOTES-COMPLAINTS OF PUBLIC
Hummer on beach

OCEAN RESCUES
Two jet ski prevents at Moore's beach

MEDICALS@ TRUCK 2 MEDICALS HANDLED BY MEDIC

EQUIPMENT ISSUES

LIFEGUARD ISSUES-CONCERNS-COMP TIME USED

No incidents



NORTH WILDWOOD BEACH PATROL
DAILY REPORT

DATE: 8/17/12 SUN. MON. TUES. WED. THUR. FRI. SAT.

TRUCK 06 CREW Edwards / Lindsay

WEATHER CONDITIONS:

WATER CONDITIONS

BOAT LAYOUT 0 AFTERNOON WORKOUT ✓

LOST CHILDREN-ADULTS

| NAME | M-F | AGE | TIME LOST | TIME FOUND | STREET LOST | FOUND | GUARD |
|------|-----|-----|-----------|------------|-------------|-------|-------|
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TRANSPORTS IN SECTION 5 SURF CHAIRS 3
NOTES-COMPLAINTS OF PUBLIC

OCEAN RESCUES

MEDICALS @ TRUCK 2 MEDICALS HANDLED BY MEDIC 0

EQUIPMENT ISSUES

LIFEGUARD ISSUES-CONCERNS-COMP TIME USED

5 Preventing at the point

NORTH WILDWOOD BEACH PATROL
DAILY REPORT



DATE: 8/19/12 SUN. MON. TUES. WED. THUR. FRI. SAT.

TRUCK 06 CREW TE / DAVE

WEATHER CONDITIONS: East winds 5 knots Surf

WATER CONDITIONS 1 ft @ 6 sec.

BOAT LAYOUT AFTERNOON WORKOUT

LOST CHILDREN-ADULTS

| NAME | M-F | AGE | TIME LOST | TIME FOUND | STREET LOST | FOUND | GUARD |
|------|-----|-----|-----------|------------|-------------|-------|-------|
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TRANSPORTS IN SECTION 5 SURF CHAIRS 3
NOTES-COMPLAINTS OF PUBLIC

OCEAN RESCUES 5/4 5/10/12

MEDICALS @ TRUCK / MEDICALS HANDLED BY MEDIC /

EQUIPMENT ISSUES 5/11 one lifeguard chair needs repair

LIFEGUARD ISSUES-CONCERNS-COMP TIME USED
7 Preventions @ 1st, 2nd, 3rd
OB 5/10 1st 2nd 3rd 4th 5th 6th

NORTH WILDWOOD BEACH PATROL
DAILY REPORT



DATE: 8/13/12 SUN. MON. TUES. WED. THUR. FRI. SAT.

TRUCK 26 CREW TE / Dale

WEATHER CONDITIONS:

WATER CONDITIONS

BOAT LAYOUT AFTERNOON WORKOUT

LOST CHILDREN-ADULTS

| NAME | M-F | AGE | TIME LOST | TIME FOUND | STREET LOST | FOUND | GUARD |
|------|-----|-----|-----------|------------|-------------|-------|-------|
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TRANSPORTS IN SECTION 5 SURF CHAIRS 3
NOTES-COMPLAINTS OF PUBLIC

OCEAN RESCUES

MEDICALS @ TRUCK MEDICALS HANDLED BY MEDIC

EQUIPMENT ISSUES

LIFEGUARD ISSUES-CONCERNS-COMP TIME USED

8 Precautions @ The Point

NORTH WILDWOOD BEACH PATROL
DAILY REPORT



DATE: 8/20/16 SUN. MON. TUES. WED. THUR. FRI. SAT.

TRUCK 06 CREW TX

WEATHER CONDITIONS N/E @ 10 Swing / some clouds

WATER CONDITIONS 20-25

BOAT LAYOUT AFTERNOON WORKOUT

LOST CHILDREN-ADULTS

| NAME | M-F | AGE | TIME LOST | TIME FOUND | STREET LOST | FOUND | GUARD |
|------|-----|-----|-----------|------------|-------------|-------|-------|
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TRANSPORTS IN SECTION 3 SURF CHAIRS 3
NOTES-COMPLAINTS OF PUBLIC

OCEAN RESCUES N/A

MEDICALS @ TRUCK 1 MEDICALS HANDLED BY MEDIC

EQUIPMENT ISSUES swatched surf see chair

LIFEGUARD ISSUES-CONCERNS-COMP TIME USED
10 Prevention @ Point



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Vortex Takes Sand Out to Sea

By DEBORAH MCGUIRE

NORTH WILDWOOD — A small section of beach at the city's furthestmost northern end collapsed after weather conditions created the perfect storm to allow sand to be washed out to sea the evening of Sept. 19.

"There's a vortex that's created in our inlet," said Mayor William Henfey. "We have competing inlets coming out of Herford Inlet and it's causing a whirlpool effect there."



Robert Newkirk

Due to the recent north-east winds and new moon, the whirlpool started

to spin and eroded the beach.

"It's going to level off," said Henfey who had been in close communication with Dr. Stewart Farrell, Director of Coastal Studies at the Coastal Research Center at Stockton College.

The mayor said the

area is one that can be considered as alive. "The sand grows, the sand goes away, the sand grows, the sand goes away. It's all part of Mother Nature back in the area back there."

There were no injuries or damage to property.

Mid-Atlantic Police, Fire Survivors Weekend Set

NORTH WILDWOOD — The Mid-Atlantic Law Enforcement Survivor Weekend will join with The Cape May County Police & Fire Emerald Society to welcome the Survivor Groups of the Mid-Atlantic Region to North Wildwood, in support of the survivors of those police and fire personnel who lost their life in service of others.

The Mid-Atlantic Police & Fire Survivor's Weekend is unique in that it is currently the only event that focuses on the survivor for the most part the weekend is a serious, somber event highlighted by the survivors supported for one another, friendship and camaraderie by those in attendance.

It is also a place that the public can show their support for current emergency and disaster relief.

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 522-5118 • OPEN DAILY • 7AM - 7PM

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| 20lb. x Long Grain Rice \$9.99 Outdoor Tables (with umbrellas) for your convenience in our Parking Lot! | SPRING WATER \$3.99 24-16.9oz. bottles | MARGARINE 24-16.9oz. bottles |
| Bananas 59¢ lb!! CALLON OF | STORE MADE HOT & SWEET ITALIAN SAUSAGE | 1 lb. Ham 1 lb. American Cheese |

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DIRECTIONS to Hereford Inlet Lighthouse from Garden State Parkway South

- Parkway North
- Take Exit 6 (Wildwood/Rio Grande)
- Turn right at end of exit ramp onto Rio Grande Avenue, following signs to the Wildwoods
- Continue on Rio Grande Avenue over the drawbridge and into Wildwood
- Turn Left onto Atlantic Avenue through Wildwood until it ends at 1st Avenue in North Wildwood
- Turn left on 1st Avenue
- Turn right onto Central Avenue
- Lighthouse is on Central Avenue near 1st Avenue
- Lighthouse parking on Central Avenue

From Parkway North

- Parkway South
- Take Exit 6 (North Wildwood)
- Turn right at end of exit ramp onto Route 147
- Follow this road until you are in North Wildwood where it becomes New Jersey Avenue
- Stay on New Jersey Avenue until Chestnut Avenue. Make a left on Chestnut and proceed two blocks to Central Ave.
- Cross Central and enter Lighthouse Parking Area

Front Cover Artwork by: Donna Elias

Photos by: B – Barry Moyer J – John Kirchner K – Kate Maser



609-522-4520 • www.herefordlighthouse.org

Hereford Inlet Lighthouse - 1874 -



"The Victorian Lighthouse"

111 N. Central Ave.

North Wildwood, NJ 08260

609-522-4520

www.herefordlighthouse.org



Hereford Inlet Lighthouse is a working lighthouse as well as a museum. Open to the public for guided and self guided tours, visitors will learn about the history of Hereford and get a glimpse into the life of a lighthouse keeper in the late 19th and early 20th century.

A park surrounding the Lighthouse is designed with many different garden areas containing over 200 plant varieties. The gardens are planted in the Victorian cottage style and extend right up to the ocean seawall. They have won several awards, including the Pennsylvania Horticultural Society Suburban Greening Award.

The Lighthouse also has a gift shop featuring lighthouse and nautical theme art work, books, miniatures, shirts, hats, mugs and much more.

The gardens and grounds around the Lighthouse are wheelchair accessible. A photo album "tour" is available upon request, to those unable to climb the lighthouse.

We welcome and can accommodate school trips, senior citizen groups and other organized tours. Special rates are available for groups of 30 or more.

Hereford Inlet Lighthouse is open year round. For days and hours of operation, special events, admission fees and other questions, please call 609-522-4520 or visit our official website at herefordlighthouse.org

*Please share this brochure with a friend



Herford Inlet Lighthouse, a beacon of safety and assurance to the 19th century mariners, has become a cherished landmark for residents and visitors of this seashore resort community.

The Lighthouse is situated on the south side of the Herford Inlet, which leads from the Atlantic Ocean to the famed Intra-Coastal Waterway linking Maine to Florida. First used by the 17th century whalers to haul in and butcher their catches, the Inlet's use as a haven for mariners greatly increased as travel and shipping along the coast became more prevalent.

Strong currents and shifting sandbars near the entrance to the Inlet caused frequent groundings and shipwrecks. Because of this, in 1859, a Life Saving Station was constructed along the south bank of the Herford Inlet. A second, larger station replaced this in 1871, the time of the creation of the United States Life Saving Service. As the use of the Inlet and coastal shipping continued to increase, so did the number of shipwrecks. It became obvious that a Lighthouse was needed to mark the mouth of the Inlet.

On June 10, 1872 Congress enacted legislation to finance the purchase of land and the construction of a fourth order Lighthouse. The site chosen held a prominent position on the dune area overlooking the approach to the Inlet.

Construction began on the uninhabited barrier island on Nov. 8, 1873 and was completed on March 30, 1874. This wood frame residential style Lighthouse was designed by the Lighthouse Board's Chief Draftsman, Paul J. Pelz. His Victorian era design is referred to as "Swiss Carpenter Gothic," and also "Stick Style."

Herford is the only Lighthouse of its type on the East Coast although it had five "sister" lights on the West. Pelz designed Point Fernu, East Brother, More Island and Point Huene in California and Point Adams in Washington State. All of these were almost identical to Herford and were built about the same time. Only Point Fernu and East Brother still exist.

Paul Pelz would later garner world wide fame as the designer of the Library of Congress in Washington D. C.

On May 11, 1874 a "Notice to Mariners" formally announced the start of operation of the Light. The fixed white light was located at latitude 39 degrees and longitude 74 degrees, 47 minutes. The tower height is 49 1/2 feet with the light elevation rising to 57 feet above sea level. The light is visible at a distance of 13 nautical miles.

John Murche was the first Lighthouse Keeper. He was in the post less than three months when his boat capsized and he drowned while returning from the mainland. He was replaced by a young man from Cape May Court House, Freeling Hixson Hewitt.

Freeling was a civil war veteran and a former merchant seaman. He would stay on as the Keeper of the Light for the next 45 years. Freeling was considered a "pioneer" of the island and among his many contributions, held the first formal religious services to occur in the wilderness, in the Lighthouse parlor.

In 1888, a third larger Bibb's style Life Saving Station was constructed three hundred feet North of the Lighthouse. The Lighthouse Service and the Life Saving Service were both run by the Department of the Treasury but were separate organizations. They were, however, both in the business of saving lives. The Lighthouse by warning and the Life Saving Service by rescue.

Herford stood firm against the onslaught of the winds, rains, and tides for 40 years at its original location. A severe storm in August of 1913 significantly damaged the foundation, requiring it to be moved westward 150 feet to where it sits today.

In 1915 the Coast Guard absorbed the duties of the U.S. Life Saving Service. A larger building was needed and in 1938 the modern "Roosevelt Style" Coast Guard Station was constructed. This Station also had a bouthouse and a maintenance garage. These are the white buildings just north of the Lighthouse. In 1939, the Coast Guard took over control of the Lighthouse Service.

For the next 25 years the Herford Lighthouse continued to operate. By the early 1960's the Coast Guard began to automate many of its lighthouses. In 1964 this was the fate of Herford when an automatic rotating modern optic was placed on an iron skeletal tower behind the Lighthouse. The Lighthouse was closed as was the Coast Guard Station next door. The entire property was transferred to the control of the New Jersey State Marine Police. The Police made use of the Coast Guard Buildings, but the Lighthouse was boarded up and left to deteriorate for the next 18 years.

In 1982 through the long and painstaking efforts of Mayor Anthony Cannoso and his wife Phyllis, a lease was signed "Whereby the New Jersey Department of Environmental Protection turns over the stewardship of the Lighthouse to the City of North Wildwood."

Restoration of the neglected building was immediately begun. After only ten months of intense work, on July 1, 1983, a portion of the restored building was opened to the public. Hundreds of public spirited citizens who helped raise funds for the restoration and contributed time, talent, energy and materials were on hand to celebrate the official reopening of the historic landmark for public use.

In 1988 the modern automated light was removed from the iron tower and placed in the Lighthouse lantern room making it a fully functional aid to navigation once again.

Efforts were then begun to create a museum in the Lighthouse. The interior of the building was furnished with period antiques, educational displays and lighthouse memorabilia. The 4th order Fresnel Lens was restored and placed on display on the first floor of the Lighthouse.

A project to improve the sandy, barren grounds into a park was undertaken by Superintendents of Parks Steve Murray, who designed the Park along with its many garden areas.

Finally an authentic restoration of the entire Lighthouse was begun in 1998 and is with many old, historic structures is always a work in progress. Grants awarded by the New Jersey Historic Trust and the N.J. Department of Transportation have helped finance this work.

The Herford Lighthouse is listed on both the National and State Registers of Historic Places. It is also part of the New Jersey Coastal Heritage Trail, and the Delaware Bayshore Bidding and Wildlife Trail. It is operated and maintained by the "Friends of the Herford Inlet Lighthouse Inc." with money generated by Lighthouse tours, the gift shop and various fund raising projects.

Our mission is to preserve our city's landmark and to impress upon and educate the public of its important heritage.



NEW JERSEY
SHORE PROTECTION STUDY



US Army Corps
of Engineers
Philadelphia District

New Jersey Department
of Environmental
Protection

Hereford Inlet to Cape May Inlet

Draft Feasibility Report and Integrated Environmental Assessment

Volume 1 Draft Feasibility Report and Integrated Environmental Assessment

12/17/13

1
2
3
4
5
6
7
8
9
10

| | | |
|----|--|-----|
| 1 | List of Figures | |
| 2 | Figure 1 Study Area | 26 |
| 3 | Figure 2 Hereford Inlet | 27 |
| 4 | Figure 3 North Wildwood | 28 |
| 5 | Figure 4 North Wildwood | 29 |
| 6 | Figure 5 North Wildwood and Wildwood | 30 |
| 7 | Figure 6 Wildwood and Wildwood Crest | 31 |
| 8 | Figure 7 Wildwood and Wildwood Crest (Fishing Pier) | 32 |
| 9 | Figure 8 Wildwood Crest..... | 33 |
| 10 | Figure 9 Wildwood Crest Diamond Beach..... | 34 |
| 11 | Figure 10 Lower Township..... | 35 |
| 12 | Figure 11 Cape May Inlet | 36 |
| 13 | Figure 12 North Wildwood , Hereford Inlet and Stone Harbor Point | 45 |
| 14 | Figure 13 North Wildwood, 1970s?..... | 45 |
| 15 | Figure 14 North Wildwood 1991 | 46 |
| 16 | Figure 15 North Wildwood 2004..... | 46 |
| 17 | Figure 16 Clogged Outfall in Wildwood | 47 |
| 18 | Figure 17 Clogged Outfall in Wildwood, looking seaward..... | 47 |
| 19 | Figure 18 Wildwood Crest Fishing Pier, 1970's..... | 48 |
| 20 | Figure 19 Wildwood Crest Fishing Pier, 2003 | 48 |
| 21 | Figure 20 Winter and Summer Population | 50 |
| 22 | Figure 21 Historic Population..... | 51 |
| 23 | Figure 22 Value of Owner Occupied Housing Units..... | 55 |
| 24 | Figure 23 Beach Intertidal and Nearshore Zones | 67 |
| 25 | Figure 24 Turtle Gut Inlet..... | 84 |
| 26 | Figure 25 Turtle Gut Inlet Locality Sketch from the War Department | 85 |
| 27 | Figure 26 Physiographic Provinces. | 87 |
| 28 | Figure 27 Coastal Plain Aquifers..... | 92 |
| 29 | Figure 28 Stratigraphic Cross Section | 94 |
| 30 | Figure 29 Soil Classification Systems | 99 |
| 31 | Figure 30 Wave Hindcast Stations..... | 114 |
| 32 | Figure 31 Percent Occurrence Histogram..... | 117 |
| 33 | Figure 32 Wave Rose of Station 147 | 117 |
| 34 | Figure 34 Wave Rose of Station 147 | 118 |
| 35 | Figure 35 Wave Rose of OCTI 119J19 Wave Direction vs. Period..... | 118 |
| 36 | Figure 33 Wave Rose of OCTI 119J19 Wave Direction vs. Height | 118 |
| 37 | Figure 36 Sea Level Trends Atlantic City | 122 |
| 38 | Figure 37 Storm Track and Wave Heights, Sandy | 125 |
| 39 | Figure 38 North Wildwood 2nd Avenue pre and post Sandy Surveys..... | 126 |
| 40 | Figure 39 10th Avenue in Wildwood pre and post Sandy Surveys | 126 |
| 41 | Figure 40 26th Avenue in North Wildwood/Wildwood pre and post Sandy Profiles | 127 |
| 42 | Figure 41 Baker Avenue in Wildwood pre and post Sandy Surveys..... | 127 |
| 43 | Figure 42 Wildwood Crest Fern Road pre and post Sandy Surveys..... | 128 |
| 44 | Figure 43 Wildwood Crest Trenton Ave pre and post Sandy Surveys..... | 128 |
| 45 | Figure 44 Bulkhead Overtopping at 2nd Avenue in North Wildwood During Sandy..... | 129 |
| 46 | Figure 45 Bulkhead Overtopping During Hurricane Sandy North Wildwood | 129 |

| | | |
|----|---|-----|
| 1 | Figure 46 Wildwood Post Storm | 130 |
| 2 | Figure 47 Wildwood Crest Post Storm | 130 |
| 3 | Figure 48 Beach Profile Locations | 137 |
| 4 | Figure 49 Wildwoods Bathymetry 1937-1940 | 140 |
| 5 | Figure 50 Wildwoods Bathymetry 1970-1977 | 141 |
| 6 | Figure 51 Wildwoods Bathymetry 1999-2004 | 142 |
| 7 | Figure 52 Hereford Inlet Bathymetry 1994 | 143 |
| 8 | Figure 53 Hereford Inlet Bathymetry 1999 | 144 |
| 9 | Figure 54 Hereford Inlet Bathymetry 2002 | 145 |
| 10 | Figure 55 Inlet Sediment Bypassing | 146 |
| 11 | Figure 56 Historic Shoreline Yearly Accretion Rates in Segments 1,2,3,4 | 148 |
| 12 | Figure 57 1920 Aerial Photograph | 149 |
| 13 | Figure 58 1933 Aerial Photograph | 149 |
| 14 | Figure 59 Aerials 1920 | 152 |
| 15 | Figure 60 Aerials 1933 | 153 |
| 16 | Figure 61 Aerial 1944 | 154 |
| 17 | Figure 62 Aerials 1962 | 155 |
| 18 | Figure 63 Aerials 1970 | 156 |
| 19 | Figure 64 Aerials 2003 | 157 |
| 20 | Figure 65 Aerials 2006 | 158 |
| 21 | Figure 66 Aerials 2012 | 159 |
| 22 | Figure 67 1955, 2003 and 2012 Profile comparison in Wildwood | 161 |
| 23 | Figure 68 North Wildwood Shoreline Positions 1899-2003 | 163 |
| 24 | Figure 69 North Wildwood and Wildwood Crest Shoreline Positions 1899-2003 | 164 |
| 25 | Figure 70 Wildwood and Wildwood Crest Shoreline Positions 1899-2003 | 165 |
| 26 | Figure 71 Wildwood Crest Shoreline Positions 1899-2003 | 166 |
| 27 | Figure 72 Wildwood Crest and Lower Township Shoreline Positions 1899-2003 | 167 |
| 28 | Figure 73 Lower Township Shoreline Position 1899-2003 | 168 |
| 29 | Figure 74 Sediment Budget | 177 |
| 30 | Figure 75 Sediment Budget | 177 |
| 31 | Figure 76 Cell 1 Without Project Profile | 182 |
| 32 | Figure 77 Cell 2 Without Project Profile | 183 |
| 33 | Figure 78 Cell 3 Without Project Profile | 183 |
| 34 | Figure 79 Cell 4 Without Project Profile | 184 |
| 35 | Figure 80 Cell 5 Without Project Profile | 184 |
| 36 | Figure 81 Cell 6 Without Project Profile | 185 |
| 37 | Figure 82 Cell 7 Without Project Profile | 185 |
| 38 | Figure 83 Cells 1-7 Layout | 186 |
| 39 | Figure 84 Storm Conditions 5 year Event | 188 |
| 40 | Figure 85 Storm Conditions 10 Year Event | 189 |
| 41 | Figure 86 Storm Conditions 20 Year Event | 189 |
| 42 | Figure 87 Storm Conditions 50 Year Event | 190 |
| 43 | Figure 88 Storm Conditions 100 Year Event | 190 |
| 44 | Figure 89 Storm Conditions 200 Year Event | 191 |
| 45 | Figure 90 Storm Conditions 500 Year Event | 191 |
| 46 | Figure 91 Pre and Post "50 yr" Storm Event Beach Profiles for Cell 1 | 192 |

| | | |
|----|---|-----|
| 1 | Figure 92 Pre and Post “50 yr” Storm Event Beach Profiles for Cell 2 | 193 |
| 2 | Figure 93 Pre and Post “50 yr” Storm Event Beach Profiles for Cell 3 | 194 |
| 3 | Figure 94 Pre and Post “50 yr” Storm Event Beach Profiles for Cell 4 | 195 |
| 4 | Figure 95 Pre and Post “50 yr” Storm Event Beach Profiles for Cell 5 | 196 |
| 5 | Figure 96 Pre and Post “50 yr” Storm Event Beach Profiles for Cell 6 | 197 |
| 6 | Figure 97 Pre and Post “50 yr” Storm Event Beach Profiles for Cell 7 | 198 |
| 7 | Figure 98 Map and Photo of Structure Inventory | 205 |
| 8 | Figure 99 Pile and Slab Foundation Erosion | 206 |
| 9 | Figure 100 Without Project Structures and Total Damage | 209 |
| 10 | Figure 101 Cell 1 in North Wildwood | 247 |
| 11 | Figure 102 Cell 2 in North Wildwood | 247 |
| 12 | Figure 103 Pier Protection Plan View | 249 |
| 13 | Figure 104 Pier Protection Cross Section | 250 |
| 14 | Figure 105 North Wildwood Structure Damage | 251 |
| 15 | Figure 106 Benefits Optimization for North Wildwood | 254 |
| 16 | Figure 107 The Three Pillars of Sustainability, World Summit on Social Development..... | 260 |
| 17 | Figure 108 North Wildwood Cross Section | 264 |
| 18 | Figure 109 Wildwood and Wildwood Crest Cross Section | 265 |
| 19 | Figure 110 Lower Township Cross Section..... | 265 |
| 20 | Figure 111 North Wildwood Plan View | 266 |
| 21 | Figure 112 North Wildwood/Wildwood Plan View | 267 |
| 22 | Figure 113 Wildwood Plan View | 268 |
| 23 | Figure 114 Wildwood Crest Plan View | 269 |
| 24 | Figure 115 Wildwood Crest Plan View (2) | 270 |
| 25 | Figure 116 Lower Township Plan View..... | 271 |
| 26 | Figure 117 Schematic of Hydraulic Back-passing System courtesy of ERDC | 273 |
| 27 | Figure 118 Side View of Crawler Crane and Crater..... | 274 |
| 28 | Figure 119 Sandy Recovery Projects, NJ and DE | 288 |
| 29 | Figure 120 Empirical Simulation Technique (EST) 90% confidence curve for water level..... | 307 |
| 30 | | |
| 31 | | |
| 32 | | |
| 33 | | |
| 34 | | |
| 35 | | |
| 36 | | |
| 37 | | |
| 38 | | |
| 39 | | |
| 40 | | |
| 41 | | |
| 42 | | |
| 43 | | |
| 44 | | |
| 45 | | |

| | | |
|----|--|-----|
| 1 | | |
| 2 | List of Tables | |
| 3 | Table 1 Year round Population in the Study Area..... | 50 |
| 4 | Table 2 Employment Comparison | 52 |
| 5 | Table 3 Study Area Employment Comparison | 52 |
| 6 | Table 4 Income Comparison..... | 53 |
| 7 | Table 5 Proposed Residential Site Plans..... | 54 |
| 8 | Table 6 Proposed residential Site Plans | 54 |
| 9 | Table 7 Development Projects in the Wildwoods..... | 56 |
| 10 | Table 8 Major non-Residential Space, 2006..... | 56 |
| 11 | Table 9 Cape May County Toll Volumes | 57 |
| 12 | Table 10 Essential Fish Habitat | 71 |
| 13 | Table 11 Habitat Utilization of EFH Species | 72 |
| 14 | Table 12 Beach and Survey Sampling Locations | 95 |
| 15 | Table 13 North Wildwood Composite Values..... | 101 |
| 16 | Table 14 Overfill and Renourishment Factors for Hereford Inlet Borrow Areas..... | 105 |
| 17 | Table 15 Overfill and Renourishment Factors for WW/WWC | 107 |
| 18 | Table 16 Shore Protection Structure Inventory | 110 |
| 19 | Table 17 Municipal Outfalls | 111 |
| 20 | Table 18 Piers in the Project Area | 112 |
| 21 | Table 19 Percent Occurrence of Wave Height by Month WIS-147 | 115 |
| 22 | Table 20 Percent Occurrence of Peak Period by Month WIS -147 | 115 |
| 23 | Table 21 Percent Occurrence of Mean Direction by Month WIS – 147 | 116 |
| 24 | Table 22 Summary of Mean Wave Height by Year 1980-1999 | 116 |
| 25 | Table 23 Percent Occurrence of Wind Speed by Month | 120 |
| 26 | Table 24 Percent Occurrence of Winds Speed by Direction | 120 |
| 27 | Table 25 Wildwood Crest Station Datum Elevations Summary for 8535835..... | 121 |
| 28 | Table 26 The 10 Highest Observed Stages at Atlantic City, NJ 1912-2012..... | 124 |
| 29 | Table 27 Ocean Stage Frequency Data..... | 131 |
| 30 | Table 28 Potential Longshore Sediment Transport Rates..... | 132 |
| 31 | Table 29 Study Area Profiles..... | 134 |
| 32 | Table 30 Elevation Parameters | 135 |
| 33 | Table 31 Contour Locations..... | 136 |
| 34 | Table 32 1955, 2003, 2012 Volume Comparisons | 161 |
| 35 | Table 33 Historic Shoreline Analysis Segments..... | 162 |
| 36 | Table 34 Shoreline Change Rates, Segment 1 | 169 |
| 37 | Table 35 Shoreline Change Rates for Wildwood Segment 2 | 170 |
| 38 | Table 36 Shoreline Change Rates for Wildwood Crest, Segment 3 | 171 |
| 39 | Table 37 Shoreline Change Rates for Lower Township, Segment 4..... | 172 |
| 40 | Table 38 Sediment Budget Uncertainty | 174 |
| 41 | Table 39 Sediment Budget Results | 178 |
| 42 | Table 40 Profiles Used in Hydraulic Analysis..... | 182 |
| 43 | Table 41 Post Storm Erosion Distances..... | 199 |
| 44 | Table 42 North Wildwood Storm Damages..... | 203 |
| 45 | Table 43 Summary of Depreciated Replacement Cost Values..... | 204 |
| 46 | Table 44 Beginning Damage Event | 207 |
| | Table 45 Without Project Damages by Frequency (In \$000, June 2007 p.l.)..... | 208 |

1.4 Study Area

The study area is a barrier island bordered to the north by Hereford Inlet and to the south by Cape May Inlet (*formerly Cold Spring Inlet*). Municipalities on the island include; North Wildwood, Wildwood, Wildwood Crest and Lower Township. A natural area managed by the US Fish and Wildlife Service and a US Coast Guard Electronics Center is located at the southern boundary of the study area within Lower Township. The study area is shown in **Figure 1** through **Figure 11**.

The island is separated from the mainland by three back-bay areas; Grassy Sound, Richardson Sound and Jarvis Sound. These are wide, shallow bays surrounded by marsh islands and thoroughfares connected to Hereford Inlet and Cape May Inlet.

Three roads connect the study area to the mainland and one road connects it to an adjacent barrier island. Route 147 connects the northern portion of the island to the mainland of Cape May County in the Anglesea section of North Wildwood, Route 47 connects Wildwood with the mainland at Rio Grande Avenue, and Ocean Drive connects the southern portion of the Island to the mainland near Cape May City. The island is also connected to Stone Harbor via the Grassy Sound Bridge which connects with Route 147 before entering North Wildwood.

The study area is located between two existing Federal shore protection projects. The Townsend's Inlet to Cape May Inlet shore protection project borders the study area to the north, and the Cape May Inlet to Lower Township project borders it to the south. Both projects are in partnership with the State of New Jersey Department of Environmental Protection and arose from investigations conducted by the New Jersey Shore Protection Authority. Initial construction has been completed on both projects, and they are currently in their periodic nourishment phase.

The Wildwood Boardwalk is located within the study area and receives hundreds of thousands of visitors per year. The first of the 70,000 planks that make up the Boardwalk were laid in 1900 along a 150 yard span between Oak and Maple Avenue in Wildwood City. Expansion of the boardwalk was soon to follow and by the first decade of the 20th century the boardwalk stretched from Cresse Avenue in Wildwood to 2nd Avenue in North Wildwood. The current boardwalk stretches from 15th street in North Wildwood to the border of Wildwood Crest and Wildwood at Cresse Avenue, a distance of approximately 1 ³/₄ miles.

1 Figure 1 Study Area
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1 **Figure 2 Hereford Inlet**
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Figure 3 North Wildwood



Figure 4 North Wildwood



Figure 5 North Wildwood and Wildwood



1 **1.9 Project Area Photos**

2 **Figure 12 North Wildwood, Hereford Inlet and Stone Harbor Point**

3 *Figure 12 shows the large sand spit that extends into Hereford Inlet from Stone Harbor Point in*
4 *the background and the Anglesea section of North Wildwood in the foreground.*



30 **Figure 13 North Wildwood, 1970s**



Figure 14 North Wildwood 1991

Figure 14 and 15 show the erosion of the wide beaches in North Wildwood from 1991 to 2004.



Figure 15 North Wildwood 2004



2.2.3 Natural Forces

Coastal barrier island shorelines experience a number of natural forces, which affect erosion rates and transportation of pollutants to bay areas. These forces may include, but are not limited to: waves, currents (wave-induced and tidal), swells (wind-generated waves), winds, tides and storms.

Circulation patterns originate from physical transfers of water and energy to form currents, resulting in a mixture of several different water sources in the Bay. Bay currents are generated by winds, tidal forces, fluvial flow, and salinity gradients resulting from inputs of sea water, river and ground water.

Waves approach the study area from a northward orientation relative to the shoreline, generating a prevailing southward longshore current that carries with it littoral drift, sedimentation and deposition. Indicators of wave climate are generally height, period and direction. Wave energy can be determined knowing the spectral distribution of these parameters. The average wave height in the study area from the 1980 to 2000 Wave Information Station (WIS) data source are those derived for Station 147 offshore of the Wildwoods and range from 2.3' in July to 3.9' in January. The maximum monthly average wave height (H_{mo}) at Station 147 for the 1980 - 2000 hind cast in the month of January is reported as 19.0', with an associated peak period of 11 seconds and a peak direction of 71 degrees.

Tidal currents may cause tangible effects on shore stability and water quality. These are generated by tidal driven water level differences between the ocean and back bay areas. The periodic rise and fall of the ocean water elevation adjacent to barrier islands, creates the ebb and flood cycle of tidal currents. The tidal currents at the inlets can facilitate the movement of sediments and pollutants in the coastal zone, particularly as they interact with longshore currents to form the typical morphological features associated with barrier island-tidal inlet zones.

The second class of currents important to coastal shoreline stability is longshore currents. These currents are set up near the breaker zone adjacent to beaches, and are caused by the longshore component of momentum in the waves breaking at an angle relative to the shore alignment. The turbulent force associated with breaking waves cause the suspension of sediments, which can then be transported in a direction parallel to the shore by longshore currents. Along the central portion of the barrier beach, longshore currents are instrumental in the movement of sand to adjacent areas. However, at the ends of the barrier beach where inlets are carved by the tides, sand transport particularly at the shoulder of the inlet is influenced more by tidal currents.

Recently, the importance of large scale currents has been recognized. A near shore current off the coast of New Jersey is being investigated by the University of Delaware, and it is believed that this may be caused by a density gradient. In addition, the ever-changing Gulf Stream, with its far reaching global effects on climate, may also impact local water quality to some extent.

Tides on the New Jersey coast are semi-diurnal. The average tidal period is 12 hours and 25 minutes. The mean tide range for the Atlantic Ocean at Wildwood Crest is reported as 4.31' in the Tide Tables published annually by the National Oceanic and Atmospheric Administration (NOAA). The spring tide range is reported as approximately 4.93'.

1
2 Recent climate research by the Intergovernmental Panel on Climate Change (IPCC) predicts
3 continued or accelerated global warming for the 21st Century, and possibly beyond, which will
4 cause a continued or accelerated rise in global mean sea-level. For all USACE Civil Works
5 activities, analysts shall consider what effect changing relative sea-level rates could have on
6 design measures, economic and environmental evaluation, and risk (EC-1165-2-185, dated
7 October 2011). Sea-level rise is considered by many within the scientific and engineering
8 community to be a contributing factor to long-term coastal erosion and the increased potential for
9 coastal inundation. Because of the wide variability of factors that affect sea level rise, predicting
10 trends with any certainty is difficult.

11
12 There are a number of scenarios of future sea level rise. Some considerations of the peer
13 reviewed articles presenting current eustatic sea-level rise reflect data based upon tide stations,
14 satellite observation, and historical duration data. Army Corps of Engineers Circular (EC-1165-
15 2-185, dated October 2011) states that, "several peer reviewed publications have proposed
16 maximum estimates of GMSL (global mean sea-level) rise by year 2100. Although the authors
17 use different physical bases to arrive at the estimates, none of them propose a 21st Century
18 GMSL rise greater than 2 meters." Consequently, if the rate of sea level rise increases in
19 response to global warming, beaches could lose sand even more quickly than currently
20 forecasted. Major (destructive) storms could also increase in frequency over the next 50 years,
21 and this may also alter erosion rates.

22 **2.2.4 Temperature and Salinity**

23 Mixing occurs in near shore waters due to the turbulence created from wave energy contacting
24 shallower depths. This mixing becomes less prominent in greater depths where stratification can
25 develop during warm periods. Water temperatures generally fluctuate between seasonal
26 changes. The average temperature range is from 3.7°C (January) to 21.4°C (October). The most
27 pronounced temperature differences are found in the winter and summer months. Warming of
28 coastal waters first becomes apparent near the coast in early spring, and by the end of April
29 thermal stratification may develop. Under conditions of high solar radiation and light winds, the
30 water column becomes more strongly stratified during the months of July to September. The
31 mixed layer may extend to a depth of 12 to 13'. As warming continues, however, the
32 thermocline may be depressed so that the upper layer of warm, mixed water extends to a depth of
33 approximately 40'.
34

35 Salinity concentration is chiefly affected by freshwater dilution. Salinity cycles result from the
36 cyclic flow of streams and intrusions of continental slope water from far offshore onto the shelf.
37 Continental shelf waters are the least affected by freshwater dilution, and have salinity
38 concentrations varying between 30 parts per thousand (ppt) and 35 ppt. Coastal waters are more
39 impacted by freshwater dilution, and may have salinities as low as 27 ppt. Salinity is generally
40 at its maximum at the end of winter. The voluminous discharge of fresh water from the land in
41 spring reduces salinity to its minimum by early summer. Surface salinity increases in autumn
42 when intrusions from offshore more than counterbalance the inflow of river water, and when
43 horizontal mixing becomes more active as horizontal stability is reduced.
44

Figure 48 Beach Profile Locations

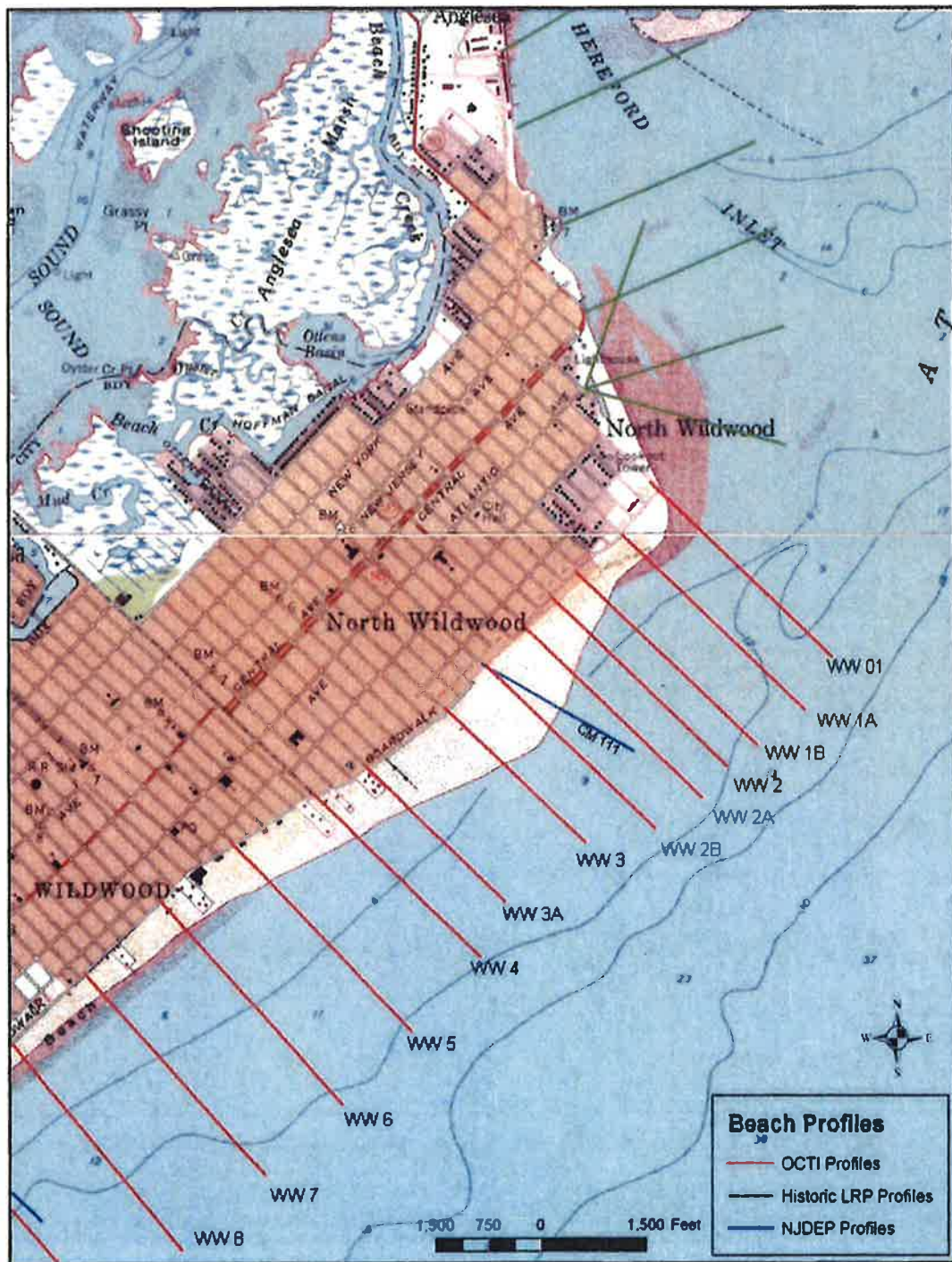
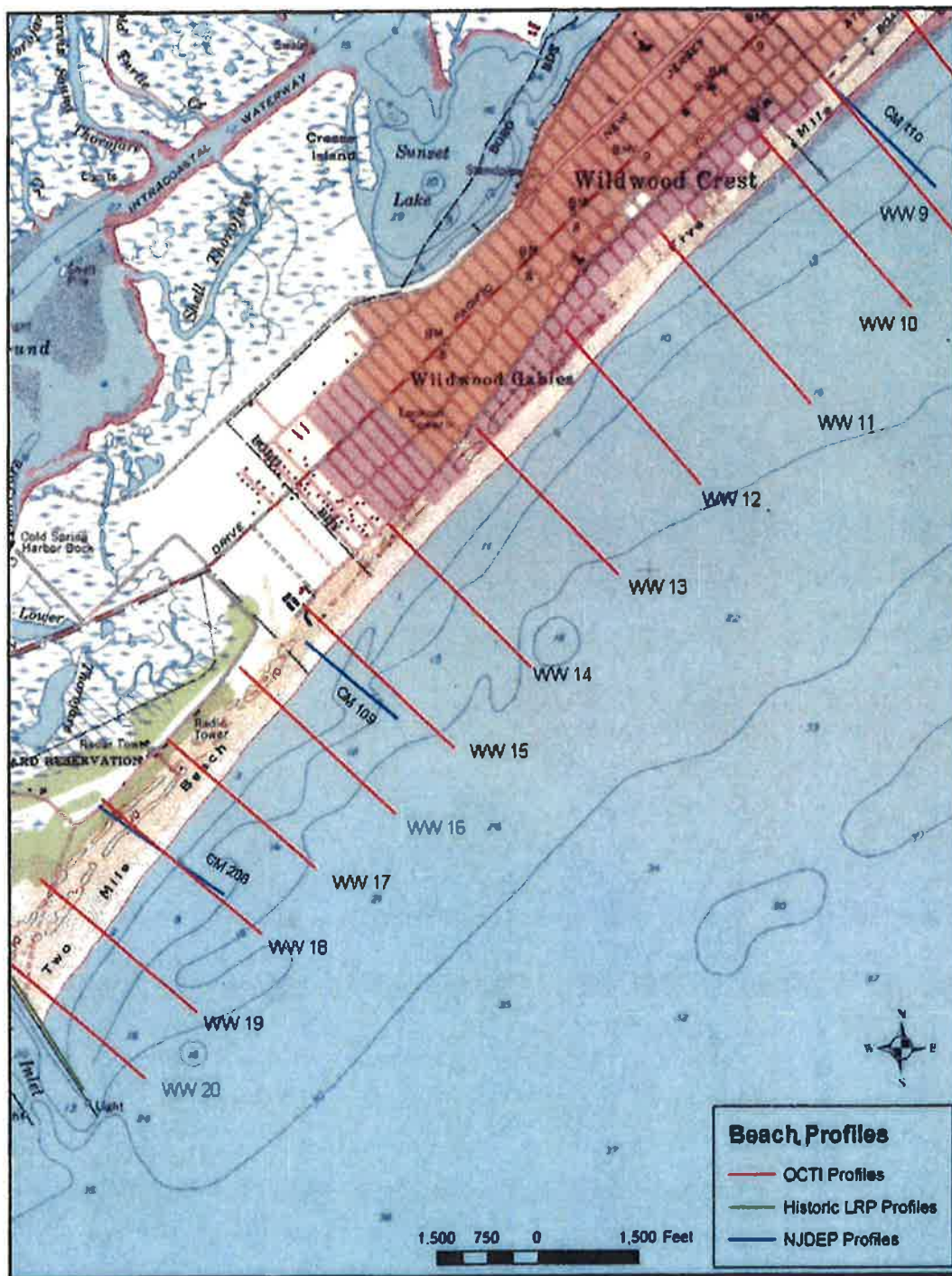


Figure 49 continued



2.6.9 Bathymetry

An analysis of offshore and Hereford Inlet bathymetric data was conducted to identify important geomorphic features which may impact near shore wave transformation and resulting sediment transport patterns.

A search of the National Oceanographic Service (NOS) bathymetric database for the study area resulted in limited data available offshore of the study area, with the most recent surveys being performed from 1999-2004. Older NOS surveys were found from 1937-1940 and from 1970-1977, as well. Contours were generated for each of the survey datasets using the computer program SMS. A plot of the 1937-1940 NOS surveys is shown in **Figure 49**. The 1937-1940 surveys were primarily offshore in deep water with only minimal amount of data in the near shore. The best picture of the near shore bathymetry for the study area was surveyed 1970-1977 by the NOS **Figure 50**. As the figure shows, the near shore bathymetry was steeper on the southern half of the barrier island as compared to the northern half of the island. For example, the location of the -5.0 ft. MLW contour varied from 3,700' offshore of Wildwood to 1,000' offshore of the Coast Guard Base. Further offshore the steepness of the southern half of the barrier island is not as apparent. The -10.0 ft. MLW contour parallels the shoreline approximately 5,000' offshore. The 1999-2004 NOS surveys were located in deep water offshore as shown in **Figure 51**. The same offshore features at approximately -20 ft. MLW (areas shaded in blue) do not appear to change significantly from 1970 to 2004.

An analysis of available hydrographic surveys to quantify changes at Hereford Inlet was conducted using the computer program SMS. The program was used to contour, compare, and quantify any changes between the surveys for Hereford Inlet. Available hydrographic data that surveyed the entire inlet and not just navigation channels existed for the years of 1994, 1998, and 2002. These surveys were done by Contractors for the District and the results from this analysis were used later during the development of the sediment budget for the study area. The contour plots from Hereford Inlet for the 1994, 1998, and 2002 surveys respectively are shown in **Figure 52** through **Figure 54**.

Comparing these three figures it can be seen that shoaling has taken place on the inlet frontage of North Wildwood from 1994 to 2002. Aerial photography taken during these times also confirms the additional sand at the inlet frontage of North Wildwood. Examining these figures also shows an apparent slug of material at the seaward end of the natural deep-water channel in 2002 that did not exist in 1998. This slug of material most likely broke off from the shoal and was in the process of transporting south towards North Wildwood. Another notable difference between the figures is the evolution of the deep-water channel in the northern part of the inlet near Stone Harbor Point. In 1994 this channel was not well defined at all, but by 2002, the channel deepened and became longer. It is reasonable to assume that all of these bathymetric changes in Hereford Inlet from 1994 to 2002 in conjunction with the complex wave dynamics in the inlet impacts the beaches of North Wildwood.

Figure 49 Wildwoods Bathymetry 1937-1940

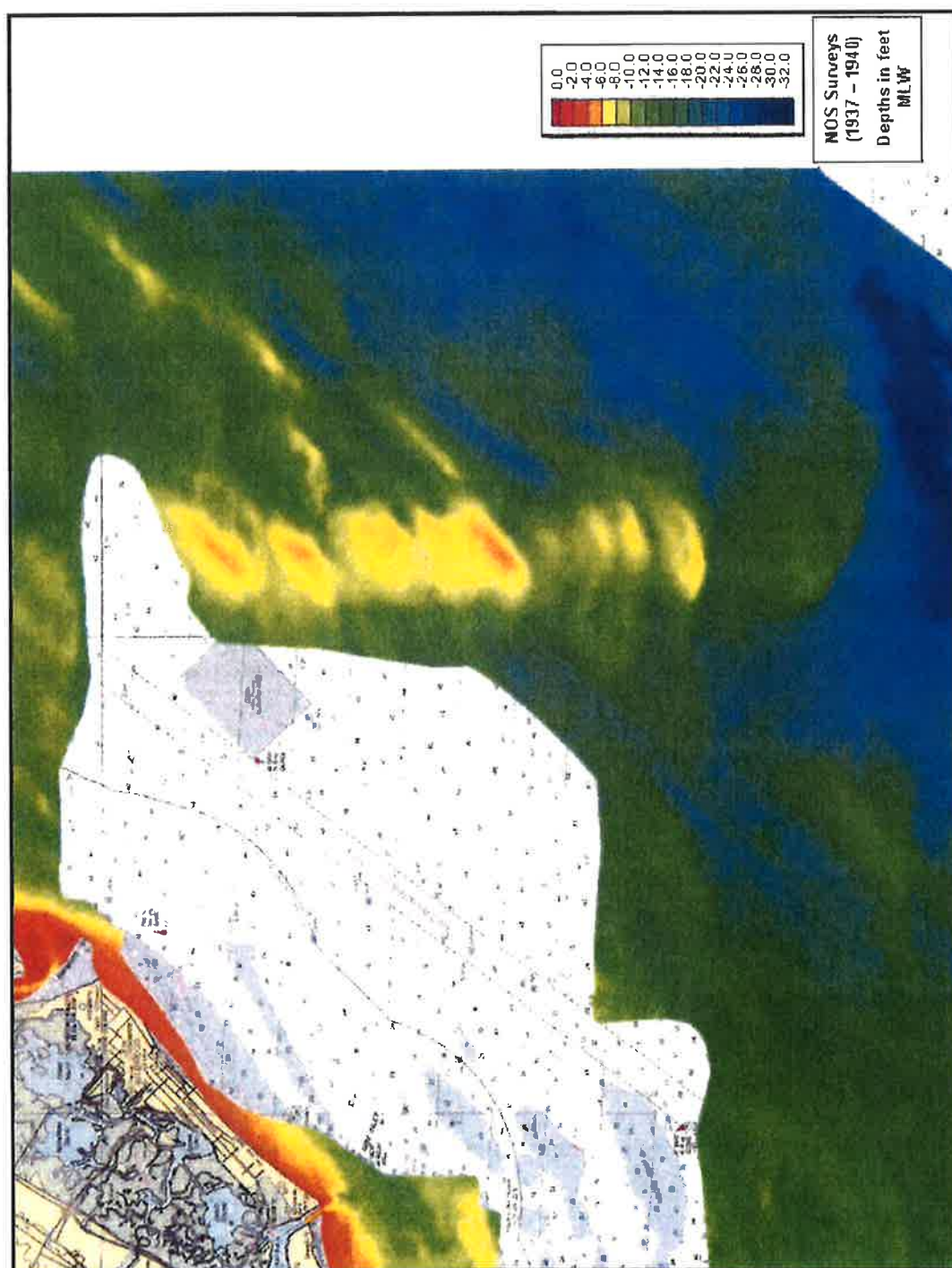


Figure 50 Wildwoods Bathymetry 1970-1977

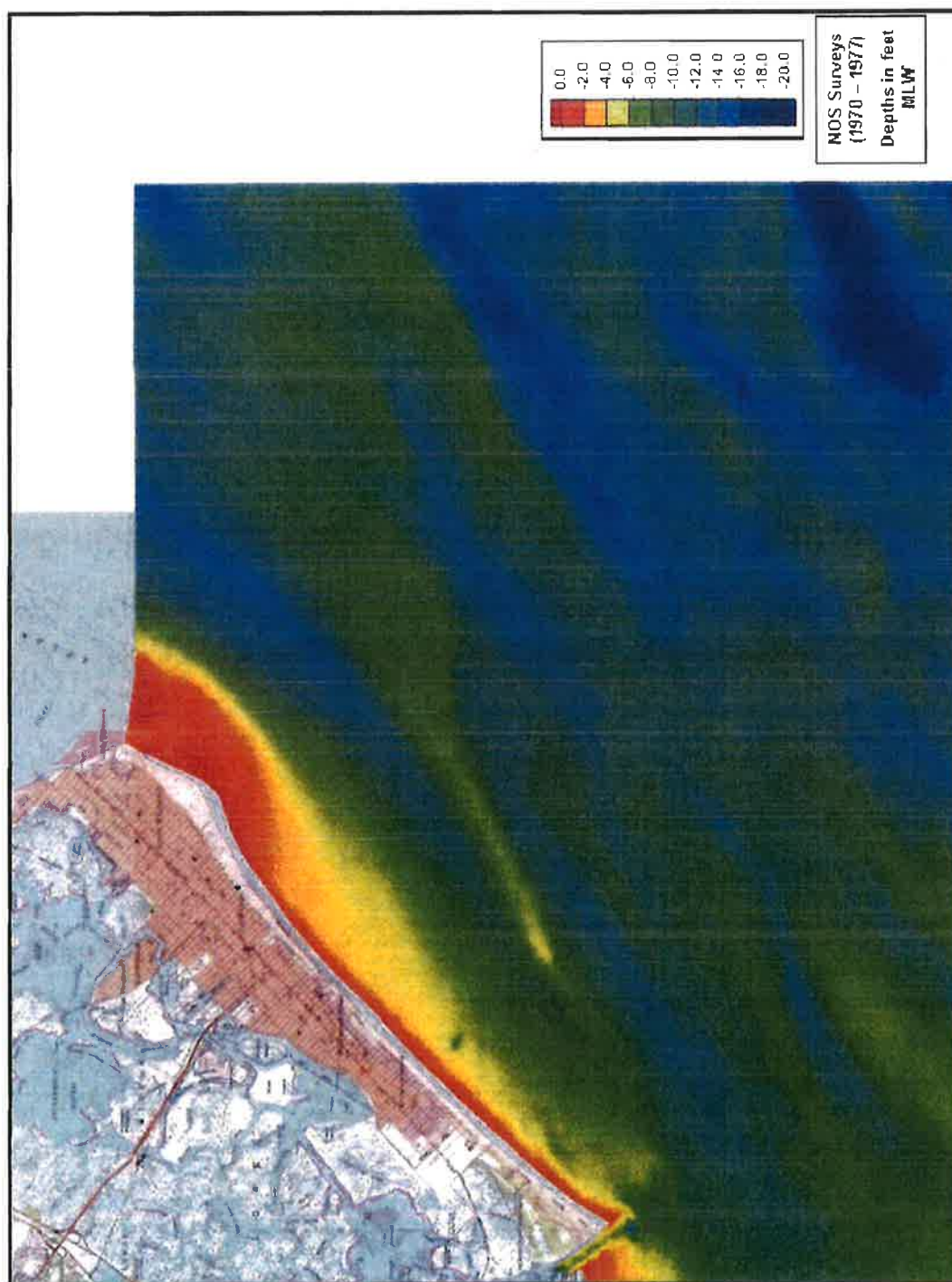
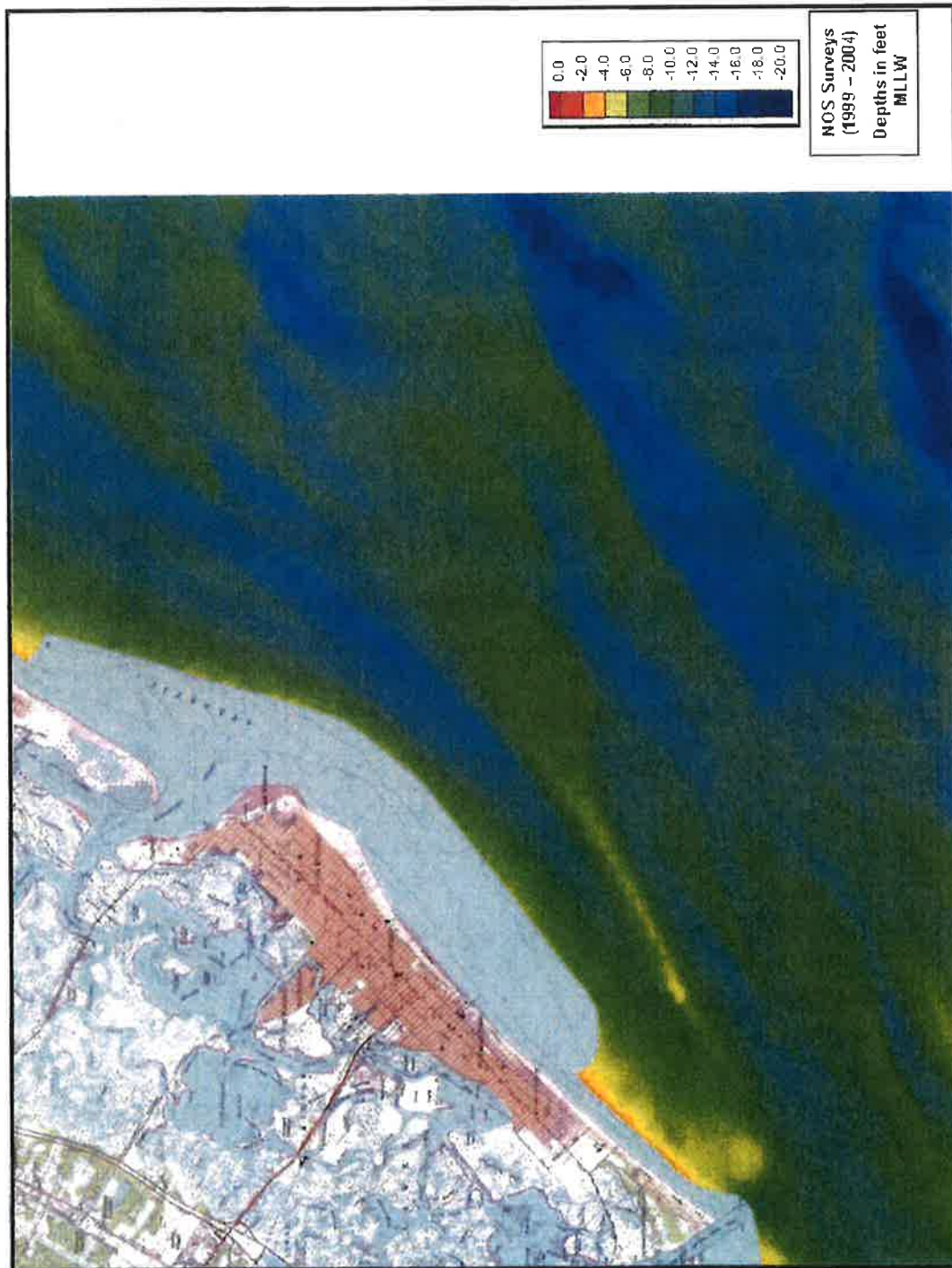
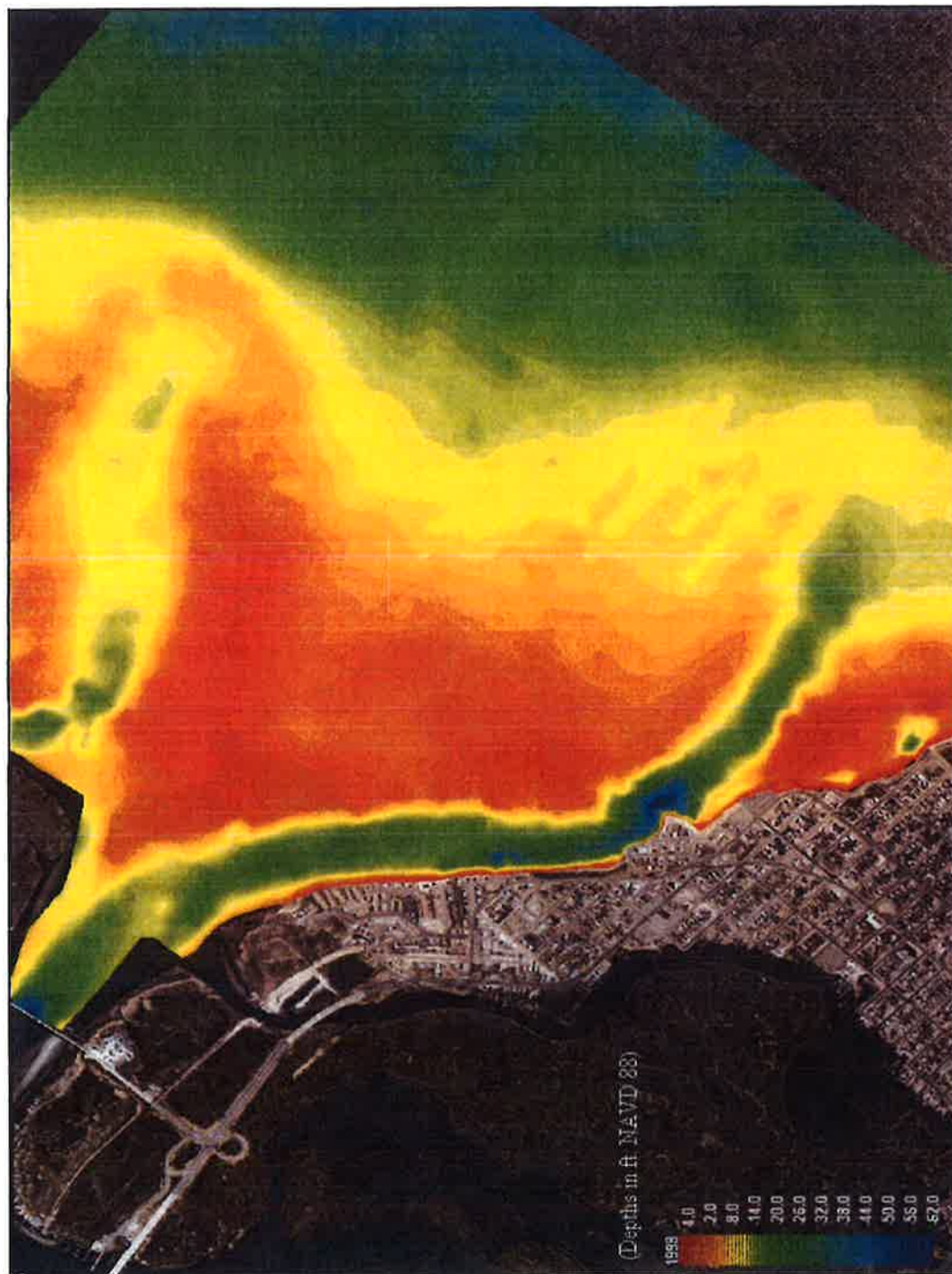


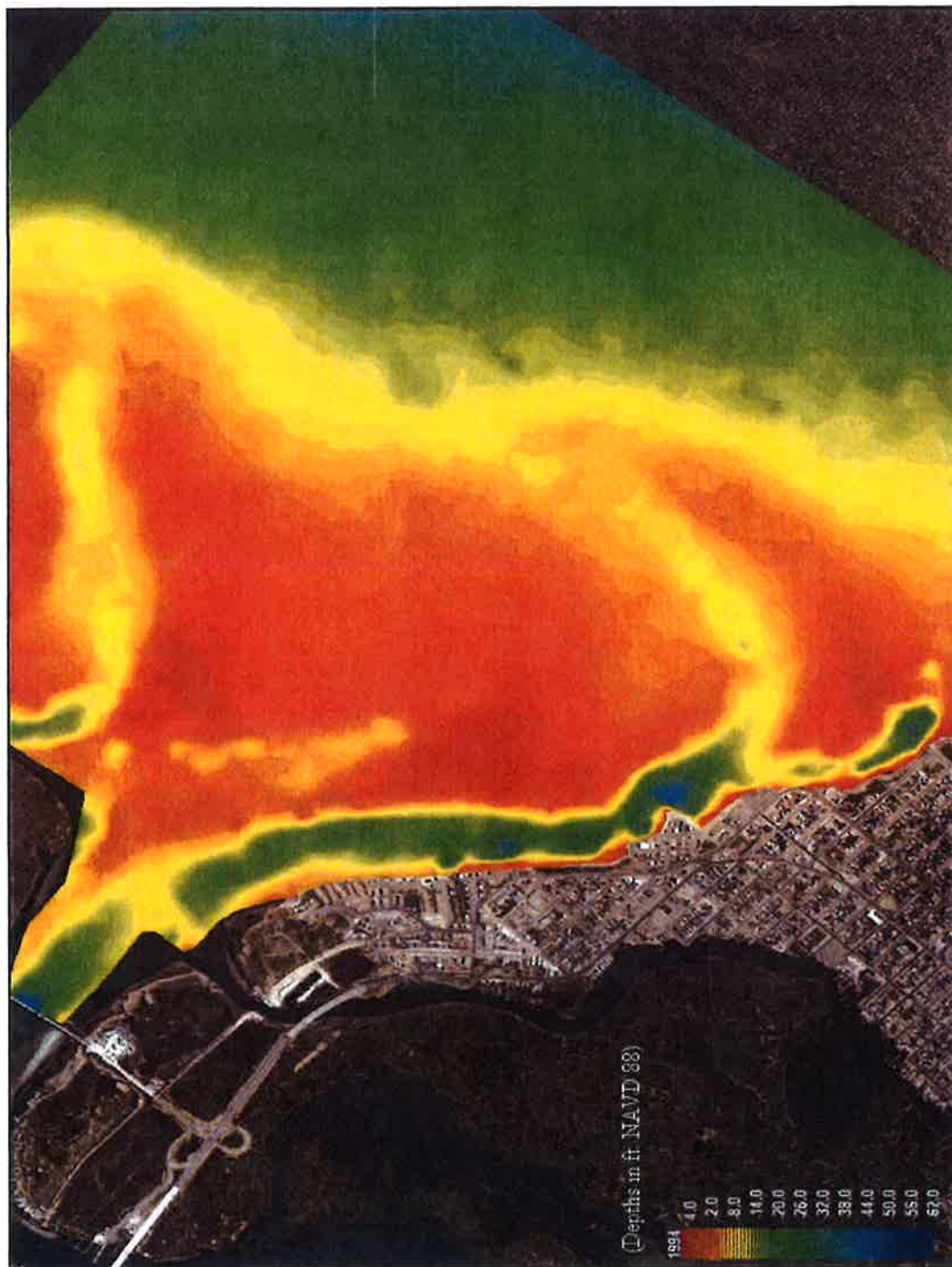
Figure 51 Wildwoods Bathymetry 1999-2004



1 **Figure 52 Hereford Inlet Bathymetry 1994**



1 **Figure 53 Hereford Inlet Bathymetry 1999**



2.2.3 Natural Forces

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The second class of currents important to coastal shoreline stability is longshore currents. These currents are set up near the breaker zone adjacent to beaches, and are caused by the longshore component of momentum in the waves breaking at an angle relative to the shore alignment. The turbulent force associated with breaking waves cause the suspension of sediments, which can then be transported in a direction parallel to the shore by longshore currents. Along the central portion of the barrier beach, longshore currents are instrumental in the movement of sand to adjacent areas. However, at the ends of the barrier beach where inlets are carved by the tides, sand transport particularly at the shoulder of the inlet is influenced more by tidal currents.

Recently, the importance of large scale currents has been recognized. A near shore current off the coast of New Jersey is being investigated by the University of Delaware, and it is believed that this may be caused by a density gradient. In addition, the ever-changing Gulf Stream, with its far reaching global effects on climate, may also impact local water quality to some extent.

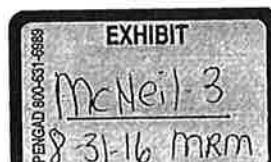
Tides on the New Jersey coast are semi-diurnal. The average tidal period is 12 hours and 25 minutes. The mean tide range for the Atlantic Ocean at Wildwood Crest is reported as 4.31' in the Tide Tables published annually by the National Oceanic and Atmospheric Administration (NOAA). The spring tide range is reported as approximately 4.93'.

Smith v. North Wildwood

North Wildwood Police Department

INVESTIGATION REPORT

| | | | | | | | | | | | |
|---|--|----------------------|--|-----------------------------------|--|---|--|--|--|---|--|
| 1. Complaint No. 09-17604 | | 2. Mun Code 0507 | | 3. Phone No. (609)522-2411 | | 4. UCR | | 21. Prosecutor's Case # 4502 | | 22. Department Case Number 09-17604 | |
| 5. Crime/Incident Drowning | | | | 6. NJS | | 23. Victim(s) Shayne Hart Jamilah Watkins | | | | 24. Age 15 28 | |
| | | | | | | S.S.# | | | | 25. Sex F F | |
| | | | | | | | | | | 26. Race B B | |
| Date And Time | | 7. Between | | 8. Hour | | 9. Day | | 10. Mo. | | 11. Date | |
| | | At X | | 1758 hrs | | 3 | | 6 | | 30 2009 | |
| 13. Crime/Incident Location E 2nd Av & the beach | | | | | | | | 27. Victim(s) Home Address 16 Wayne Ln Cape May Court House, NJ 08210 (local address) | | | |
| | | | | | | | | 28. Employer Telephone | | | |
| 14. Municipality North Wildwood | | | | 15. County Cape May | | | | 16. Code 0507 | | 29. Person Reporting Crime/Incident Joe Befumo | |
| | | | | | | | | | | 30. Date and Time 6/30/09 1758hrs | |
| 17. Type of Premise Open Country | | 18. Code 20 | | 19. Weapons-Tools Other Action | | 20. Code 56 | | 31. Address 2 Mockingbird Ln Hackettstown, NJ 07846 | | | |
| | | | | | | | | Telephone 973-534-9970 | | | |
| 32. Modus Operandi: Subjects were swimming in ocean without lifeguard presence, became distressed resulting in their drowning. | | | | | | | | | | | |
| 33. Vehicle N/A | | 34. Year | | 35. Make | | 36. Body Type | | 37. Color | | 38. Registration No. & State | |
| | | | | | | | | | | 39. Serial Number/V.I.N. | |
| Value Stolen Property | | 40. Currency | | 41. Jewelry | | 42. Furs | | 43. Clothing | | 44. Auto | |
| | | | | | | | | | | 45. Misc. | |
| 46. Tot Value Stolen | | 47. Tot Value Recov. | | 48. Teletype Alarm | | 49. Tech Services | | 50. Technician-Agency | | | |
| | | | | | | | | | | | |
| 51. Weather Clear | | 52. | | 53. | | 54. | | 55. | | 56. | |
| | | | | | | | | | | | |
| 57. | | 58. | | 59. | | 60. | | 61. | | 62. | |
| | | | | | | | | | | | |
| List Accused-List and Identify Additional Victims-Describe Perpetrators or Suspects-Action Taken Include Findings and Observation of Investigator-Physical Evidence Found-Where By Whom-Disposition and Technical Services Performed-Interview of Victims-Witness-Persons Contacted-Accused Suspects-List-Describe Stolen Property-Value-Court Action-Attach Statement. | | | | | | | | | | | |
| 63. No. of Accused | | 64. Adult | | 65. Juvenile | | 66. Status Crime Active | | 67. Status Case Investigation | | 68. UCR Status Month Year | |
| | | | | | | | | | | 69. Date Cleared | |
| 70. Name | | Address | | | | | | | | 71. Age | |
| | | | | | | | | | | 72. Sex | |
| | | | | | | | | | | 73. Race | |
| | | | | | | | | | | 74. D.O.B. | |
| <p>At 1755hrs on June 30th 2009 I, Ofc. Barry Strube, was transporting Ofc. Rehrig from the boardwalk to Police Headquarters. During transport at 1758hrs we received a report of three distressed swimmers in the ocean in the area of E. 2nd Ave and the beach. We immediately responded with emergency lights and sirens to the area. We parked the patrol vehicle at the end of Surf & 2nd Aves and ran onto the beach. As we approached the beach area we were waved down by a white male @ 50 years of age to an area near the edge of the water. As we approached the male, (later identified as Joe Befumo), two North Wildwood Beach Patrol (NWB) vehicles passed in front of us to the area of Mr. Befumo and were told by him that there were three swimmers in the water having difficulty swimming but he has since lost sight of them. Four members of the NWBP immediately entered the water with "floatation cans" to begin a search. Neither myself nor Ofc. Rehrig could see any persons in the water at this time with a naked-eye scan. As the lifeguards entered the water, I noticed a female, (later identified as Dominique McNeil), walking toward us from a northeasterly direction approx. 100ft up the beach. As she approached she said that her cousin, (later identified as Shayne Hart), and her aunt, (later identified as Jamilah Watkins), were still in the water. She confirmed that she was the third individual in the water as was initially reported. I immediately requested EMS and additional police personnel with binoculars and vehicles that were able to travel on the beach</p> | | | | | | | | | | | |
| 75. Name | | 76. Badge # | | 77. Page # | | 78. Date Report | | 79. Reviewed By | | | |
| B. Strube | | 2527 | | 1 of 2 | | 7-13-09 | | | | | |

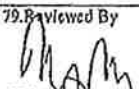


N. Wildwood/000053

Smith v. North Wildwood

North Wildwood Police Department

Continuation Page

| | | | | |
|---|------------------------------|----------------------------|-------------------------------|--|
| 1. Complaint Number 09-17604 | 21. Prosecutor's Case Number | 22. Department Case Number | | |
| <p>itself. As the lifeguards continued the search of the water, I continued with the visual search while Ofc. Rehrig interviewed Ms. McNeil and other witnesses.</p> <p>At approximately 1810hrs a NWBP waverunner arrived on scene as well as Ofc. R. Champion of the North Wildwood Police Department (NWPD) with binoculars and 4-wheel drive vehicle to aid in the search. This was almost immediately followed by North Wildwood Fire Department Emergency Medical Service (NWFD-EMS) and several other members of the NWBP and NWPD.</p> <p>At approximately 1815hrs a black female, (later identified as Shayne Hart), was found approx. a hundreds yards out in the water by the waverunner patrol members of the NWBP and immediately brought her out of the water onto the beach. Myself and members of the NWFD-EMS carried the female from the waters edge and laid her on a surfboard for back support. She was unconscious and not breathing. I immediately began chest compressions while the BMS attempted to gain an airway. Due to the amount of water in her lungs, it was difficult to establish an airway as there were large amounts of water being expelled from the victims' nose and mouth with every chest compression. After three series of compressions I stopped to check the victims carotid pulse with none being detected. I resumed compressions as an Automated External Defibrillator (AED) was attached to the victims' chest. After taking a reading from the victim, the AED concluded that, "no shock was advisable, continue with compressions". The victim was placed in the bed of an NWBP pick-up truck and transported to an ambulance that was located at the end of Surf Ave at 2nd Ave. We continued CPR in the back of the vehicle until we reached the ambulance; a distance of about 300 yards from the waters edge. The victim was then transferred into the ambulance and immediately transported to Cape Regional Medical center.</p> <p>While aid was being given to Ms. Hart, the search for the 2nd victim continued. The search was joined by members of the NJ State Police Marine Unit and helicopter as well as U.S. Coast Guard vessels and helicopter, Wildwood Fire/Rescue, Stone Harbor Fire/Rescue, and Wildwood Beach Patrol and Police Officers.</p> <p>At approx. 1940hrs, the 2nd victim, (later identified as Jamilah Watkins), was found by a Coast Guard vessel. Due to the currents and water depth, she was brought to an area near 8th Ave and the beach so the boat would be able to navigate close enough to where she could be transferred to shore. Members of the NWBP transferred Ms. Watkins from the Coast Guard vessel to shore and into a NWFD ambulance. She was then transported to Cape Regional Medical Center.</p> <p>*This IR will be forwarded to detectives</p> | | | | |
| 75. Name B. Strube | 76. Badge Number 2527 | 77. Page # 2 of 2 | 78. Date of Report 7-13-09 | 79. Reviewed By  |

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - CAPE MAY COUNTY

* * *

SANDRA SMITH,
INDIVIDUALLY AND AS
EXECUTRIX OF THE ESTATE
OF HER LATE HUSBAND,
GEORGE BRADLEY SMITH,

Plaintiff

vs.

CITY OF NORTH WILDWOOD,
COUNTY OF CAPE MAY,
STATE OF NEW JERSEY,
JOHN DOE, MARY DOES,
ABC PARTNERSHIPS, and
XYZ CORPORATIONS,

Defendants

BRANDY SMITH, by her
guardian ad litem,
SANDRA SMITH,

Plaintiff

vs.

CITY OF NORTH WILDWOOD,
COUNTY OF CAPE MAY,
STATE OF NEW JERSEY,
JOHN DOE (1-5)
fictitious names, MARY
DOE (1-5) fictitious
names, ABC
PARTNERSHIPS (1-5)
fictitious names, and
XYZ CORPORATION (1-5)
fictitious names,

Defendants

DOCKET NO.
CPM-L-331-14

DOCKET NO.
CPM-L-324-16

DOMONIQUE McNEIL

Oral deposition of DOMONIQUE McNEIL, taken at the D'AMATO LAW FIRM, 2900 Fire Road, Suite 200, Egg Harbor Township, NJ, 08234, on Wednesday, August 31, 2016, beginning at approximately 2:25 p.m., before Michele Matteo, RPR, CCR, License Number 30X100171200.

PRECISION REPORTING, INC.
230 South Broad Street - Suite 302
Philadelphia, PA 19102
(215) 731-9847
1134 Parliament Way
West Deptford, NJ 08086
(856) 848-4978

APPEARANCES:

PAUL R. D'AMATO, ESQUIRE
D'AMATO LAW FIRM
2900 Fire Road, Suite 200
Egg Harbor Township, NJ 08234
Paul@damatolawfirm.com
-- Representing the Plaintiff,
Sandra Smith

JOSEPH C. GRASSI, ESQUIRE
OLIVER T. BARRY, ESQUIRE
BARRY, CORRADO & GRASSI, P.C.
2700 Pacific Avenue
Wildwood, NJ 08260
Jgrassi@capelegal.com
-- Representing the Plaintiff,
Brandy Smith

A. MICHAEL BARKER, ESQUIRE
BARKER, GELFAND & JAMES, P.C.
Linwood Greene - Suite 12
210 New Road
Linwood, New Jersey 08221
Ambarker@barkerlawfirm.net
-- Representing the Defendant,
City of North Wildwood

BRIAN HUNKINS, ESQUIRE
STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
R.J. Hughes Justice Complex
25 Market Street
Trenton, NJ 08625
-- Representing the Defendant,
State of New Jersey

ALSO PRESENT:
Lou DiJoseph

(It is hereby stipulated by and among counsel for the respective parties that signing, sealing, certification and filing are waived, and that all objections, except as to the form of the question, are reserved until the time of trial.)

DOMONIQUE McNEIL, after having been first duly sworn or affirmed, was examined and testified as follows:

MR. D'AMATO: Mark this as McNeil 1.

(Whereupon, Exhibit McNeil-1 was marked for identification.)

BY MR. BARKER:

Q. Miss McNeil, my name is Mike Barker. I'm an attorney. I represent North Wildwood in litigation brought on behalf of the Smith estate against North Wildwood.

I will be asking you some questions, and if at any time I ask you a question which is not clear for any reason, please stop me. I will be happy to go back and rephrase it.

A. Okay.

Q. Please don't answer a question unless and until you completely understand it. No guessing.

A. Okay.

Q. No assumptions. If I ask something and you don't know the answer, you can tell us "I don't know." If you're asked and you can't remember, you can say "I can't remember." That's all fine. If you don't have the information yourself but you think it's available somewhere else, like Mr. D'Amato might have it, you could say, Mr. D'Amato has that, and it's locked in his safe. Whatever is the other source, that's fine. Just -- just an example.

And we'll go through things this way, question and answer. When I ask you something, we need you to verbally answer. If it calls for a yes or no answer, you should say

1 yes or no, rather than the uh-huh, uh-uh
 2 thing --
 3 A. Okay.
 4 Q. -- that court reporters could get
 5 confused about. We try to avoid that. I don't
 6 think we're going to be that long in this
 7 deposition, but if at any time you need to take
 8 a break for any reason, just let us know, and
 9 we'll take a break.
 10 A. Okay.
 11 Q. Do you understand all those things?
 12 A. Yes.
 13 Q. Now, do you have any questions of me
 14 before we get started?
 15 A. No.
 16 Q. One more thing. If one of the
 17 attorneys objects, stop what you're saying and
 18 wait until you get an instruction that it's
 19 okay to answer the question or it's not okay.
 20 We'll work that out. But that's just a little
 21 clue for you, if you hear the word "objection",
 22 pause and let the lawyers have their
 23 discussion.
 24 A. Okay.

1 Q. All right?
 2 A. Great.
 3 Q. Now, I need to ask you, what is your
 4 date of birth?
 5 A. May 10th, 1996.
 6 Q. And you are Domonique R. McNeil?
 7 A. Yes.
 8 Q. And what does the R stand for?
 9 A. Renee.
 10 Q. And how do you spell Renee?
 11 A. R-E-N-E-E.
 12 Q. And where do you presently reside?
 13 A. 5 Tally Ho Road in Cape May Court
 14 House.
 15 Q. And -- is your -- is this the
 16 correct cell phone number for you, 972-9072?
 17 A. Yes.
 18 Q. Do you remember being interviewed by
 19 Lou DiJoseph?
 20 A. Yes.
 21 Q. When was that? Was it on May 23rd,
 22 2016?
 23 A. Can I stop?
 24 Q. Sure.

1 A. I'm not exactly sure what date, but
 2 it was a few months ago.
 3 Q. The reason I ask is if you turn to
 4 the back you'll see a diagram with a date
 5 written above the diagram.
 6 A. Yes.
 7 Q. Is that your handwriting? Is that
 8 your handwriting?
 9 A. I don't think so.
 10 Mr. DiJOSEPH: That's me.
 11 MR. BARKER: That's Lou
 12 DiJoseph's handwriting.
 13 BY MR. BARKER:
 14 Q. That gives us a big hint as to the
 15 day you were interviewed.
 16 What about where it says Domonique
 17 McNeil, is that your signature?
 18 A. No.
 19 Q. This portion of the report, the
 20 pages that begin -- look at the bottom here, it
 21 says page 5, are you with me?
 22 A. Yes.
 23 Q. And that says Domonique R. McNeil as
 24 a subheading on that page, do you see that?

1 A. Yes.
 2 Q. And then what follows is purported
 3 to be a report of interview with you, so I'm
 4 asking you, this typewritten document which
 5 consists of approximately two pages and a page
 6 for a photograph, is that something that you've
 7 seen before?
 8 A. The photograph, yes.
 9 Q. And the typewritten portion, had you
 10 ever seen it?
 11 MR. D'AMATO: We didn't give
 12 her a copy.
 13 THE WITNESS: I don't think
 14 so.
 15 BY MR. BARKER:
 16 Q. You never saw this before?
 17 A. No.
 18 Q. I'm not trying to trick you in any
 19 way. I'm just asking you straight up, if
 20 you've seen something let me know. If you
 21 haven't seen it, you can say so.
 22 A. Okay.
 23 Q. And if you don't know, you can say
 24 that, too.

1 A. All right.
 2 Q. So as far as you know, you've never
 3 seen this typewritten document before; is that
 4 correct?
 5 A. Correct.
 6 Q. Okay, then. Now, the typewritten
 7 document addresses your discussion with Mr. Lou
 8 DiJoseph about an event that occurred some
 9 years ago now.
 10 Were you involved in an incident on
 11 June 30, 2009 in North Wildwood? And that's an
 12 incident involving you, your aunt, and your
 13 cousin.
 14 A. Yes.
 15 Q. Okay. So you were asked by
 16 Mr. DiJoseph questions about that?
 17 A. Yes.
 18 Q. Okay. And where were you when you
 19 were asked the questions?
 20 A. Here.
 21 Q. Oh, here?
 22 A. Yes.
 23 Q. Did you ever go to the beach to
 24 point anything out?

1 A. No.
 2 Q. Okay. And when you were interviewed
 3 here about what happened in 2009, that was the
 4 interview that took place on May 23rd, 2016?
 5 A. Yes.
 6 Q. All right. And had you been
 7 interviewed before May 23rd, 2016 about the
 8 events that took place on June 30th, 2009?
 9 A. Can I stop?
 10 Q. Sure.
 11 A. Okay.
 12 THE WITNESS: When you came
 13 to find me, would that be considered
 14 an interview?
 15 MR. DiJOSEPH: It could be,
 16 yeah.
 17 THE WITNESS: So, yes.
 18 MR. DiJOSEPH: We weren't
 19 sure where she was at, so when I
 20 found her, I found her and then made
 21 arrangements for her to come in and
 22 be interviewed.
 23 MR. BARKER: So that counts.
 24 But when I was --

1 MR. DiJOSEPH: We didn't
 2 discuss the case.
 3 MR. BARKER: That's what I
 4 was really asking.
 5 BY MR. BARKER:
 6 Q. Did anyone before Mr. Lou
 7 DiJoseph -- anyone other than Lou -- let's set
 8 him aside for a moment -- anyone other than Lou
 9 DiJoseph ever come to you and ask you what
 10 happened in 2009?
 11 A. No.
 12 MR. D'AMATO: Does that
 13 include the police that -- the North
 14 Wildwood police?
 15 MR. BARKER: Yes, it would,
 16 because that falls under the
 17 definition of anyone.
 18 THE WITNESS: I don't
 19 remember being interviewed by them
 20 ever.
 21 BY MR. BARKER:
 22 Q. All right. And in 2009, how old
 23 were you?
 24 A. 12, and then I turned 13, I believe,

1 yes.
 2 Q. So is there any statement that you
 3 know of that you ever gave about the event of
 4 June 30, 2009?
 5 A. No.
 6 Q. And the only report of interview
 7 that you know of with your version is what we
 8 have here in front of us now?
 9 A. Yes.
 10 Q. Was there anything that you wrote
 11 down between 2009 and May 23rd, 2016, such as a
 12 journal entry, a diary entry, a chapter in a
 13 book, anything about the event of June 30,
 14 2009?
 15 A. My college essay.
 16 Q. When did you write that?
 17 A. Can I look at my phone?
 18 Q. Yes, ma'am.
 19 A. Okay.
 20 MR. D'AMATO: Lou says we
 21 have the North Wildwood Police
 22 Department report for this. I
 23 didn't print it out.
 24 THE WITNESS: Yeah.

1 MR. BARKER: Yeah, you did.
 2 You gave it to me. I have it.
 3 MR. D'AMATO: Can I see it?
 4 MR. BARKER: Maybe I gave it
 5 to you.
 6 MR. D'AMATO: Yes, make six
 7 copies.
 8 Off the record.
 9 * * *
 10 (Whereupon, a discussion was
 11 held off the record.)
 12 * * *
 13 MR. D'AMATO: Mark this one
 14 for identification.
 15 * * *
 16 (Whereupon, Exhibit McNeil-2 was marked for
 17 identification.)
 18 * * *
 19 MR. D'AMATO: Can you mark
 20 this as 3.
 21 * * *
 22 (Whereupon, Exhibit McNeil-3 was marked for
 23 identification.)
 24 * * *

1 BY MR. BARKER:
 2 Q. So we've been provided with a copy
 3 of the entry essay that you wrote, but it
 4 doesn't say when you wrote it.
 5 A. I think it was March. Let me see.
 6 I wrote it March 8th, and I sent it to Cabrini
 7 on the 16th.
 8 Q. Of what year?
 9 A. This year.
 10 Q. 2016?
 11 A. Yes.
 12 Q. This was written on March 8, 2016?
 13 A. Yes.
 14 Q. And you have McNeil-2 in front of
 15 you, correct, ma'am?
 16 A. Yes.
 17 Q. And that's the essay that you wrote
 18 as an entrance essay to go to a college called
 19 Cabrini, correct?
 20 A. Yes.
 21 Q. And it starts off by saying that,
 22 the whistles blew just before 5:30 p.m. as
 23 lifeguards motioned swimmers to come to shore
 24 at Surf Avenue beach along Hereford Inlet. Did

1 I read that correctly?
 2 A. Yes.
 3 Q. And that's your memory of what
 4 happened before this event of drowning,
 5 correct?
 6 A. Yes.
 7 Q. So you were accompanied on that day,
 8 which was June 30, 2009; is that correct?
 9 A. Yes.
 10 Q. Accompanied by -- I apologize if I
 11 have this wrong -- your aunt?
 12 A. Yes.
 13 Q. And your cousin, correct?
 14 A. Yes.
 15 Q. Okay. And your aunt's name is --
 16 was?
 17 A. Jamilah Watkins.
 18 Q. And she was how old at the time?
 19 A. I believe 26 or 27.
 20 Q. And your cousin was Shayne?
 21 A. Shayne.
 22 Q. Shayne Hart?
 23 A. Yes.
 24 Q. And how old was she at the time?

1 A. 15.
 2 Q. All right. And you at the time, 12
 3 years old?
 4 A. Yes.
 5 Q. So I presume that the three of you
 6 knew that if the lifeguards are whistling
 7 everybody to come to shore at 5:30 p.m., that
 8 means to get out of the water?
 9 A. Correct.
 10 Q. But you, and your aunt, and your
 11 cousin leave that location and walk up the
 12 beach in a northerly direction; is that right?
 13 A. Yes.
 14 Q. And there, having walked some
 15 distance up the beach, decide to go back in the
 16 water?
 17 A. Can I stop?
 18 Q. Is that true?
 19 A. It's partially correct.
 20 Q. I say that because I take it that
 21 Watkins walked out into the water, true?
 22 A. Yes.
 23 Q. And then Shayne Hart, she walked out
 24 into the water, true?

1 A. Close to the water.
 2 Q. Was Shayne Hart in the water in shin
 3 deep water?
 4 A. Yes.
 5 Q. And was Jamilah Watkins in waist
 6 deep water?
 7 A. A little bit less.
 8 Q. And how far into the water did you
 9 walk?
 10 A. Shayne and I were like right next to
 11 each other.
 12 Q. So I take it you walked from where
 13 there's dry sand into the water and there's
 14 sand under your feet?
 15 A. Yes.
 16 Q. And that would be the same for your
 17 cousin?
 18 A. Yes.
 19 Q. Now, when you and your cousin are
 20 standing, are you side by side on the
 21 water's --
 22 A. Yes.
 23 Q. Okay. You're side by side, and
 24 Watkins is in front of you further out in the

1 water?
 2 A. Yes.
 3 Q. And is Watkins the first one to get
 4 in trouble?
 5 A. No.
 6 Q. Okay. What do you recall happening
 7 to Watkins?
 8 A. She was a bit farther than I was,
 9 like this was -- like you and me, and like
 10 Shayne is right here, but I moved more towards
 11 where Lou is, but not as close to you, and it
 12 dropped (indicating).
 13 Q. Okay. I'm sorry, but see, that
 14 won't come across in the transcript.
 15 A. All right.
 16 Q. So you were standing facing the
 17 water, correct?
 18 A. Yes.
 19 Q. Jamilah Watkins is in front of you a
 20 certain distance?
 21 A. Yes.
 22 Q. Further out in the water, correct?
 23 A. Yes.
 24 Q. And Jamilah Watkins is how far in

1 front of you and further out in the water?
 2 A. About three feet.
 3 Q. From you to me?
 4 A. Yes.
 5 Q. We're across the table from one
 6 another. You're not too good on estimating
 7 distances, are you?
 8 MR. D'AMATO: I object to
 9 that characterization, okay.
 10 MR. BARKER: Well, all right.
 11 BY MR. BARKER:
 12 Q. What I'm looking at now, is this the
 13 distance that she was in front of you,
 14 approximately?
 15 A. Yes.
 16 MR. DiJOSEPH: This is a five
 17 foot round table.
 18 MR. D'AMATO: Hold on. Yeah,
 19 five feet. Let the record reflect
 20 that we just measured the distance
 21 between Mr. Barker and the witness
 22 and it's five feet.
 23 BY MR. BARKER:
 24 Q. You have -- I'm trying to see if

1 your photograph and what you marked on your
 2 photograph with this statement --
 3 MR. GRASSI: Did you want to
 4 finish orienting the description
 5 that she made before that before you
 6 move on to that, or do you think
 7 this is going to do that?
 8 MR. BARKER: I could do that.
 9 BY MR. BARKER:
 10 Q. So Jamilah Watkins is in front of
 11 you the distance that Mr. D'Amato just
 12 measured, about five feet.
 13 A. Yes.
 14 Q. And you said Shayne was to your left
 15 or right?
 16 A. To my right.
 17 Q. To your right. And she was very
 18 close to you, like Mr. Grassi is close to you
 19 now, correct?
 20 A. Yes.
 21 Q. So the two of you are standing arm's
 22 length from one another?
 23 A. Yes.
 24 Q. All right. And what happened at

1 that point?

2 A. I -- Shayne stayed where she was,

3 and I moved probably like two feet away from

4 her.

5 Q. To the left?

6 A. Yes. And just dropped.

7 Q. You went into the water then?

8 A. Yeah, just all the way -- and I

9 couldn't feel anything on the bottom. And I

10 sprung back up, and I said to them, I'm

11 drowning, and they thought I was joking.

12 Q. They could hear you?

13 A. Yeah.

14 Q. You were loud?

15 A. Yes. And they still laughing and

16 thought everything was funny until Shayne moved

17 towards where I was and she dropped off, too.

18 So I guess Jamilah tried to help us.

19 Q. Don't guess. Tell us what happened.

20 A. So Jamilah tried to help us.

21 Q. How did she do that?

22 A. By moving towards where we were.

23 And --

24 Q. Excuse me, but could she walk over,

1 or was she skimming over? Do you know how she

2 got over to you?

3 A. I assume she was walking. She

4 couldn't go under the water as fast as I did,

5 but after --

6 Q. This is Watkins you're talking

7 about, right?

8 A. Yes. After trying to help me, then

9 now we're all drowning. And Shayne couldn't

10 swim, so I was trying to help her more so than

11 helping Jamilah, and I somehow was further away

12 from them now. And Jamilah was trying to help

13 Shayne. Five minutes after that, I didn't see

14 Shayne, because I was in -- I'm in and out of

15 the water and up and down and flipping around.

16 And after like 15 minutes, I would say, I got

17 out. I could still see Jamilah, and I was

18 trying to -- to tell her I was going to go get

19 help. After that I saw that guy --

20 Q. Wait, where did you see Jamilah?

21 A. By the time I got out, it seemed

22 like I was a hundred feet away from where the

23 water was.

24 Q. From where you started, you mean?

1 A. Yes. And the water seemed like it

2 was so much further out from where our stuff

3 was. And that's when I went to go over towards

4 where my brothers and sister were. And we saw

5 the guy, I got his phone and had him call the

6 cops.

7 Q. Who is we saw the guy?

8 A. My two brothers and my sister.

9 After that --

10 Q. Are these the young children that

11 were on the shore?

12 A. Yes.

13 Q. How old were they?

14 A. 2, 3 and 5.

15 Q. And you three, that is Watkins,

16 yourself, and Hart, went in the water and left

17 the little ones on the sand there behind you,

18 correct?

19 A. Correct.

20 Q. And then when you finally did get

21 out and you're a hundred feet from where you

22 started, where are the children at that point?

23 A. They were where we sat our stuff,

24 which was so much farther from where I got out

1 of the water. So I kind of had to run -- I ran

2 a bit of distance to get to where they were.

3 So when I was in the water, I was screaming at

4 them. And my sister thought that I was calling

5 her, and I wasn't. I'm trying to tell her to

6 go get help.

7 Q. How old was she?

8 A. Five. And she's, I'm coming. I'm

9 like, no, don't come, go that way. So then I

10 was really trying to hurry up then, because

11 they started coming towards the water.

12 So I drifted pretty far away from

13 where we stopped, because it was -- I can't

14 think how far it was.

15 Q. All right. Let me now ask you to go

16 over a couple things with us to make sure I can

17 see what you've marked on this diagram.

18 There's a photograph at the back. Do you see

19 that?

20 A. Yes.

21 Q. It's page 7, correct?

22 A. Correct.

23 Q. And the first item is item number 1.

24 I see a number 1. And next to that there's a 2

1 and a 3. Do I read that correctly?
 2 A. Yes.
 3 Q. Did you write those on there?
 4 A. Yes.
 5 Q. And there's a black circle there,
 6 correct?
 7 A. Yes.
 8 Q. And just to the left of the black
 9 circle as I'm looking down at it, there's
 10 something that looks like a cross?
 11 A. Yes.
 12 Q. What is that?
 13 A. I believe the cross is where I went
 14 into the water, and the dot after that was the
 15 drop off.
 16 Q. What does the drop off mean?
 17 A. Where the sand collapsed.
 18 Q. So after you walked into the water,
 19 you walked down to the right a while?
 20 A. Yeah.
 21 Q. So that little dash mark there
 22 underneath the 3 and off to the right of the
 23 cross, that's where you think that you went
 24 down into that --

1 A. Yes.
 2 Q. Where you couldn't feel any bottom,
 3 right?
 4 A. Yes.
 5 Q. Okay. So let's go back here.
 6 Number 1 -- number 1 says, at the bottom of
 7 page 5, draw a black circle on the aerial
 8 photograph of the area in which your group set
 9 up on the beach at 6/30 -- that's the date --
 10 of 2009 after 5:00 p.m.
 11 A. Yes.
 12 Q. Does that fairly and accurately --
 13 that circle fairly and accurately mark the
 14 place where you all set up just before you went
 15 back into the water?
 16 A. Can you repeat.
 17 Q. Yes. Does the circle that you have
 18 on this photograph represent approximately
 19 where you all put your stuff down before you
 20 walked out in the water?
 21 A. Yes.
 22 Q. Now, before you were there, you had
 23 been somewhere else on this beach line when the
 24 guards whistled everyone out, right?

1 A. Yes.
 2 Q. Where were you when you -- when you
 3 were whistled out?
 4 A. We were close -- like not too far
 5 away from the lifeguard stand.
 6 Q. Can you mark it on here, or is it
 7 not even on the photograph, or you don't know?
 8 A. Honestly, I don't -- I don't know.
 9 Q. Okay. So you were near a lifeguard
 10 stand. Was it the lifeguard stand -- the last
 11 lifeguard stand?
 12 A. When you first walk down on the
 13 beach, and then there's a -- I think there's
 14 one right here, and then there's one more. So
 15 the second one in from the beach exit I believe
 16 where we were (indicating).
 17 Q. In meaning which direction?
 18 A. Towards the right.
 19 Q. Towards the south, then?
 20 A. Yes.
 21 Q. And so when you were whistled out,
 22 you walked out of the water and then walked
 23 from south to north?
 24 A. Yes.

1 Q. Leaving behind the area where the
 2 lifeguard stands are?
 3 A. Yes.
 4 Q. Marching or walking north to areas
 5 that have no lifeguard protection?
 6 A. Yes.
 7 Q. And it's there that you and your
 8 aunt and cousin walked into the water?
 9 A. Correct.
 10 Q. And that's where the event occurred?
 11 A. Yes.
 12 Q. And that's marked by the little dash
 13 mark underneath the 3 and above the circle?
 14 A. Yes.
 15 Q. If you look at item number 2, item
 16 number 2 says, mark with an X the area in which
 17 you, Jamilah Watkins, and Shayne Hart first
 18 walked in the water where you set up on the
 19 beach of North Wildwood. Okay. So the X might
 20 mean the same thing as I'm calling the cross?
 21 A. Yes.
 22 Q. Okay. And that's -- that's item
 23 number 2. And that's where the three of you
 24 first walked into the water, correct?

1 A. Yes.
 2 Q. And then you must have walked over
 3 to where that little dash mark is, and that's
 4 where the mishap occurred?
 5 A. Yes.
 6 Q. Okay. Item number 3, mark with an X
 7 the area in which you, Jamilah Watkins and
 8 Shayne Hart fell into the water on the beach of
 9 North Wildwood. That's item number 3. Do you
 10 see that?
 11 A. Yes.
 12 Q. Okay. So it's just below item
 13 number 3 that you put the dash mark; is that
 14 right?
 15 A. Just below item number 2.
 16 Q. Just above 2, just below 3, right?
 17 A. Yes.
 18 MR. D'AMATO: Is that the
 19 dash mark you're talking about
 20 (indicating)?
 21 THE WITNESS: No, this
 22 (indicating).
 23 BY MR. BARKER:
 24 Q. The small dash mark is the answer to

1 question 3?
 2 A. Yes.
 3 Q. Got you. You said, if I got it
 4 right, you were standing looking out at the
 5 water, Watkins is in front of you, Shayne is to
 6 the right of you -- am I correct so far?
 7 A. Yes.
 8 Q. You then moved a couple feet to the
 9 left, and that's when you went down, correct?
 10 A. Yes.
 11 Q. When you went down, did you feel
 12 anything? Could you sense anything at all, or
 13 was it -- what did it feel like?
 14 A. I was there, and then I wasn't. It
 15 was solid. I was fine. And we were having
 16 normal conversation, and when I moved, it just
 17 dropped.
 18 Q. And did you drop into a hole, or do
 19 you know what it was, just water?
 20 A. I don't know.
 21 Q. Okay. After this event had occurred
 22 and you got the help of a bystander to call for
 23 help, the police and other rescue type people
 24 arrived?

1 A. Yes.
 2 Q. At the beach?
 3 A. Yes.
 4 Q. What happened to you? Where did you
 5 go?
 6 A. I was standing -- I called my
 7 parents at some point, and I was just near
 8 where my brothers and sisters were, but we were
 9 not too far away when they pulled Shayne out of
 10 the water. I was right there. And I remember
 11 the ambulance people were right there. I was
 12 there the whole time until they told me to go
 13 home before they pulled Jamilah out of the
 14 water.
 15 Q. They told you to what?
 16 A. To go home, because I didn't -- I
 17 didn't want to go to the hospital without
 18 Jamilah.
 19 Q. So you were asked whether you want
 20 to go to the hospital, and you said no?
 21 A. Yes.
 22 Q. And had your parents arrived by the
 23 time you went to go home?
 24 A. Yeah, my dad was there.

1 Q. And you went home with your dad?
 2 A. No, my dad stayed there until they
 3 found Jamilah.
 4 Q. So who did you go home with?
 5 A. My brothers and sisters, but I don't
 6 remember who took us there.
 7 Q. All right. And they're the little
 8 ones, right?
 9 A. Yeah.
 10 Q. It was a long time from the time of
 11 the event until you put these marks on this
 12 photograph, true?
 13 A. Yes.
 14 Q. It was years in between, true?
 15 A. Yes.
 16 Q. So how could you orientate yourself
 17 on this photograph to know this is where what
 18 you say happened? How did you get the bearings
 19 to figure out this is where you were with your
 20 aunt and your cousin?
 21 A. That giant circle in the middle, I
 22 guess that water spot, we weren't too far away
 23 from that on the beach. So we had to walk
 24 around that water patch to get to where we

1 were.

2 Q. Okay. I do need you to mark that
3 exhibit, because when you tell me that giant
4 water spot, I don't know what you're talking
5 about.

6 A. (Witness complies with request.)

7 MR. BARKER: It's marked with
8 a green outline.

9 BY MR. BARKER:

10 Q. And you say you had to walk around
11 that to get to where you ended up to go into
12 the water?

13 A. Yes.

14 Q. So as you're marching up the beach
15 from south to north, somehow you encountered
16 this thing and had to go around it?

17 A. Yes.

18 Q. And that is your bearing to get you
19 to the point that you could accurately put on
20 this photograph where things happened as you
21 described?

22 A. Can you rephrase that?

23 Q. Sure. Was there anything else that
24 gave you bearing, that gave you a point to work

1 from to help you decide where you were at the
2 time of the subject event?

3 A. No.

4 Q. Just that thing marked in green now?

5 A. Yes.

6 Q. Before doing these markings for
7 Mr. DiJoseph on May 23rd, 2016, did you ever
8 mark on any other photograph, map or diagram
9 information about where the event occurred?

10 A. No.

11 Q. Do you know if anybody else did?

12 A. No.

13 Q. Were you ever called upon to give a
14 statement before Mr. DiJoseph asked you
15 questions?

16 A. Before him, no.

17 Q. Did you read about this event in the
18 newspaper?

19 A. Yes.

20 MR. D'AMATO: What event?

21 MR. BARKER: This event that
22 she's just described and put on the
23 Exhibit that I have.

24 MR. D'AMATO: I was asking --

1 MR. BARKER: I'm sorry if I
2 wasn't clear.

3 MR. D'AMATO: I thought you
4 were referring to the Smith event.

5 MR. BARKER: No, this event.

6 MR. D'AMATO: I understand.

7 MR. BARKER: Her event, 2009.

8 MR. D'AMATO: Got it.

9 BY MR. BARKER:

10 Q. You read about it in the newspaper,
11 correct?

12 A. Yes.

13 Q. So was there anything in the
14 newspaper that was not accurate?

15 A. Well, they -- I believe that the
16 newspaper said that we were in the water
17 swimming and we just drowned, and that wasn't
18 accurate.

19 Q. Anything else that you read in the
20 newspaper that you thought was not accurate?

21 A. Not that I can remember.

22 Q. When you say you read something in
23 the newspaper, do you even remember which
24 newspaper it was?

1 A. I think it was the Press of Atlantic
2 City.

3 Q. And when was the article?

4 A. A few days after the incident. And
5 it was on the news I believe the same day when
6 they were out looking for her.

7 Q. And would the news mean the local
8 television station? Is that what you meant by
9 the news?

10 A. I'm not sure.

11 Q. Did you call any newspaper reporter
12 or anyone like that and make any statements to
13 say there was something said that was not
14 accurate?

15 A. No.

16 Q. Do you know if anyone else did?

17 A. No.

18 Q. Do you know if anyone investigated
19 the incident at all?

20 A. No.

21 MR. BARKER: I don't have
22 anything further.

23 MR. D'AMATO: I have some
24 questions.

EXAMINATION

BY MR. D'AMATO:

Q. Before today you had never read the North Wildwood Police Department report dated July 13th, 2009 relative to the incident that you were involved with, correct?

A. Correct.

Q. Okay. You will notice that at the top for category number 23 it says victims, and it has Shayne Hart and Jamilah Watkins, but it gives an address of 16 Wayne Lane, Cape May Court House. Is that where you lived at the time of this incident?

A. That's where we got dropped off at the -- when they took us home. I don't believe I was still living there. No, I was living at home.

Q. Whose residence is the address 16 Wayne Lane?

A. My mom's adoptive mom.

Q. Okay. They mention in the police -- when I say "they", the author of this report is

rescue people until after they were called.

Q. Okay. I realize that this took place some time ago, and we all realize what a traumatic event it was for you. Do you have any recollection whatsoever from the time you first, I'm going to say, fell into the water until the beach patrol came to assist in rescue efforts, any sense of time?

A. I think the whole thing, probably 25 minutes, 30 minutes. And it took them -- after we called, four -- maybe four minutes to get there, five minutes.

Q. Okay. That's your best estimate, correct?

A. Yes.

Q. All right. Now, you were at the beach in North Wildwood, correct?

A. Yes.

Q. Was this the first time you had gone to any of the beaches in North Wildwood?

A. Yeah, because I usually go down by the boardwalk.

Q. Okay. In the police report marked for identification as McNeil-3, the second

a Police Officer B. Strube, S-T-R-U-B-E. They refer to a gentleman by the name of Joe Befumo who apparently contacted the police. Did you know this gentleman before this incident?

A. No.

Q. Have you ever seen him since this incident?

A. Not that I know of.

Q. Okay. In the report, which has been marked for identification as McNeil-3, I want to read a sentence here, quote, as we approached the male, parenthesis, later identified as Joe Befumo, parenthesis, two North Wildwood beach patrol vehicles passed in front of us to the area of Mr. Befumo and were told by him that there were three swimmers in the water having difficulty swimming, but he has since lost sight of them, end quote.

Here's my question, do you remember seeing North Wildwood beach patrol vehicles while you were in the water or after you got out of the water, as you sit here today?

A. While I was in the water, no. When I got out, no, I didn't see any type of like

sentence says, and I quote, during transport at 17:58 hours -- that would be 5:58 p.m. -- we received a report of three distressed swimmers in the ocean in the area of East 2nd Avenue and the beach, end of quote. Does the reference to East 2nd Avenue and the beach mean anything to you as you sit here today?

A. (Witness shakes head.)

MR. BARKER: You have to answer verbally, ma'am.

THE WITNESS: Sorry, no.

BY MR. D'AMATO:

Q. So when you tell people of this story, if you ever have since it took place, you don't say I was at East 2nd Avenue and the beach, correct? Is that what you're saying?

A. Correct.

Q. All right. Now, you have described for all of us the events that happened, but I just want to stand up, and I want to ask you something. You have had occasion to be in swimming pools, correct?

A. Yes.

Q. All right. And when you're, let's

1 say, near the deep end of the pool, you know
 2 that if you walk off the pool, you're going to
 3 drop down into the water, correct?
 4 A. Yes.
 5 Q. All right. Now, have you ever been
 6 on any of these amusement rides where it's like
 7 a -- it's a gravity type of thing where they
 8 spin around, and the floor that you're standing
 9 on, because you're going so fast drops, but you
 10 don't drop, because of the force of the -- the
 11 circular force? Do you know what I'm talking
 12 about?
 13 A. Yes.
 14 Q. Here's what I'm trying to
 15 understand. When all of the sudden you're in
 16 the water, is it because the beach that you
 17 were standing on collapsed, or is it because
 18 you just walked off into a deep hole?
 19 MR. HUNKINS: Objection to
 20 the form.
 21 MR. BARKER: Objection.
 22 The fact that we object
 23 doesn't mean that we can instruct
 24 you not to answer, so we're

1 preserving our objection to the
 2 question.
 3 THE WITNESS: So I answer
 4 now?
 5 BY MR. D'AMATO:
 6 Q. Yes.
 7 A. Yes, I was standing still, and then
 8 when I moved, I was solid and then it wasn't.
 9 It almost felt like a false bottom, if that
 10 makes sense.
 11 Q. Okay. I understand. The Exhibit
 12 McNeil-2, this was a writing sample for Cabrini
 13 College, correct?
 14 A. Yes.
 15 Q. Your purpose in submitting this
 16 writing sample was to show them the level of
 17 your ability to write, correct?
 18 A. Correct.
 19 Q. In looking at this, did you take any
 20 artistic liberties and make entries in this
 21 writing sample that are not factually correct?
 22 A. No.
 23 MR. HUNKINS: Object to the
 24 form.

1 BY MR. D'AMATO:
 2 Q. Now, I want to talk about your aunt.
 3 When you are in the water, okay, you see her,
 4 correct?
 5 A. Yes.
 6 Q. And when you see her she's still
 7 standing?
 8 MR. BARKER: Objection. You
 9 can answer.
 10 THE WITNESS: Yes.
 11 BY MR. D'AMATO:
 12 Q. When you're in the water, that's the
 13 point I'm saying, she's still standing?
 14 A. Yes.
 15 Q. Now, describe for me from the moment
 16 you see her standing when you're in the water
 17 until she enters the water, what is she doing?
 18 MR. BARKER: Objection, but
 19 you can answer the question.
 20 THE WITNESS: She as in
 21 Jamilah or Shayne?
 22 BY MR. D'AMATO:
 23 Q. Jamilah.
 24 A. When I dropped, she was still --

1 they were still talking to each other, and then
 2 once I dropped, it was probably like 30 seconds
 3 before I came back up. And then it was just
 4 repeatedly up and down. And like I said, they
 5 thought I was joking at first, so she didn't
 6 suddenly go for me, but when she did, then we
 7 were all in the same situation.
 8 Q. All right. You described in
 9 response to my question what happened to you as
 10 to how you were in the water.
 11 A. Yes.
 12 Q. Here's what I want to ask you. What
 13 did you see as it related first to your aunt as
 14 to how she entered the water, and then I want
 15 to know what you saw as to how your cousin
 16 entered the water.
 17 A. I didn't see how they both began
 18 drowning. I saw what happened to Shayne, which
 19 was similar to me, like she's trying to get off
 20 me, and I'm trying to get off her, but Jamilah
 21 wasn't really in the same mix. So when I kind
 22 of got off of them, Jamilah was more trying to
 23 help her solely, because I was at that point
 24 much further away from them. And -- and I only

1 saw one of them.
 2 Q. Okay.
 3 A. It didn't take that long to only see
 4 one of them.
 5 Q. You described for all the lawyers
 6 before when Mr. Barker was asking you questions
 7 how you -- while you're in the water, you
 8 become separated from your aunt and your
 9 cousin, correct?
 10 A. Yes.
 11 Q. What caused you to be separated?
 12 A. It was like a rush of, I would say,
 13 water, like a -- like a twister, an underwater
 14 twister, but at the same time it was like
 15 pushing and pulling.
 16 Q. Okay.
 17 A. Okay.
 18 Q. Did you know how to swim to some
 19 degree at the time of this tragic event?
 20 A. Yes.
 21 Q. How did you get out of the water
 22 back on solid sand?
 23 A. I floated like with my face in the
 24 water and then backwards, because at first I

1 was trying to swim, but it wasn't working.
 2 Q. Why wasn't it working?
 3 A. It was just -- like if I tried to
 4 move, I wasn't going anywhere. Like I was kind
 5 of trapped where I was at, and then it was more
 6 just waves. Like I don't know, the water went
 7 from zero feet to like bottomless.
 8 Q. But I want to know how did you get
 9 up on sand that you could stand on. Do you
 10 remember?
 11 A. I was floating for a while, and then
 12 once I finally could reach I kind of walked
 13 back up.
 14 Q. Okay. You graduated from high
 15 school. And what high school was that?
 16 A. Middle Township.
 17 Q. And you graduated what year?
 18 A. '14.
 19 Q. All right. And what have you been
 20 doing since 2014 up until now?
 21 A. I took three classes at ACCC, and I
 22 worked at a vet office. Then I worked at
 23 Atkinsons, and then tomorrow I start at another
 24 vet office.

1 Q. Atkinsons is what?
 2 A. Atkinsons Tavern in Cape May Court
 3 House.
 4 Q. Is it your intent to go to college?
 5 Because you said you applied to Cabrini.
 6 A. Yeah.
 7 Q. Any luck there yet?
 8 A. Not yet.
 9 Q. Okay. And where are you working
 10 now?
 11 A. Nowhere. Tomorrow. I start
 12 tomorrow.
 13 Q. All right.
 14 MR. D'AMATO: Do you have any
 15 questions?
 16 MR. GRASSI: It might have
 17 been covered.
 18 MR. D'AMATO: Let's make this
 19 McNeil-1A.
 20 * * *
 21 (Whereupon, Exhibit McNeil-1A was marked for
 22 identification.)
 23 * * *
 24 EXAMINATION

1 * * *
 2 BY MR. GRASSI:
 3 Q. So, Miss McNeil, I introduced myself
 4 to you earlier. I'm Joseph Grassi. I have a
 5 couple of follow-up questions.
 6 So I want to show you what's now
 7 marked as McNeil-1A. And that's the photograph
 8 that you had been shown when Lou DiJoseph
 9 interviewed you and made some markings on it.
 10 After you went into the water that
 11 second time and the bottom dropped out under
 12 you and you felt the false bottom --
 13 MR. BARKER: Objection. You
 14 can answer.
 15 BY MR. GRASSI:
 16 Q. -- and you began to float, where is
 17 the point -- you said that you floated, and you
 18 got to a point where you felt the bottom under
 19 your feet again?
 20 MR. HUNKINS: Objection to
 21 form.
 22 MR. BARKER: Object. You can
 23 answer.
 24 BY MR. GRASSI:

1 Q. Is that accurate? Is that what you
2 said?

3 MR. HUNKINS: Objection to
4 form.

5 MR. BARKER: Object there,
6 too, sorry.

7 THE WITNESS: Yes.

8 BY MR. GRASSI:

9 Q. While you're thinking about that, my
10 recollection -- I understood you to say that
11 you were out there, you couldn't feel the
12 bottom and you began to float. Were you
13 floating on your stomach or on your back?

14 A. It was a combination, like back and
15 forth.

16 Q. Okay. And that at some point you
17 got to a point where you could feel the bottom?

18 A. Yes.

19 Q. Okay. And how far from the beach,
20 from the dry land were you when you got to that
21 point where you could feel the bottom?

22 MR. BARKER: Objection.

23 THE WITNESS: Can you
24 rephrase it?

1 point -- if you can point to an area in this
2 building somewhere where you can estimate it's
3 the same distance, and we'll see if we can't
4 agree how many feet it is.

5 A. From where I am now probably a
6 little bit past that filing cabinet, the other
7 side of it (indicating).

8 Q. When you say "that filing cabinet,"
9 you're talking about through that doorway
10 that's marked private, the shelves there next
11 to that desk, is that what you're talking about
12 (indicating)?

13 A. Past the one that has the --

14 Q. Copier on it?

15 A. Yes.

16 MR. BARKER: Which one, Joe?

17 MR. GRASSI: If you turn
18 around --

19 THE WITNESS: Right to where
20 the copier is.

21 MR. BARKER: Out here
22 (indicating)?

23 MR. D'AMATO: Hold on.

24 * * *

1 BY MR. GRASSI:

2 Q. Okay. When you got to that -- when
3 you felt the bottom, you were still in the
4 water, correct?

5 A. Yes.

6 Q. What part of your body hit the
7 bottom?

8 A. My feet.

9 Q. Okay. And did you try to stand up
10 then?

11 A. Yes.

12 Q. Did you stand up?

13 A. Yeah.

14 Q. How deep were you when you stood up?

15 A. About maybe like mid thigh.

16 Q. Okay. And were you able to see the
17 shoreline, the point where the waves were
18 breaking and where there was dry land?

19 A. Yeah.

20 Q. Okay. How far from that were you?

21 A. Maybe --

22 Q. You know what, I'm going to ask you
23 not to tell me in feet, because we had that
24 three feet five feet thing going on. Can you

1 (Whereupon, a discussion was
2 held off the record.)

3 * * *

4 MR. DiJOSEPH: 30 feet,
5 approximately.

6 MR. GRASSI: We're all in
7 agreement that it's about 30 feet,
8 because we measured it, we took a
9 break and we used a tape measure.

10 BY MR. GRASSI:

11 Q. What I'm going to ask you to do --
12 -- and once you saw the beach, did you then
13 walk directly towards the beach?

14 A. Are we --

15 Q. The point you floated, your feet hit
16 the sand at some point, and you stood up.

17 A. Okay.

18 Q. So I asked you if you were then able
19 to see the beach and how far it was, and you
20 showed us that. Once you stood up, exactly
21 what did you do?

22 A. I started going towards where the
23 guy was.

24 Q. And was he on the beach?

1 A. Yes.
 2 Q. Okay. Here's what I'd like you to
 3 do. I'd like you to do -- let's get a pen --
 4 we've got a red marker. I want you to show me
 5 first of all in the water where you believe
 6 your -- your feet were, where you floated to,
 7 and then I want you to show me on the beach
 8 where the guy was when you got up to walk.
 9 MR. BARKER: Is she going to
 10 use the same color?
 11 MR. GRASSI: One is going to
 12 be in the water and one is going to
 13 be on the beach.
 14 MR. D'AMATO: We'll use red
 15 and blue.
 16 MR. GRASSI: We'll use red
 17 for the water. If you could just
 18 make the mark a little --
 19 THE WITNESS: Like an X or
 20 something.
 21 MR. D'AMATO: Let me suggest
 22 something. If -- an X.
 23 MR. GRASSI: An X will work,
 24 because there's no X's on there.

1 MR. D'AMATO: Go ahead.
 2 THE WITNESS: (Witness
 3 complies with request.)
 4 BY MR. GRASSI:
 5 Q. And then give us a blue -- what was
 6 the fellow's name?
 7 MR. DIJOSEPH: Joe Befumo.
 8 BY MR. GRASSI:
 9 Q. Put a little JB where you recall he
 10 was standing on the beach.
 11 A. I don't remember. It wasn't too far
 12 away from where the kids were, because I know I
 13 didn't have to get too far away from where they
 14 were.
 15 Q. Well, where were the kids?
 16 A. Like over here (indicating).
 17 Q. In the center of that circle that
 18 you drew with the black pen the first time?
 19 A. Yes. I'll say he was outside of the
 20 circle.
 21 Q. Okay. And you were able to walk
 22 from where you floated to where the man was?
 23 A. Yeah.
 24 MR. BARKER: Pause right

1 there. Can I see what she's put
 2 down so far, because I haven't seen
 3 anything yet.
 4 MR. GRASSI: Sure.
 5 MR. BARKER: I think she
 6 added a little red X there?
 7 MR. GRASSI: Right.
 8 MR. BARKER: What did you say
 9 that was?
 10 MR. GRASSI: What I asked her
 11 was to put an X where she floated
 12 to, where she first felt land.
 13 MR. BARKER: And then did she
 14 put any other mark on there?
 15 MR. GRASSI: She just
 16 indicated that the kids were in the
 17 circle and the man was somewhere
 18 outside the circle. She's not sure.
 19 MR. BARKER: Thanks.
 20 THE WITNESS: Do you still
 21 want me to mark --
 22 BY MR. GRASSI:
 23 Q. If you don't remember where it was,
 24 I don't want you to put a mark if you don't

1 remember where it was. And where -- where --
 2 of these three marks, where were you standing
 3 when you felt the drop off?
 4 MR. D'AMATO: For the record,
 5 can we establish what three marks
 6 you're talking about?
 7 MR. GRASSI: You're right.
 8 BY MR. GRASSI:
 9 Q. There are three marks in the water,
 10 they look like a 1, 2, and 3. What do they
 11 represent?
 12 A. The X is where we -- number 2, the X
 13 is where we stepped in, and the 3 is where the
 14 drop off was.
 15 Q. Okay. So the 3 is where the drop
 16 off was. And what was the 1?
 17 A. I think that represents the circle,
 18 and if not, this is where I got like out to get
 19 back onto the beach (indicating).
 20 Q. And you just -- so you just did that
 21 with your finger, nobody else saw it, but that
 22 was the red X that you made earlier?
 23 A. Yes.
 24 Q. So in order to walk back to the man

1 or to the beach, you did not walk in the
 2 vicinity of the drop off?
 3 A. No.
 4 Q. When you got to that point where you
 5 stood up and you saw the man and you started to
 6 walk that way, were you able to see Shayne?
 7 A. No.
 8 Q. Were you able to see your Aunt
 9 Jamilah?
 10 A. I thought so.
 11 Q. Where -- where did you think you saw
 12 her?
 13 A. I was -- way -- she was way, way
 14 out, like way past the drop off, way past -- I
 15 thought she was out by the -- the metal things
 16 that are in the water with the red lights on
 17 top of it, like way out where the boats would
 18 be.
 19 Q. Okay.
 20 MR. DiJOSEPH: A buoy?
 21 THE WITNESS: Yeah.
 22 MR. BARKER: You have to
 23 answer verbally.
 24 THE WITNESS: Yes.

1 BY MR. GRASSI:
 2 Q. I want to ask you a couple questions
 3 about the essay that you wrote. So if you have
 4 that in front of you. That's marked as
 5 McNeil-2.
 6 So I'm just going to read it. It
 7 says, the whistles blew just before 5:30 p.m.
 8 as lifeguards motioned swimmers to come to
 9 shore at Surf Avenue beach along Hereford
 10 Inlet. After the lifeguards left for the day,
 11 a few swimmers wanted to go back in for just
 12 one last dip. And you're referring there to
 13 yourself, and your aunt, and your cousin?
 14 A. Uh-huh.
 15 MR. BARKER: You have to
 16 answer verbally.
 17 THE WITNESS: Yes.
 18 BY MR. GRASSI:
 19 Q. It says, before moving their beach
 20 equipment, the swimmers ran off into the water
 21 to body surf. Was that a discussion that you
 22 had with your aunt and Shayne, that that's what
 23 you were going to do, was body surf?
 24 A. Yes.

1 Q. What do you mean by body surf?
 2 A. Like before the waves come, you turn
 3 around, and you go back towards the beach, like
 4 you just let it take you out.
 5 Q. And had you been body surfing that
 6 day?
 7 A. No.
 8 Q. Had any -- had either Shayne or
 9 Jamilah been body surfing that day earlier?
 10 A. No.
 11 Q. And were you going to body surf at
 12 this point, or is that something that you wrote
 13 in here for --
 14 A. We were going to, but we didn't get
 15 there.
 16 Q. Okay. Had you body surfed before?
 17 A. Yeah.
 18 Q. When you body surf, what's the
 19 deepest that you go in?
 20 A. Waist.
 21 Q. And so did you have any intention to
 22 go in the water that day over your waist,
 23 deeper than your waist?
 24 A. No, because Shayne couldn't swim.

1 Q. And it says that you told the kids
 2 that were with them to stay put for two
 3 minutes. That's your --
 4 A. Siblings.
 5 Q. Your siblings?
 6 A. Yes.
 7 Q. The oldest of whom was five years
 8 old. That was your little sister?
 9 A. Yes.
 10 Q. And how long did you expect to be in
 11 the water?
 12 A. Five minutes. We were only going to
 13 do it once. She had to go back to Connecticut,
 14 so we were on our way home.
 15 Q. Okay.
 16 A. And --
 17 Q. "She" being Shayne?
 18 A. Jamilah.
 19 Q. Jamilah lived in Connecticut?
 20 A. Yes.
 21 Q. And you're saying as you were
 22 walking toward the water, somebody said how
 23 well can you all swim?
 24 A. Yes.

1 Q. Who was that?
 2 A. Jamilah said that to me.
 3 Q. And it said one responds "enough to
 4 save myself."
 5 A. That was me.
 6 Q. So that it was Shayne that said not
 7 at all.
 8 A. Yes.
 9 Q. And it says, soon after they treaded
 10 into the water one of the swimmers began to
 11 drown. While the water was seeping into every
 12 orifice of their body -- who are you referring
 13 to there?
 14 A. Me.
 15 Q. All right. Now, you said this
 16 earlier, too, you said that you called out and
 17 said help me, I'm drowning, right?
 18 A. Yes.
 19 Q. Okay. At that point you couldn't
 20 feel any bottom at all?
 21 A. Nope.
 22 Q. And were you able to actually see
 23 Jamilah and Shayne at that time?
 24 A. Yes.

1 Q. Because you're saying they didn't
 2 believe you?
 3 A. No, they thought -- they thought I
 4 was joking, like really thought I was joking.
 5 Q. How do you know that? What makes
 6 you say that?
 7 A. Because they didn't move. They're
 8 come on, stop playing or whatever. And she
 9 came over towards where I was --
 10 Q. When you say "she" --
 11 A. Shayne.
 12 Q. So Shayne moved closer to you?
 13 A. Yes. And I was trying to like pull
 14 myself towards her. So honestly I pulled her
 15 towards me, and --
 16 Q. Did you actually have ahold of her?
 17 A. Yes.
 18 Q. Okay. And -- so you pulled -- you
 19 were trying to pull yourself towards her, but
 20 you pulled her towards you?
 21 A. Yeah.
 22 Q. And did you see her or feel her come
 23 under with you or lose the bottom?
 24 A. No, I was so focused on trying to

1 get myself where they were or where she was,
 2 and it didn't work out that way.
 3 Q. What happened?
 4 A. Then we were both -- basically like
 5 I pushed her down, and then she pushed me down,
 6 and then she's up and I'm down. It was like an
 7 up and down situation.
 8 Q. You couldn't feel any ground at that
 9 point?
 10 A. Uh-uh.
 11 MR. BARKER: You have to
 12 answer verbally.
 13 THE WITNESS: No.
 14 BY MR. GRASSI:
 15 Q. Were you over your head at that
 16 point?
 17 MR. BARKER: Objection.
 18 BY MR. GRASSI:
 19 Q. In other words, did your entire head
 20 go underwater?
 21 A. Yes.
 22 Q. Do you have any sense at all about
 23 how deep it might have been?
 24 A. No.

1 Q. And was there any current at that
 2 point?
 3 MR. BARKER: I'm sorry, any
 4 what, sir?
 5 MR. GRASSI: Current.
 6 BY MR. GRASSI:
 7 Q. In other words, you spoke earlier
 8 about a -- did you say whirlpool? I don't want
 9 to put words in your mouth.
 10 A. I said underwater twister.
 11 Q. Underwater twister, okay. Is that
 12 where you felt the underwater twister?
 13 A. Not at -- not immediately. It was
 14 more so like in the fight after me and Shayne
 15 were already separated.
 16 Q. Okay. It was not there at that
 17 point when you were with Shayne, you didn't
 18 feel it then?
 19 A. No.
 20 Q. How long did you have ahold of
 21 Shayne?
 22 A. Maybe a minute or two, two minutes.
 23 Q. Okay. Did you ever see Shayne again
 24 after you lost physical contact with her?

1 A. When Jamilah had ahold on her, like
2 they were together and after -- not after that.
3 I only saw Jamilah's bathing suit, really, not
4 -- I didn't see Shayne.

5 Q. So you lost physical contact with
6 Shayne, and then you lost sight of Shayne?

7 A. Yes.

8 Q. While you had physical contact with
9 Shayne, Jamilah was also holding her?

10 A. No.

11 Q. No, okay.

12 A. No.

13 Q. Did you see Jamilah lose contact
14 with the ground?

15 MR. BARKER: Objection.

16 THE WITNESS: No, no.

17 BY MR. GRASSI:

18 Q. When is the first time that you
19 realized that Jamilah was also not standing up
20 anymore but in the water?

21 A. I guess -- I assumed, because she
22 started more swimming that she's not standing
23 when she was trying to get towards Shayne.

24 Q. You saw her trying to get towards

1 beginning, but I was saying to my sister like
2 go get help or try to get help, and she's like,
3 what are you saying? You want us? And I was
4 like, no, I don't want you. Like go. And
5 she's still coming towards me.

6 Q. So you were still struggling at that
7 point?

8 A. Yes.

9 Q. You hadn't floated and hit the beach
10 yet?

11 A. Uh-uh.

12 MR. BARKER: Answer verbally,
13 please.

14 THE WITNESS: No.

15 MR. GRASSI: I don't have any
16 other questions. Any follow-up to
17 that?

18 MR. D'AMATO: Brian, do you
19 have any?

20 MR. HUNKINS: Thanks, no
21 questions.

22 MR. BARKER: I just wanted to
23 clarify one thing.

24 * * *

1 Shayne?

2 A. Yes.

3 Q. And were you floating at that point,
4 or you were --

5 A. No, I was still attempting to get
6 above water or stay above water.

7 Q. So you were struggling?

8 A. Yes.

9 Q. Were you -- were you swallowing
10 water? I mean, what was -- what was that
11 struggle like?

12 A. It was swallowing water, and water
13 up my nose, and it was dark. I mean, I could
14 kind of see underwater, but not really.

15 Q. Were you able to see your siblings
16 at that point?

17 MR. BARKER: What point?

18 MR. GRASSI: At the point
19 that she was struggling.

20 BY MR. GRASSI:

21 Q. At the point that you were
22 struggling.

23 A. After about eight minutes of
24 struggling I was closer than I was in the

EXAMINATION

* * *

1 BY MR. BARKER:

2 Q. Going back to when it all started
3 and you were facing the water and Shayne was to
4 your right and the two of you were standing in
5 the water -- did you say about shin deep?

6 A. Yes.

7 Q. All right. And then you moved a
8 couple feet to the left, and that's when you
9 went down?

10 A. Yes.

11 Q. And when you moved a couple feet to
12 the left, you were still shin deep in the water
13 until you went down?

14 A. Yes.

15 Q. Okay.

16 MR. BARKER: That's it.

17 * * *

EXAMINATION

18 * * *

19 BY MR. D'AMATO:

20 Q. In light of that, let me show you a
21 report that was written by Mr. DiJoseph. He's
22
23
24

1 the licensed private investigator that's
2 sitting in this room that initially contacted
3 you.

4 MR. HUNKINS: Sorry to
5 interrupt, before you do that, I
6 have a question, slash, comment, and
7 it probably should be one with the
8 witness out of the room. Is that
9 okay?

10 MR. D'AMATO: Sure.

11 MR. HUNKINS: I don't want to
12 prolong this, but the part you were
13 going to question her about, does it
14 involve DiJoseph using the word
15 collapse? I'm not sure where you
16 were going, but if that's where you
17 were going, I was going to object,
18 because we're getting -- we're
19 getting a problem with that so --

20 MR. D'AMATO: I was going to
21 ask her about what I bracketed here
22 (indicating).

23 MR. HUNKINS: This does not
24 look like a problem to me. I'm not

1 most accomplished swimmer of the three.

2 Suddenly the sand beneath McNeil's
3 feet gave way and she was in deep water over
4 her head. McNeil tried to touch bottom but
5 could not. McNeil likened the event to
6 standing on a trap door when the door opens and
7 you fall into the dark. Once in the water,
8 McNeil encountered a strange but strong
9 current. She described the strange current as
10 one that was pulling her downward but at the
11 same time causing her to flip over like a
12 reverse back flip. Okay. McNeil was able to
13 resurface and yelled for help to Watkins and
14 Hart who were nearby. Hart was approximately
15 three to five feet away from her and Watkins
16 was a little further. Suddenly Hart dropped
17 and disappeared into the ocean just like what
18 occurred to McNeil. McNeil knew that Hart
19 couldn't swim and she feared for Hart's life.
20 Seconds later, Watkins also dropped and
21 disappeared into the ocean just like what
22 occurred to Hart and McNeil.

23 Once all three were in the water,
24 McNeil and Watkins were attempting to call out

1 sure what you're going to ask her.

2 MR. BARKER: You're on page
3 6, sir?

4 MR. D'AMATO: Yes, I wanted
5 to ask her questions about that
6 right there (indicating).

7 * * *

8 (Whereupon, a discussion was
9 held off the record.)

10 * * *

11 BY MR. D'AMATO:

12 Q. This is -- I bracketed a part of
13 Mr. DiJoseph's report regarding his interview,
14 and I'd like you to start here where it says,
15 quotes, McNeil and Hart were in shin deep
16 water. I want you to read each and every
17 sentence. If there's anything in any of the
18 sentences that's incorrect, I want you to
19 correct it for us. Okay?

20 A. Okay.

21 Q. So just read it out loud.

22 A. McNeil and Hart were in shin deep
23 water and Jamilah Watkins was in waist deep
24 water. Hart cannot swim, and Watkins was the

1 and swim to each other. Hold on. This is
2 awkward.

3 Q. For the record, you put markings
4 over the sentences you just read.

5 A. Yes.

6 Q. So tell us what's incorrect about
7 that sentence.

8 MR. HUNKINS: Before we
9 proceed, let me just object to the
10 pending question, and I'll put the
11 reason on the record later. It
12 actually is the problem that I
13 thought might happen, and I -- it
14 has happened, but go ahead, you can
15 proceed.

16 MR. D'AMATO: Okay.

17 MR. HUNKINS: Just note my
18 objection.

19 THE WITNESS: This would be
20 Shayne.

21 BY MR. D'AMATO:

22 Q. How should the sentence read?

23 A. Once all three were in distress,
24 Hart and Watkins were attempting to swim to

1 each other.

2 Q. Okay. Thank you for the correction.
3 Now, please continue to the next sentence, and
4 we'll finish it.

5 A. Hart was not seen again until later
6 on when rescue personnel pulled her lifeless
7 body from the water. True. The strong current
8 swept Watkins away from land and McNeil was
9 left to fend for yourself. McNeil estimates
10 she was in the water for over 15 minutes
11 fighting to get back to shore. At one point,
12 McNeil remembers being very close to a red and
13 white -- at one point McNeil remembers being
14 very close -- this was -- remembers Jamilah.

15 MR. BARKER: This was what?

16 THE WITNESS: It should read
17 at one point McNeil remembers
18 Watkins being very close to a red
19 and white navigational buoy.

20 BY MR. D'AMATO:

21 Q. All right. Please continue.

22 A. McNeil was eventually able to get
23 back to land. Once on land, McNeil ran to the
24 first person she saw and asked him to call 911.

1 That person turned out to be Joe Befumo, who
2 was interviewed on 4/27/2016 and corroborated
3 McNeil's statement.

4 Q. So for the record, you've read what
5 I've asked you to read. The reason I asked you
6 to do that is what we lawyers need to know, is,
7 these are the words that you shared with
8 Mr. DiJoseph?

9 MR. HUNKINS: Object to the
10 form.

11 MR. BARKER: Objection.

12 MR. D'AMATO: Excuse me, you
13 said your objection. If you want
14 her to leave the room, you can put
15 it on the record.

16 MR. HUNKINS: I will after
17 you finish.

18 MR. D'AMATO: Fine.

19 MR. HUNKINS: Object to the
20 form.

21 BY MR. D'AMATO:

22 Q. I want to know, are these your words
23 that you shared with Mr. DiJoseph?

24 MR. HUNKINS: Object to the

1 form.

2 MR. D'AMATO: Okay.

3 I'm going to put my response
4 to your objection when we do it
5 afterwards.

6 THE WITNESS: Yes?

7 MR. HUNKINS: Said with a
8 question mark in the voice.

9 MR. D'AMATO: I agree.

10 BY MR. D'AMATO:

11 Q. There's like a question mark in your
12 voice. So what -- where do you feel -- do you
13 feel that he improperly recorded what you said
14 here to him?

15 MR. HUNKINS: Object to the
16 form.

17 THE WITNESS: I believe --

18 MR. HUNKINS: Which sentence?
19 She just read 14 sentences.

20 MR. GRASSI: Let her finish
21 her answer.

22 THE WITNESS: I just feel he
23 left out Watkins' name in that
24 sentence.

1 BY MR. D'AMATO:

2 Q. Is there anything else?

3 MR. HUNKINS: Object to the
4 form.

5 THE WITNESS: No.

6 MR. D'AMATO: Okay. I have
7 nothing else.

8 MR. HUNKINS: I have a
9 question.

10 * * *

11 EXAMINATION

12 * * *

13 BY MR. HUNKINS:

14 Q. If you can hand me that for one
15 second.

16 This is the investigator doing his
17 best to summarize what you told him back when
18 you met with him?

19 MR. D'AMATO: Objection to
20 the form of the question.

21 THE WITNESS: Yes.

22 BY MR. HUNKINS:

23 Q. And it happens to be hearsay.

24 MR. D'AMATO: Objection to

1 the form of the question.

2 BY MR. HUNKINS:

3 Q. And you just read at least 14
4 sentences, right, to us?

5 A. All right.

6 Q. It's kind of long. I want to just
7 direct your attention to the part -- the words
8 that Mr. DiJoseph used in his report --

9 MR. HUNKINS: Off the record.

10 * * *

11 (Whereupon, a discussion was
12 held off the record.)

13 * * *

14 BY MR. HUNKINS:

15 Q. The -- some of the words that
16 Mr. DiJoseph used, it's the beginning of the
17 second sentence and it says, suddenly the sand
18 beneath McNeil's feet gave way. Do you see
19 that word "gave way"?

20 A. Yes.

21 Q. Now, today in the deposition the
22 words you used were that when you moved in a
23 certain direction suddenly there was no bottom;
24 is that right?

1 A. Yes.

2 Q. Okay. Today in the deposition I did
3 not hear you use words suggesting that there
4 was a giving way or a collapse.

5 MR. BARRY: Objection.

6 That's a mischaracterization of her
7 testimony. She said a false bottom.

8 MR. HUNKINS: By the way, we
9 didn't make our introduction,
10 because I came in late.

11 MR. GRASSI: Oliver Barry.
12 He's my associate.

13 MR. HUNKINS: I object to him
14 speaking up. You can make the
15 objections.

16 MR. GRASSI: I'll make the
17 same objection, because it
18 mischaracterizes what she said.

19 MR. D'AMATO: I concur.

20 BY MR. HUNKINS:

21 Q. Simple question, today in your
22 deposition did you use the words "give way"?

23 A. No.

24 MR. HUNKINS: I'll let the

1 record speak for itself, and I
2 object to the procedure used by
3 counsel to try to get this witness
4 to back fill using this statement.

5 MR. D'AMATO: You don't have
6 to --

7 MR. HUNKINS: Totally
8 improper procedure to use that --

9 MR. D'AMATO: Show me in the
10 rules of court where it's an
11 improper procedure.

12 MR. HUNKINS: It will never
13 see the light of day.

14 MR. D'AMATO: Give me case
15 law. Give me something.

16 MR. HUNKINS: I will at
17 trial. It will never see the light
18 of day. I'm finished. Thank you.

19 MR. GRASSI: I'm going to
20 follow up a little bit.

21 * * *

22 EXAMINATION

23 * * *

24 BY MR. GRASSI:

1 Q. You see that there's this question
2 about what -- what actually happened when you
3 stepped over to the portion where there was no
4 bottom. So you used the word in your
5 deposition, your word was like a false bottom.
6 What do you mean by that?

7 MR. BARKER: Objection.

8 THE WITNESS: As if -- like I
9 said here, if you were standing on a
10 door like at a magic show, and I was
11 there one second and then I wasn't
12 there, because there wasn't anything
13 under me. Like a trap door or a
14 false bottom.

15 BY MR. HUNKINS:

16 Q. Okay.

17 MR. GRASSI: That's --

18 MR. HUNKINS: Are you
19 finished?

20 MR. GRASSI: I am, yes.

21 * * *

22 EXAMINATION

23 * * *

24 BY MR. HUNKINS:

1 Q. And that happened when you moved,
2 correct?

3 A. Correct.

4 MR. HUNKINS: All right.

5 That's all I have.

6 MR. BARKER: Are we done?

7 MR. GRASSI: We're done.

8 * * *

9 (Witness excused.)

10 * * *

11 (Whereupon, the deposition was
12 concluded at approximately 4:13
13 p.m.)

14 * * *

1 DEPOSITION SUPPORT INDEX

2 * * *

3
4 DIRECTION TO WITNESS NOT TO ANSWER

5 Page Line

6 None

7
8 REQUEST FOR PRODUCTION OF DOCUMENTS

9 Page

10 None

11
12
13
14 STIPULATIONS

15 Page

16 4

17
18 QUESTIONS MARKED

19 Page Line

20 None

1 INDEX

2 * * *

3 WITNESS: DOMONIQUE McNEIL

4 QUESTIONED BY: PAGE

5 MR. BARKER: 4, 69

6 MR. D'AMATO: 38, 69

7 MR. GRASSI: 48, 80

8 MR. HUNKINS: 77, 81

9
10 EXHIBITS

11 * * *

12 DOMONIQUE McNEIL DEPOSITION EXHIBITS

13 NUMBER MK'D

14 McNeil-I 4

15 McNeil-1A 48

16 McNeil-2 14

17 McNeil-3 14

1 CERTIFICATION

2
3 I, Michele Matteo, RPR, CCR, hereby
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6 this matter, as transcribed from the
7 stenographic notes taken by me.

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| A | | | | |
|---|---|--|--|--|
| ABC 1:11,19 ability 43:17 able 51:16 53:18 55:21 58:6,8 62:22 67:15 72:12 74:22 ACCC 47:21 accompanied 16:7 16:10 accomplished 72:1 accurate 36:14,18 36:20 37:14 50:1 accurately 27:12 27:13 34:19 ad 1:14 added 56:6 address 38:13,20 addresses 10:7 adoptive 38:22 aerial 27:7 affirmed 4:11 ago 8:2 10:9 40:3 agree 52:4 76:9 agreement 53:7 ahead 55:1 73:14 ahold 63:16 65:20 66:1 Ambarker@bar... 3:14 ambulance 32:11 amusement 42:6 answer 5:6,11,22 5:23,24 6:19 30:24 41:10 42:24 43:3 44:9,19 49:14,23 58:23 59:16 64:12 68:12 76:21 84:4 anybody 35:11 anymore 66:20 apologize 16:10 apparently 39:3 applied 48:5 apply 85:11 approached 39:12 approximately 2:6 9:5 20:14 27:18 53:5 72:14 82:12 | area 27:8 29:1,16 30:7 39:15 41:4 52:1 areas 29:4 arm's 21:21 arrangements 11:21 arrived 31:24 32:22 article 37:3 artistic 43:20 aside 12:8 asked 5:12 10:15 10:19 32:19 35:14 53:18 56:10 74:24 75:5,5 asking 5:1 9:4,19 12:4 35:24 46:6 assist 40:7 associate 79:12 assume 23:3 assumed 66:21 assumptions 5:10 Atkinsons 47:23 48:1,2 Atlantic 37:1 attempting 67:5 72:24 73:24 attention 78:7 attorney 4:22 attorneys 6:17 August 2:6 aunt 10:12 16:11 17:10 29:8 33:20 44:2 45:13 46:8 58:8 59:13,22 aunt's 16:15 author 38:24 available 5:16 Avenue 3:8 15:24 41:4,6,15 59:9 avoid 6:5 awkward 73:2 | 47:13 50:13,14 57:19,24 59:11 60:3 61:13 69:4 72:12 74:11,23 77:17 80:4 backwards 46:24 Barker 3:12,12 4:20,21 8:11,13 9:15 11:23 12:3,5 12:15,21 14:1,4 15:1 20:10,11,21 20:23 21:8,9 30:23 34:7,9 35:21 36:1,5,7,9 37:21 41:9 42:21 44:8,18 46:6 49:13,22 50:5,22 52:16,21 54:9 55:24 56:5,8,13 56:19 58:22 59:15 64:11,17 65:3 66:15 67:17 68:12 68:22 69:3,18 71:2 74:15 75:11 81:7 82:6 83:5 Barry 3:7,7 79:5,11 basically 64:4 bathing 66:3 beach 10:23 15:24 17:12,15 27:9,23 28:13,15 29:19 30:8 32:2 33:23 34:14 39:14,20 40:7,17 41:5,6,16 42:16 50:19 53:12 53:13,19,24 54:7 54:13 55:10 57:19 58:1 59:9,19 60:3 68:9 beaches 40:20 bearing 34:18,24 bearings 33:18 Befumo 39:2,13,15 55:7 75:1 began 45:17 49:16 50:12 62:10 beginning 2:6 68:1 78:16 behalf 4:23 | believe 12:24 16:19 26:13 28:15 36:15 37:5 38:17 54:5 63:2 76:17 beneath 72:2 78:18 best 40:13 77:17 big 8:14 birth 7:4 bit 18:7 19:8 25:2 52:6 80:20 black 26:5,8 27:7 55:18 blew 15:22 59:7 blue 54:15 55:5 boardwalk 40:22 boats 58:17 body 51:6 59:21,23 60:1,5,9,11,16,18 62:12 74:7 book 13:13 bottom 8:20 22:9 27:2,6 43:9 49:11 49:12,18 50:12,17 50:21 51:3,7 62:20 63:23 72:4 78:23 79:7 81:4,5 81:14 bottomless 47:7 bracketed 70:21 71:12 BRADLEY 1:6 Brandy 1:14 3:10 break 6:8,9 53:9 breaking 51:18 Brian 3:17 68:18 Broad 2:20 brothers 24:4,8 32:8 33:5 brought 4:23 building 52:2 buoy 58:20 74:19 bystander 31:22 | 37:11 72:24 74:24 called 15:18 32:6 35:13 40:1,11 62:16 calling 25:4 29:20 calls 5:24 Cape 1:2,10,17 7:13 38:13 48:2 case 12:2 80:14 category 38:11 caused 46:11 causing 72:11 CCR 2:7 85:2,7 cell 7:16 center 55:17 certain 19:20 78:23 certification 4:5 85:11 certify 85:3 certifying 85:12 chapter 13:12 characterization 20:9 children 24:10,22 circle 26:5,9 27:7 27:13,17 29:13 33:21 55:17,20 56:17,18 57:17 circular 42:11 City 1:9,16 3:15 37:2 clarify 68:23 classes 47:21 clear 5:3 36:2 close 18:1 19:11 21:18,18 28:4 74:12,14,18 closer 63:12 67:24 clue 6:21 collapse 70:15 79:4 collapsed 26:17 42:17 college 13:15 15:18 43:13 48:4 color 54:10 combination 50:14 come 11:21 12:9 15:23 17:7 19:14 25:9 59:8 60:2 |
| C | B | | | |
| | B 39:1 83:12 back 5:4 8:4 17:15 22:10 25:18 27:5 27:15 45:3 46:22 | | C 3:1,6 85:1,1 cabinet 52:6,8 Cabrini 15:6,19 43:12 48:5 call 24:5 31:22 | |

| | | | | |
|---|---|---|--|--|
| 63:8,22 coming 25:8,11 68:5 comment 70:6 completely 5:7 Complex 3:18 complies 34:6 55:3 concluded 82:12 concur 79:19 confused 6:5 Connecticut 61:13 61:19 considered 11:13 consists 9:5 contact 65:24 66:5 66:8,13 contacted 39:3 70:2 continue 74:3,21 conversation 31:16 copier 52:14,20 copies 14:7 cops 24:6 copy 9:12 15:2 CORPORATION 1:21 CORPORATIO... 1:12 CORRADO 3:7 correct 7:16 10:4,5 15:15,19 16:5,8 16:13 17:9,19 19:17,22 21:19 24:18,19 25:21,22 26:6 29:9,24 31:6 31:9 36:11 38:8,9 40:14,17 41:16,17 41:22 42:3 43:13 43:17,18,21 44:4 46:9 51:4 71:19 82:2,3 85:3 correction 74:2 correctly 16:1 26:1 corroborated 75:2 counsel 4:3 80:3 counts 11:23 COUNTY 1:2,10 1:17 couple 25:16 31:8 49:5 59:2 69:10 | 69:13 court 1:1 6:4 7:13 38:14 48:2 80:10 cousin 10:13 16:13 16:20 17:11 18:17 18:19 29:8 33:20 45:15 46:9 59:13 covered 48:17 CPM-L-324-16 1:15 CPM-L-331-14 1:8 cross 26:10,13,23 29:20 current 65:1,5 72:9 72:9 74:7 <hr/> D D 83:1 D'Amato 2:5 3:2,3 4:14 5:16,17 9:11 12:12 13:20 14:3 14:6,13,19 20:8 20:18 21:11 30:18 35:20,24 36:3,6,8 37:23 38:4 41:12 43:5 44:1,11,22 48:14,18 52:23 54:14,21 55:1 57:4 68:18 69:22 70:10,20 71:4,11 73:16,21 74:20 75:12,18,21 76:2 76:9,10 77:1,6,19 77:24 79:19 80:5 80:9,14 83:6 dad 32:24 33:1,2 dark 67:13 72:7 dash 26:21 29:12 30:3,13,19,24 date 7:4 8:1,4 27:9 dated 38:6 day 8:15 16:7 37:5 59:10 60:6,9,22 80:13,18 days 37:4 decide 17:15 35:1 deep 18:3,6 42:1,18 51:14 64:23 69:7 69:14 71:15,22,23 | 72:3 deeper 60:23 deepest 60:19 Defendant 3:15,20 Defendants 1:13,22 definition 12:17 degree 46:19 Department 3:18 13:22 38:6 deposition 2:4 6:7 78:21 79:2,22 81:5 82:11 83:14 84:1 Deptford 2:22 describe 44:15 described 34:21 35:22 41:18 45:8 46:5 72:9 description 21:4 desk 52:11 diagram 8:4,5 25:17 35:8 diary 13:12 difficulty 39:17 DiJoseph 3:22 7:19 8:10 10:8,16 11:15,18 12:1,7,9 20:16 35:7,14 49:8 53:4 55:7 58:20 69:24 70:14 75:8,23 78:8,16 DiJoseph's 8:12 71:13 dip 59:12 direct 78:7 85:12 direction 17:12 28:17 78:23 84:4 directly 53:13 disappeared 72:17 72:21 discuss 12:2 discussion 6:23 10:7 14:10 53:1 59:21 71:8 78:11 distance 17:15 19:20 20:13,20 21:11 25:2 52:3 distances 20:7 distress 73:23 | distressed 41:3 DIVISION 1:2 DOCKET 1:7,14 document 9:4 10:3 10:7 DOCUMENTS 84:8 DOE 1:11,18,19 doing 35:6 44:17 47:20 77:16 DOMONIDQUE 83:3 Domonique 1:23 2:4 4:9 7:6 8:16 8:23 83:14 door 72:6,6 81:10 81:13 doorway 52:9 dot 26:14 downward 72:10 draw 27:7 drew 55:18 drifted 25:12 drop 26:15,16 31:18 42:3,10 57:3,14,15 58:2 58:14 dropped 19:12 22:6 22:17 31:17 38:16 44:24 45:2 49:11 72:16,20 drops 42:9 drown 62:11 drowned 36:17 drowning 16:4 22:11 23:9 45:18 62:17 dry 18:13 50:20 51:18 duly 4:10 <hr/> E E 3:1,1,21,21 83:1 83:12 85:1 earlier 49:4 57:22 60:9 62:16 65:7 East 41:4,6,15 efforts 40:8 Egg 2:5 3:4 | eight 67:23 either 60:8 encountered 34:15 72:8 ended 34:11 entered 45:14,16 enters 44:17 entire 64:19 entrance 15:18 entries 43:20 entry 13:12,12 15:3 equipment 59:20 ESQUIRE 3:2,6,7 3:12,17 essay 13:15 15:3,17 15:18 59:3 establish 57:5 estate 1:5 4:24 estimate 40:13 52:2 estimates 74:9 estimating 20:6 event 10:8 13:3,13 16:4 29:10 31:21 33:11 35:2,9,17 35:20,21 36:4,5,7 40:4 46:19 72:5 events 11:8 41:19 eventually 74:22 everybody 17:7 exactly 8:1 53:20 EXAMINATION 38:2 48:24 69:1 69:20 77:11 80:22 81:22 examined 4:11 example 5:20 Excuse 22:24 75:12 excused 82:9 EXECUTRIX 1:5 exhibit 4:17 14:16 14:22 34:3 35:23 43:11 48:21 EXHIBITS 83:14 exit 28:15 expect 61:10 <hr/> F F 85:1 face 46:23 |
|---|---|---|--|--|

facing 19:16 69:5
fact 42:22
actually 43:21
fairly 27:12,13
fall 72:7
falls 12:16
false 43:9 49:12
 79:7 81:5,14
far 10:2 18:8 19:24
 25:12,14 28:4
 31:6 32:9 33:22
 50:19 51:20 53:19
 55:11,13 56:2
farther 19:8 24:24
fast 23:4 42:9
feared 72:19
feel 22:9 27:2 31:11
 31:13 50:11,17,21
 62:20 63:22 64:8
 65:18 76:12,13,22
feet 18:14 20:2,19
 20:22 21:12 22:3
 23:22 24:21 31:8
 47:7 49:19 51:8
 51:23,24,24 52:4
 53:4,7,15 54:6
 69:10,13 72:3,15
 78:18
fell 30:8 40:6
fellow's 55:6
felt 43:9 49:12,18
 51:3 56:12 57:3
 65:12
fend 74:9
fictitious 1:18,19
 1:20,21
fight 65:14
fighting 74:11
figure 33:19
filing 4:5 52:6,8
fill 80:4
finally 24:20 47:12
find 11:13
fine 5:14,19 31:15
 75:18
finger 57:21
inish 21:4 74:4
 75:17 76:20
finished 80:18

81:19
Fire 2:5 3:3
FIRM 2:5 3:3
first 4:10 19:3
 25:23 28:12 29:17
 29:24 40:6,19
 45:5,13 46:24
 54:5 55:18 56:12
 66:18 74:24
five 20:16,19,22
 21:12 23:13 25:8
 40:12 51:24 61:7
 61:12 72:15
flip 72:11,12
flipping 23:15
float 49:16 50:12
floated 46:23 49:17
 53:15 54:6 55:22
 56:11 68:9
floating 47:11
 50:13 67:3
floor 42:8
focused 63:24
follow 80:20
follow-up 49:5
 68:16
follows 4:12 9:2
foot 20:17
force 42:10,11
foregoing 85:3
form 4:7 42:20
 43:24 49:21 50:4
 75:10,20 76:1,16
 77:4,20 78:1
forth 50:15
found 11:20,20
 33:3
four 40:11,11
front 13:8 15:14
 18:24 19:19 20:1
 20:13 21:10 31:5
 39:15 59:4
funny 22:16
further 18:24 19:22
 20:1 23:11 24:2
 37:22 45:24 72:16

G

GELFAND 3:12

gentleman 39:2,4
GEORGE 1:6
getting 70:18,19
giant 33:21 34:3
give 9:11 35:13
 55:5 79:22 80:14
 80:15
gives 8:14 38:13
giving 79:4
go 5:4,21 10:23
 15:18 17:15 23:4
 23:18 24:3 25:6,9
 25:15 27:5 32:5
 32:12,16,17,20,23
 33:4 34:11,16
 40:21 45:6 48:4
 55:1 59:11 60:3
 60:19,22 61:13
 64:20 68:2,4
 73:14
going 6:6 21:7
 23:18 40:6 42:2,9
 47:4 51:22,24
 53:11,22 54:9,11
 54:12 59:6,23
 60:11,14 61:12
 69:4 70:13,16,17
 70:17,20 71:1
 76:3 80:19
good 20:6
graduated 47:14,17
Grassi 3:6,7 21:3
 21:18 48:16 49:2
 49:4,15,24 50:8
 51:1 52:17 53:6
 53:10 54:11,16,23
 55:4,8 56:4,7,10
 56:15,22 57:7,8
 59:1,18 64:14,18
 65:5,6 66:17
 67:18,20 68:15
 76:20 79:11,16
 80:19,24 81:17,20
 82:7 83:7
gravity 42:7
Great 7:2
green 34:8 35:4
Greene 3:13
ground 64:8 66:14

group 27:8
guardian 1:14
guards 27:24
guess 22:18,19
 33:22 66:21
guessing 5:8
guy 23:19 24:5,7
 53:23 54:8

H

H 83:12
hand 77:14
handwriting 8:7,8
 8:12
happen 73:13
happened 11:3
 12:10 16:4 21:24
 22:19 32:4 33:18
 34:20 41:19 45:9
 45:18 64:3 73:14
 81:2 82:1
happening 19:6
happens 77:23
happy 5:4
Harbor 2:5 3:4
Hart 16:22 17:23
 18:2 24:16 29:17
 30:8 38:12 71:15
 71:22,24 72:14,14
 72:16,18,22 73:24
 74:5
Hart's 72:19
head 41:8 64:15,19
 72:4
hear 6:21 22:12
 79:3
hearsay 77:23
held 14:11 53:2
 71:9 78:12 85:3
help 22:18,20 23:8
 23:10,12,19 25:6
 31:22,23 35:1
 45:23 62:17 68:2
 68:2 72:13
helping 23:11
Hereford 15:24
 59:9
high 47:14,15
hint 8:14

hit 51:6 53:15 68:9
Ho 7:13
Hold 20:18 52:23
 73:1
holding 66:9
hole 31:18 42:18
home 32:13,16,23
 33:1,4 38:17,19
 61:14
honestly 28:8 63:14
hospital 32:17,20
hours 41:2
House 7:14 38:14
 48:3
Hughes 3:18
hundred 23:22
 24:21
HUNKINS 3:17
 42:19 43:23 49:20
 50:3 68:20 70:4
 70:11,23 73:8,17
 75:9,16,19,24
 76:7,15,18 77:3,8
 77:13,22 78:2,9
 78:14 79:8,13,20
 79:24 80:7,12,16
 81:15,18,24 82:4
 83:8
hurry 25:10
HUSBAND 1:6

I

identification 4:18
 14:14,17,23 39:10
 40:24 48:22
identified 39:13
immediately 65:13
improper 80:8,11
improperly 76:13
incident 10:10,12
 37:4,19 38:7,15
 39:4,7
include 12:13
incorrect 71:18
 73:6
INDEX 84:1
indicated 56:16
indicating 19:12
 28:16 30:20,22

| | | | | |
|---|---|---|---|---|
| 52:7,12,22 55:16 57:19 70:22 71:6 INDIVIDUALLY 1:5 information 5:15 35:9 initially 70:2 Inlet 15:24 59:10 instruct 42:23 instruction 6:18 intent 48:4 intention 60:21 interrupt 70:5 interview 9:3 11:4 11:14 13:6 71:13 interviewed 7:18 8:15 11:2,7,22 12:19 49:9 75:2 introduced 49:3 introduction 79:9 investigated 37:18 investigator 70:1 77:16 involve 70:14 involved 10:10 38:8 involving 10:12 item 25:23,23 29:15 29:15,22 30:6,9 30:12,15 | Joe 39:2,13 52:16 55:7 75:1 JOHN 1:11,18 joking 22:11 45:5 63:4,4 Joseph 3:6 49:4 journal 13:12 July 38:7 June 10:11 11:8 13:4,13 16:8 Justice 3:18 | level 43:16 liberties 43:20 License 2:7 85:7 licensed 70:1 life 72:19 lifeguard 28:5,9,10 28:11 29:2,5 lifeguards 15:23 17:6 59:8,10 lifeless 74:6 light 69:23 80:13 80:17 lights 58:16 likened 72:5 line 27:23 84:5,20 Linwood 3:13,14 litem 1:14 litigation 4:23 little 6:20 18:7 24:17 26:21 29:12 30:3 33:7 52:6 54:18 55:9 56:6 61:8 72:16 80:20 lived 38:14 61:19 living 38:18,18 local 37:7 location 17:11 locked 5:18 long 6:6 33:10 46:3 61:10 65:20 78:6 look 8:20 13:17 29:15 57:10 70:24 looking 20:12 26:9 31:4 37:6 43:19 looks 26:10 lose 63:23 66:13 lost 39:18 65:24 66:5,6 Lou 3:22 7:19 8:11 10:7 12:6,7,8 13:20 19:11 49:8 loud 22:14 71:21 luck 48:7 | man 55:22 56:17 57:24 58:5 map 35:8 March 15:5,6,12 marching 29:4 34:14 mark 4:14 14:13,19 26:21 27:13 28:6 29:13,16 30:3,6 30:13,19,24 34:2 35:8 54:18 56:14 56:21,24 76:8,11 marked 4:17 14:16 14:22 21:1 25:17 29:12 34:7 35:4 39:10 40:23 48:21 49:7 52:10 59:4 84:19 marker 54:4 Market 3:19 markings 35:6 49:9 73:3 marks 33:11 57:2,5 57:9 MARY 1:11,18 Matteo 2:7 85:2,7 matter 85:4 McNEIL 1:23 2:5 4:9,15,21 7:6 8:17 8:23 49:3 71:15 71:22 72:4,5,8,12 72:18,18,22,24 74:8,9,12,13,17 74:22,23 83:3,14 McNeil's 72:2 75:3 78:18 McNeil-1 4:17 83:16 McNeil-1A 48:19 48:21 49:7 83:17 McNeil-2 14:16 15:14 43:12 59:5 83:18 McNeil-3 14:22 39:10 40:24 83:19 mean 23:24 26:16 29:20 37:7 41:6 42:23 60:1 67:10 67:13 81:6 | meaning 28:17 means 17:8 meant 37:8 measure 53:9 measured 20:20 21:12 53:8 memory 16:3 mention 38:23 met 77:18 metal 58:15 MICHAEL 3:12 Michele 2:7 85:2,7 mid 51:15 middle 33:21 47:16 Mike 4:21 minute 65:22 minutes 23:13,16 40:10,10,11,12 61:3,12 65:22 67:23 74:10 mischaracterizat... 79:6 mischaracterizes 79:18 mishap 30:4 mix 45:21 MK'D 83:15 mom 38:22 mom's 38:22 moment 12:8 44:15 months 8:2 motioned 15:23 59:8 mouth 65:9 move 21:6 47:4 63:7 moved 19:10 22:3 22:16 31:8,16 43:8 63:12 69:9 69:13 78:22 82:1 moving 22:22 59:19 |
| J JAMES 3:12 Jamilah 16:17 18:5 19:19,24 21:10 22:18,20 23:11,12 23:17,20 29:17 30:7 32:13,18 33:3 38:12 44:21 44:23 45:20,22 58:9 60:9 61:18 61:19 62:2,23 66:1,9,13,19 71:23 74:14 Jamilah's 66:3 JB 55:9 Jersey 1:1,10,17 3:14,17,20 grassi@capeleg... 3:9 | K kids 55:12,15 56:16 61:1 kind 25:1 45:21 47:4,12 67:14 78:6 knew 17:6 72:18 know 5:11,12 6:8 9:20,23 10:2 13:3 13:7 23:1 28:7,8 31:19,20 33:17 34:4 35:11 37:16 37:18 39:4,8 42:1 42:11 45:15 46:18 47:6,8 51:22 55:12 63:5 75:6 75:22 | L L 3:21 land 50:20 51:18 56:12 74:8,23,23 Lane 38:13,21 late 1:6 79:10 laughing 22:15 law 1:2 2:5 3:3,18 80:15 lawyers 6:22 46:5 75:6 leave 17:11 75:14 Leaving 29:1 left 21:14 22:5 24:16 26:8 31:9 59:10 69:10,14 74:9 76:23 length 21:22 let's 12:7 27:5 41:24 48:18 54:3 | M ma'am 13:18 15:15 41:10 magic 81:10 male 39:12 | N N 3:1,21 83:1 85:1 name 4:21 16:15 39:2 55:6 76:23 names 1:18,19,20 1:21 |

navigational 74:19
near 28:9 32:7 42:1
nearby 72:14
need 5:23 6:7 7:3
 34:2 75:6
never 9:16 10:2
 38:5 80:12,17
New 1:1,10,17 3:13
 3:14,17,20
news 37:5,7,9
newspaper 35:18
 36:10,14,16,20,23
 36:24 37:11
NJ 2:6,22 3:4,8,19
Nope 62:21
normal 31:16
north 1:9,16 3:15
 4:22,24 10:11
 12:13 13:21 28:23
 29:4,19 30:9
 34:15 38:6 39:14
 39:20 40:17,20
northerly 17:12
nose 67:13
note 73:17
notes 85:4
notice 38:10
number 2:7 7:16
 25:23,24 27:6,6
 29:15,16,23 30:6
 30:9,13,15 38:11
 57:12 83:15 85:7

O

O 3:21 85:1
object 20:8 42:22
 43:23 49:22 50:5
 70:17 73:9 75:9
 75:19,24 76:15
 77:3 79:13 80:2
objection 6:21
 42:19,21 43:1
 44:8,18 49:13,20
 50:3,22 64:17
 66:15 73:18 75:11
 75:13 76:4 77:19
 77:24 79:5,17
 81:7
objections 4:6

79:15
objects 6:17
occasion 41:21
occurred 10:8
 29:10 30:4 31:21
 35:9 72:18,22
ocean 41:4 72:17
 72:21
office 47:22,24
Officer 39:1
Oh 10:21
okay 5:5,9 6:3,10
 6:19,19,24 9:22
 10:6,15,18 11:2
 11:11 13:19 16:15
 18:23 19:6,13
 20:9 27:5 28:9
 29:19,22 30:6,12
 31:21 34:2 38:10
 38:23 39:9 40:2
 40:13,23 43:11
 44:3 46:2,16,17
 47:14 48:9 50:16
 50:19 51:2,9,16
 51:20 53:17 54:2
 55:21 57:15 58:19
 60:16 61:15 62:19
 63:18 65:11,16,23
 66:11 69:17 70:9
 71:19,20 72:12
 73:16 74:2 76:2
 77:6 79:2 81:16
old 12:22 16:18,24
 17:3 24:13 25:7
 61:8
oldest 61:7
Oliver 3:7 79:11
once 45:2 47:12
 53:12,20 61:13
 72:7,23 73:23
 74:23
ones 24:17 33:8
opens 72:6
Oral 2:4
order 57:24
orientate 33:16
orienting 21:4
orifice 62:12
outline 34:8

outside 55:19 56:18

P

P 3:1,1,21
P.C 3:7,12
p.m 2:6 15:22 17:7
 27:10 41:2 59:7
 82:13
PA 2:20
Pacific 3:8
page 8:21,24 9:5
 25:21 27:7 71:2
 83:4 84:5,10,16
 84:20
pages 8:20 9:5
parenthesis 39:12
 39:13
parents 32:7,22
Parliament 2:22
part 51:6 70:12
 71:12 78:7
partially 17:19
parties 4:4
PARTNERSHIPS
 1:11,20
passed 39:14
patch 33:24
patrol 39:14,20
 40:7
PAUL 3:2
Paul@damatola...
 3:4
pause 6:22 55:24
pen 54:3 55:18
pending 73:10
people 31:23 32:11
 40:1 41:13
person 74:24 75:1
personnel 74:6
Philadelphia 2:20
phone 7:16 13:17
 24:5
photograph 9:6,8
 21:1,2 25:18 27:8
 27:18 28:7 33:12
 33:17 34:20 35:8
 49:7
physical 65:24 66:5
 66:8

place 11:4,8 27:14
 40:3 41:14
Plaintiff 1:7,15 3:5
 3:9
playing 63:8
please 5:3,6 68:13
 74:3,21
point 10:24 22:1
 24:22 32:7 34:19
 34:24 44:13 45:23
 49:17,18 50:16,17
 50:21 51:17 52:1
 52:1 53:15,16
 58:4 60:12 62:19
 64:9,16 65:2,17
 67:3,16,17,18,21
 68:7 74:11,13,17
police 12:13,14
 13:21 31:23 38:6
 38:23 39:1,3
 40:23
pool 42:1,2
pools 41:22
portion 8:19 9:9
 81:3
PRECISION 2:19
presently 7:12
preserving 43:1
Press 37:1
presume 17:5
pretty 25:12
print 13:23
private 52:10 70:1
probably 22:3 40:9
 45:2 52:5 70:7
problem 70:19,24
 73:12
procedure 80:2,8
 80:11
proceed 73:9,15
proceedings 85:3
PRODUCTION
 84:8
prolong 70:12
protection 29:5
provided 15:2
PUBLIC 3:18
pull 63:13,19
pulled 32:9,13

63:14,18,20 74:6
pulling 46:15 72:10
purported 9:2
purpose 43:15
pushed 64:5,5
pushing 46:15
put 27:19 30:13
 33:11 34:19 35:22
 55:9 56:1,11,14
 56:24 61:2 65:9
 73:3,10 75:14
 76:3

Q

question 4:7 5:2,6
 5:22 6:19 31:1
 39:19 43:2 44:19
 45:9 70:6,13
 73:10 76:8,11
 77:9,20 78:1
 79:21 81:1
QUESTIONED
 83:4
questions 5:1 6:13
 10:16,19 35:15
 37:24 46:6 48:15
 49:5 59:2 68:16
 68:21 71:5 84:19
quote 39:11,18
 41:1,5
quotes 71:15

R

R 3:1,2,21 7:6,8
 8:23 85:1
R-E-N-E-E 7:11
R.J 3:18
ran 25:1 59:20
 74:23
reach 47:12
read 16:1 26:1
 35:17 36:10,19,22
 38:5 39:11 59:6
 71:16,21 73:4,22
 74:16 75:4,5
 76:19 78:3
realize 40:2,3
realized 66:19
really 12:4 25:10
 45:21 63:4 66:3

| | | | | |
|--|---|--|--|---|
| 67:14 reason 5:3 6:8 8:3 73:11 75:5 recall 19:6 55:9 received 41:3 recollection 40:5 50:10 record 14:8,11 20:19 53:2 57:4 71:9 73:3,11 75:4 75:15 78:9,12 80:1 recorded 76:13 red 54:4,14,16 56:6 57:22 58:16 74:12 74:18 refer 39:2 reference 41:5 referring 36:4 59:12 62:12 reflect 20:19 regarding 71:13 related 45:13 relative 38:7 remember 5:13,13 7:18 12:19 32:10 33:6 36:21,23 39:19 47:10 55:11 56:23 57:1 remembers 74:12 74:13,14,17 Renee 7:9,10 repeat 27:16 repeatedly 45:4 rephrase 5:4 34:22 50:24 report 8:19 9:3 13:6,22 38:6,24 39:9 40:23 41:3 69:24 71:13 78:8 reporter 37:11 85:12 reporters 6:4 REPORTING 2:19 represent 4:22 27:18 57:11 representing 3:5,9 3:15,20 represents 57:17 | reproduction 85:11 request 34:6 55:3 84:8 rescue 31:23 40:1,7 74:6 reserved 4:8 reside 7:12 residence 38:20 respective 4:3 responds 62:3 response 45:9 76:3 resurface 72:13 reverse 72:12 rides 42:6 right 7:1 10:1 11:6 12:22 17:2,12 18:10 19:10,15 20:10 21:15,16,17 21:24 23:7 25:15 26:19,22 27:3,24 28:14,18 30:14,16 31:4,6 32:10,11 33:7,8 40:16 41:18,24 42:5 45:8 47:19 48:13 52:19 55:24 56:7 57:7 62:15,17 69:6,9 71:6 74:21 78:4,5,24 82:4 Road 2:5 3:3,13 7:13 room 70:2,8 75:14 round 20:17 RPR 2:7 85:2,7 rules 80:10 run 25:1 rush 46:12 S S 3:1,21,21 83:12 S-T-R-U-B-E 39:1 safe 5:18 SAFETY 3:18 sample 43:12,16,21 sand 18:13,14 24:17 26:17 46:22 47:9 53:16 72:2 78:17 Sandra 1:4,15 3:5 | sat 24:23 save 62:4 saw 9:16 23:19 24:4,7 45:15,18 46:1 53:12 57:21 58:5,11 66:3,24 74:24 saying 6:17 15:21 41:16 44:13 61:21 63:1 68:1,3 says 8:16,21,23 13:20 27:6 29:16 38:11 41:1 59:7 59:19 61:1 62:9 71:14 78:17 school 47:15,15 screaming 25:3 sealing 4:4 second 28:15 40:24 49:11 77:15 78:17 81:11 seconds 45:2 72:20 see 8:4,24 14:3 15:5 19:13 20:24 23:13 23:17,20 25:17,18 25:24 30:10 39:24 44:3,6,16 45:13 45:17 46:3 51:16 52:3 53:19 56:1 58:6,8 62:22 63:22 65:23 66:4 66:13 67:14,15 78:18 80:13,17 81:1 seeing 39:20 seen 9:7,10,20,21 10:3 39:6 56:2 74:5 seeping 62:11 sense 31:12 40:8 43:10 64:22 sent 15:6 sentence 39:11 41:1 71:17 73:7,22 74:3 76:18,24 78:17 sentences 71:18 73:4 76:19 78:4 separated 46:8,11 | 65:15 set 12:7 27:8,14 29:18 shakes 41:8 shared 75:7,23 Shayne 16:20,21,22 17:23 18:2,10 19:10 21:14 22:2 22:16 23:9,13,14 29:17 30:8 31:5 32:9 38:12 44:21 45:18 58:6 59:22 60:8,24 61:17 62:6,23 63:11,12 65:14,17,21,23 66:4,6,9,23 67:1 69:5 73:20 shelves 52:10 shin 18:2 69:7,14 71:15,22 shore 15:23 17:7 24:11 59:9 74:11 shoreline 51:17 show 43:16 49:6 54:4,7 69:23 80:9 81:10 showed 53:20 shown 49:8 siblings 61:4,5 67:15 side 18:20,20,23,23 52:7 sight 39:18 66:6 signature 8:17 signing 4:4 similar 45:19 Simple 79:21 sir 65:4 71:3 sister 24:4,8 25:4 61:8 68:1 sisters 32:8 33:5 sit 39:22 41:7 sitting 70:2 situation 45:7 64:7 six 14:6 skimming 23:1 slash 70:6 small 30:24 Smith 1:4,6,14,15 | 3:5,10 4:23 36:4 solely 45:23 solid 31:15 43:8 46:22 somebody 61:22 soon 62:9 sorry 19:13 36:1 41:11 50:6 65:3 70:4 source 5:19 south 2:20 28:19,23 34:15 speak 80:1 speaking 79:14 spell 7:10 spin 42:8 spoke 65:7 spot 33:22 34:4 sprung 22:10 stand 7:8 28:5,10 28:10,11 41:20 47:9 51:9,12 standing 18:20 19:16 21:21 31:4 32:6 42:8,17 43:7 44:7,13,16 55:10 57:2 66:19,22 69:6 72:6 81:9 stands 29:2 start 47:23 48:11 71:14 started 6:14 23:24 24:22 25:11 53:22 58:5 66:22 69:4 starts 15:21 State 1:10,17 3:17 3:20 statement 13:2 21:2 35:14 75:3 80:4 statements 37:12 station 37:8 stay 61:2 67:6 stayed 22:2 33:2 stenographic 85:4 stepped 57:13 81:3 stipulated 4:2 STIPULATIONS 84:14 |
|--|---|--|--|---|

| | | | | |
|----------------------------|----------------------------|----------------------------|----------------------------|---------------------------|
| stomach 50:13 | 39:17 41:22 66:22 | 16:18,24 17:2 | two 9:5 21:21 22:3 | 29:8,18,24 30:2 |
| 'tood 51:14 53:16 | sworn 4:10 | 23:21 32:12,23 | 24:8 39:13 61:2 | 42:18 47:12 |
| 53:20 58:5 | | 33:10,10 35:2 | 65:22,22 69:6 | walking 23:3 29:4 |
| stop 5:3 6:17 7:23 | T | 38:15 40:3,5,8,19 | type 31:23 39:24 | 61:22 |
| 11:9 17:17 63:8 | T 3:7,21 83:12 85:1 | 46:14,19 49:11 | 42:7 | want 21:3 32:17,19 |
| stopped 25:13 | 85:1 | 55:18 62:23 66:18 | typewritten 9:4,9 | 39:10 41:20,20 |
| story 41:14 | table 20:5,17 | 72:11 | 10:3,6 | 44:2 45:12,14 |
| straight 9:19 | take 6:7,9 17:20 | today 38:5 39:22 | | 47:8 49:6 54:4,7 |
| strange 72:8,9 | 18:12 43:19 46:3 | 41:7 78:21 79:2 | U | 56:21,24 59:2 |
| Street 2:20 3:19 | 60:4 | 79:21 | uh-huh 6:1 59:14 | 65:8 68:3,4 70:11 |
| strong 72:8 74:7 | taken 2:5 85:4 | told 32:12,15 39:16 | uh-uh 6:1 64:10 | 71:16,18 75:13,22 |
| Strube 39:1 | talk 44:2 | 61:1 77:17 | 68:11 | 78:6 |
| struggle 67:11 | talking 23:6 30:19 | tomorrow 47:23 | underneath 26:22 | wanted 59:11 68:22 |
| struggling 67:7,19 | 34:4 42:11 45:1 | 48:11,12 | 29:13 | 71:4 |
| 67:22,24 68:6 | 52:9,11 57:6 | top 38:11 58:17 | understand 5:7 | wasn't 25:5 31:14 |
| stuff 24:2,23 27:19 | Tally 7:13 | Totally 80:7 | 6:11 36:6 42:15 | 36:2,17 43:8 |
| subheading 8:24 | tape 53:9 | touch 72:4 | 43:11 | 45:21 47:1,2,4 |
| subject 35:2 | Tavern 48:2 | Township 2:5 3:4 | understood 50:10 | 55:11 81:11,12 |
| submitting 43:15 | television 37:8 | 47:16 | underwater 46:13 | water 17:8,16,21 |
| sudden 42:15 | tell 5:11 22:19 | tragic 46:19 | 64:20 65:10,11,12 | 17:24 18:1,2,3,6,8 |
| suddenly 45:6 72:2 | 23:18 25:5 34:3 | transcribed 85:4 | 67:14 | 18:13 19:1,17,22 |
| 72:16 78:17,23 | 41:13 51:23 73:6 | transcript 19:14 | use 54:10,14,16 | 20:1 22:7 23:4,15 |
| suggest 54:21 | testified 4:11 | 85:3,11 | 79:3,22 80:8 | 23:23 24:1,16 |
| suggesting 79:3 | testimony 79:7 | transport 41:1 | usually 40:21 | 25:1,3,11 26:14 |
| uit 66:3 | Thank 74:2 80:18 | trap 72:6 81:13 | V | 26:18 27:15,20 |
| Suite 2:5,20 3:3,13 | Thanks 56:19 | trapped 47:5 | vehicles 39:14,20 | 28:22 29:8,18,24 |
| summarize 77:17 | 68:20 | traumatic 40:4 | verbally 5:23 41:10 | 30:8 31:5,19 |
| SUPERIOR 1:1 | thigh 51:15 | treaded 62:9 | 58:23 59:16 64:12 | 32:10,14 33:22,24 |
| supervision 85:12 | thing 6:2,16 29:20 | Trenton 3:19 | 68:12 | 34:4,12 36:16 |
| SUPPORT 84:1 | 34:16 35:4 40:9 | trial 4:8 80:17 | version 13:7 | 39:17,21,22,23 |
| sure 7:24 8:1 11:10 | 42:7 51:24 68:23 | trick 9:18 | vet 47:22,24 | 40:6 42:3,16 44:3 |
| 11:19 25:16 34:23 | things 5:21 6:11 | tried 22:18,20 47:3 | vicinity 58:2 | 44:12,16,17 45:10 |
| 37:10 56:4,18 | 25:16 34:20 58:15 | 72:4 | victims 38:11 | 45:14,16 46:7,13 |
| 70:10,15 71:1 | think 5:15 6:6 8:9 | trouble 19:4 | voice 76:8,12 | 46:21,24 47:6 |
| surf 15:24 59:9,21 | 9:13 15:5 21:6 | true 17:18,21,24 | vs 1:8,16 | 49:10 51:4 54:5 |
| 59:23 60:1,11,18 | 25:14 26:23 28:13 | 33:12,14 74:7 | | 54:12,17 57:9 |
| surf 60:16 | 37:1 40:9 56:5 | 85:3 | W | 58:16 59:20 60:22 |
| surfing 60:5,9 | 57:17 58:11 | try 6:5 51:9 68:2 | waist 18:5 60:20,22 | 61:11,22 62:10,11 |
| swallowing 67:9,12 | thinking 50:9 | 80:3 | 60:23 71:23 | 66:20 67:6,6,10 |
| swept 74:8 | thought 22:11,16 | trying 9:18 20:24 | wait 6:18 23:20 | 67:12,12 69:5,7 |
| swim 23:10 46:18 | 25:4 36:3,20 45:5 | 23:8,10,12,18 | waived 4:5 | 69:14 71:16,23,24 |
| 47:1 60:24 61:23 | 58:10,15 63:3,3,4 | 25:5,10 42:14 | walk 17:11 18:9 | 72:3,7,23 74:7,10 |
| 71:24 72:19 73:1 | 73:13 | 45:19,20,22 47:1 | 22:24 28:12 33:23 | water's 18:21 |
| 73:24 | three 17:5 20:2 | 63:13,19,24 66:23 | 34:10 42:2 53:13 | Watkins 16:17 |
| swimmer 72:1 | 24:15 29:23 39:16 | 66:24 | 54:8 55:21 57:24 | 17:21 18:5,24 |
| swimmers 15:23 | 41:3 47:21 51:24 | turn 8:3 52:17 60:2 | 58:1,6 | 19:3,7,19,24 |
| 39:16 41:3 59:8 | 57:2,5,9 72:1,15 | turned 12:24 75:1 | walked 17:14,21,23 | 21:10 23:6 24:15 |
| 59:11,20 62:10 | 72:23 73:23 | twister 46:13,14 | 18:12 26:18,19 | 29:17 30:7 31:5 |
| swimming 36:17 | time 4:8 5:2 6:7 | 65:10,11,12 | 27:20 28:22,22 | 38:12 71:23,24 |

| | | | |
|--|---|--|--|
| 72:13,15,20,24 73:24 74:8,18 Watkins' 76:23 waves 47:6 51:17 60:2 way 2:22 5:22 9:19 22:8 25:9 58:6,13 58:13,13,14,14,17 61:14 64:2 72:3 78:18,19 79:4,8 79:22 Wayne 38:13,21 we'll 5:21 6:9,20 52:3 54:14,16 74:4 we're 6:6 20:5 23:9 42:24 53:6 70:18 70:18 82:7 we've 15:2 54:4 Wednesday 2:6 went 22:7 24:3,16 26:13,23 27:14 31:9,11 32:23 33:1 47:6 49:10 69:11,15 weren't 11:18 33:22 West 2:22 whatsoever 40:5 whirlpool 65:8 whistled 27:24 28:3 28:21 whistles 15:22 59:7 whistling 17:6 white 74:13,19 Wildwood 1:9,16 3:8,15 4:22,24 10:11 12:14 13:21 29:19 30:9 38:6 39:14,20 40:17,20 witness 9:13 11:12 11:17 12:18 13:24 20:21 30:21 34:6 41:8,11 43:3 44:10,20 50:7,23 52:19 54:19 55:2 55:2 56:20 58:21 58:24 59:17 64:13 66:16 68:14 70:8 | 73:19 74:16 76:6 76:17,22 77:5,21 80:3 81:8 82:9 83:3 84:4 word 6:21 70:14 78:19 81:4,5 words 64:19 65:7,9 75:7,22 78:7,15 78:22 79:3,22 work 6:20 34:24 54:23 64:2 worked 47:22,22 working 47:1,2 48:9 write 13:16 26:3 43:17 writing 43:12,16,21 written 8:5 15:12 69:24 wrong 16:11 wrote 13:10 15:3,4 15:6,17 59:3 60:12 X X 29:16,19 30:6 54:19,22,23 56:6 56:11 57:12,12,22 83:1,12 X's 54:24 XYZ 1:12,21 Y yeah 11:16 13:24 14:1 20:18 22:8 22:13 26:20 32:24 33:9 40:21 48:6 51:13,19 55:23 58:21 60:17 63:21 year 15:8,9 47:17 years 10:9 17:3 33:14 61:7 yelled 72:13 young 24:10 Z zero 47:7 0 08086 2:22 | 08221 3:14 08234 2:6 3:4 08260 3:8 08625 3:19 1 1 4:15 25:23,24 27:6,6 57:10,16 1-5 1:18,19,20,21 10th 7:5 1134 2:22 12 3:13 12:24 17:2 13 12:24 13th 38:7 14 47:18 76:19 78:3 83:18,19 15 17:1 23:16 74:10 16 38:13,20 16th 15:7 17:58 41:2 19102 2:20 1996 7:5 2 2 24:14 25:24 29:15 29:16,23 30:15,16 57:10,12 2:25 2:6 200 2:5 3:3 2009 10:11 11:3,8 12:10,22 13:4,11 13:14 16:8 27:10 36:7 38:7 2014 47:20 2016 2:6 7:22 11:4 11:7 13:11 15:10 15:12 35:7 210 3:13 215 2:21 23 38:11 230 2:20 23rd 7:21 11:4,7 13:11 35:7 25 3:19 40:9 26 16:19 27 16:19 2700 3:8 2900 2:5 3:3 2nd 41:4,6,15 | 3 3 14:20 24:14 26:1 26:22 29:13 30:6 30:9,13,16 31:1 57:10,13,15 30 10:11 13:4,13 16:8 40:10 45:2 53:4,7 302 2:20 30th 11:8 30X100171200 2:7 85:7 31 2:6 38 83:6 4 4 83:5,16 84:17 4/27/2016 75:2 4:13 82:12 48 83:7,17 5 5 7:13 8:21 24:14 27:7 5:00 27:10 5:30 15:22 17:7 59:7 5:58 41:2 6 6 71:3 6/30 27:9 69 83:5,6 7 7 25:21 731-9847 2:21 77 83:8 8 8 15:12 80 83:7 81 83:8 848-4978 2:23 856 2:23 8th 15:6 9 9 11 74:24 972-9072 7:16 |
|--|---|--|--|

DiJoseph Investigations LLC



Lou DiJoseph
N.J.S.P. Intelligence Lieutenant (Retired)
P.O. Box 140, Marmora, N.J. 08223
www.dijosephinvestigations.com
Office 609-207-7058
Fax 609-601-4061
NJ License # 8633

To: Paul D'Amato Esq.
From: Lou DiJoseph / DiJoseph Investigations LLC
Re: Smith v. North Wildwood NJ
Date: May 23, 2016
Case# I082012-016

Supplemental Report

Moore's Beach / Inlet Beach drownings from 2009-2012

During a three year period from June 30, 2009 to July 27, 2012, 4 persons drowned during three separate incidents in the small concentrated area of unprotected Inlet/Moore's Beach in the City of North Wildwood NJ. The deaths all occurred in the afternoon hours and within a thirty day period during the summer months of June and July. Also similar in all three cases were the tidal currents. In all three cases, the tide was outgoing within the one to four hour period after the high tide flows to low tide as the majority of the Back Bay tributary water flows out to the Atlantic Ocean through Hereford Inlet.

This report is the result of an independent reinvestigation of the Christina Tsiotsias drowning on 7-22-2011 and the Jamilah Watkins / Shayne Hart drowning on 6-20-2009. The reinvestigation includes the review of associated police reports, medical autopsy supplemental reports, coroner supplemental reports, and witness statements.



June 30, 2009

Jamiliah Watkins, Shayne Hart, and Dominique McNeal were on the North Wildwood Beach in the area of 2nd and Surf. At approximately 5:50pm, Watkins, Hart, and McNeil ended up distressed in the waters of Hereford Inlet. McNeal managed to swim ashore, but Hart and Watkins did not and drowned.

A review of North Wildwood Police report 09-17604 authored by Officer B. Strube revealed that Strube received a report of three distressed swimmers in the ocean area of east 2nd Avenue and the beach. A witness, Joe Befurno told police that three girls in the water were having difficulty swimming. Police located Dominique McNeal 100 feet north from the protected beach walking toward the police. McNeal identified her family members in the water as Jamiliah Watkins and Shayne Hart. Later that day the bodies of Hart and Watkins were recovered. The report makes no mention of how the three ended up in the water. There is no documented interview of McNeil.

On March 9, 2016, I interviewed McCormick Kennedy of Daytona Beach Florida. Kennedy was one of the responding members of the United States Coast Guard during the search and rescue of Watkins & Hart. Kennedy is no longer a member of the United States Coast Guard as is attending college near Daytona Beach Florida. Kennedy was identified from an article of the drowning on www.philly.com on July 2, 2009. Below is a snippet from the article.

http://articles.philly.com/2009-07-02/news/25290270_1_currents-three-swimmers-lifeguards

It's our job to save lives," said Coast Guard Boatswain Mate Third Class McCormick Kennedy, who recovered the body about a mile offshore.

"When you get the scene and pull someone out of the water who is unresponsive, that's difficult. Fortunately, it doesn't happen too often. But it has happened before."

Kennedy said the victims apparently had been wading not far from the beach when the current - either a rip current or an unusually strong tidal current - dragged them into deep water.

"The beach there is a popular place," he said, "but you have to be careful. The current rushes out."

Kennedy remembers the Watkins & Hart drowning. Kennedy recalls that Watkins and Hart were "swept off the beach" and drowned. Kennedy did not know if the three were swimming. I read Kennedy his quote from the article and he recalled making the statement to a reporter.

I conducted searches for Dominique McNeil and discovered that her aunt, Wanda Watkins is residing in Jacksonville Florida. I contacted Wanda and spoke with her telephonically. Wanda confirmed that she is the aunt and or close relative of Jamilah Watkins, Shayne Hart, and Dominique McNeil.

Wanda recalled that after the drowning she personally spoke with Dominique at the Watkins funeral. Dominique told Wanda that Jamilah, Shayne, and she were NOT swimming prior to the drowning. Dominique said they were walking in water when they were suddenly swept away by what they thought was a rip tide. Dominique told Wanda they didn't swim because there were two other toddlers with them on the beach and they didn't want to stray too far from them. Dominique told Wanda that as soon she was swept into the water, she fought very hard to get back to shore because she was worried that the two other toddlers would follow them into the water and also be swept away. Dominique said the current was very strong and Jamilah and Shayne could not make it back to shore and died. The police report (09-17604) makes no mention of the toddlers and identifies the location of the incident as east 2nd Avenue and the beach.

According to Wanda, the Watkins family has wondered why news reports of the drowning stated they were all swimming because according to Dominique, they were not. Wanda also said that Jamilah Watkins was a very good swimmer. Wanda had no idea of the drowning location other than they were at the beach in North Wildwood NJ.

Interview of Joe Befurno, Watkins drowning witness.

On April 27, 2016, I traveled to 201 Surf Avenue, Apt 103 North Wildwood NJ and interviewed Joe Befurno. Joe was identified in the North Wildwood Police Department report # 09-17604 as a witness to the Watkins drowning.

On June 30, 2009, Befurno was on the North Wildwood Beach with his two grandsons. He was watching his grandchildren while they played on the beach. Befurno was close to the lifeguard stand at 2nd & Surf and within the area which is normally protected by lifeguards. On this date, the lifeguards had left for the day. While on the beach, Befurno noticed a group of small children and a few female adults/teenagers on the beach. The adults or teenagers eventually went into the water. Befurno estimates they were in water between knee and waist deep. Befurno did not see the group of people in the water swimming.

Befurno estimates the group was approximately 100 yards north from the protected beach toward Moore's Beach. At some point, a young girl (13-15 years old) approached him and said she needed help. The girl said her two relatives are out in the water and can't get back in (paraphrased). At this point Befurno looked out into the Hereford Inlet in the direction the girl was pointing and did not see anyone. Befurno then called 911 to report what the girl had told her. Befurno took his grandchildren and walked down to the area where three other toddlers were playing. Befurno's grandchildren played with the three other toddlers until a family member later came and picked them up. Befurno found out from the North Wildwood Police that the two other girls drowned.

Befurno offered to walk down onto the beach with me and point out the approximate location where he noticed the victims in the water. I, along with Joe Befurno and his wife Joan Befurno walked down onto the beach using the access at 2nd and Surf Ave. It should be noted that the tide was close to high tide on this date. Befurno pointed to a location that is in the unprotected area of Inlet beach as where he observed the group that was on the beach that day with the two victims that drowned. The area in which Befurno pointed to appeared to be approximately 200 yards north from the end of the protected beach at 2nd & Surf Avenue.

According to historical tide charts, High tide in North Wildwood would have been approximately 2:30pm on 6-30-2009. (Tide chart is for Atlantic City NJ) The drowning occurred at approximately 5:50pm which puts the victims in this case very close to the same tide that Brad Smith and Christina Tsiotsias encountered. The 2-5 hrs after the change from high tide to low tide and when the back bays empty out into the ocean.

May 23, 2016

On this date I interviewed the surviving member of the Watkins / Hart drowning at the Law Office of Paul D'Amato Esq. located at 2900 Fire Road, Egg Harbor Township NJ. The survivor, Domonique McNeil consented to this interview. McNeil's information is as follows:

Domonique R. McNeil

9 Williams Street
Rio Grande NJ 08242
05-10-1996
609-972-9072

On June 30, 2009, Domonique McNeil was 12 years old. At approximately 3:00pm, she along with her aunt Jamiliah Watkins, Cousin Shayne Hart, and siblings aged 2, 3, & 5 traveled to the City of North Wildwood to spend some time on the beach. The group brought with them boogie boards and beach chairs. Jamiliah had parked her car on the street near 2nd & Surf and they walked onto the beach and set up a short distance north of the last lifeguard stand. The area in which they set up on the beach was protected by North Wildwood Lifeguards. The group was in and out of the water until the lifeguards blew a whistle and signaled everyone out of the water for the day. McNeil believes this was around 5:00pm.

The group decided to move further north after walking on the beach. They settled on a spot which is marked by McNeil as exhibit **DM#1** which is attached to this report. McNeil was provided with an aerial photograph of Moore's/ Inlet Beach and asked to provide the following information.

1. Draw a black circle on the aerial photograph of the area in which your group set up on the beach on 6-30-09 after 5:00pm.
2. Mark with an X the area in which you, Jamiliah Watkins, and Shayne Hart first walked in the water where you set up on the beach of North Wildwood on 6-30-09 after 5:00pm.
3. Mark with an X the area in which you, Jamiliah Watkins, and Shayne Hart fell into the water on the beach of North Wildwood when the sand beneath you collapsed on 6-30-09 after 5:00pm.

McNeil said that once the group set up in the area where she marked a large black circle, she, Jamiliah Watkins, and Shayne Hart walked into the water as depicted and marked on DM#1. McNeil and Hart were in shin deep water and Jamiliah Watkins was in waist deep water. Hart could not swim and Watkins was the most accomplished swimmer of the three.

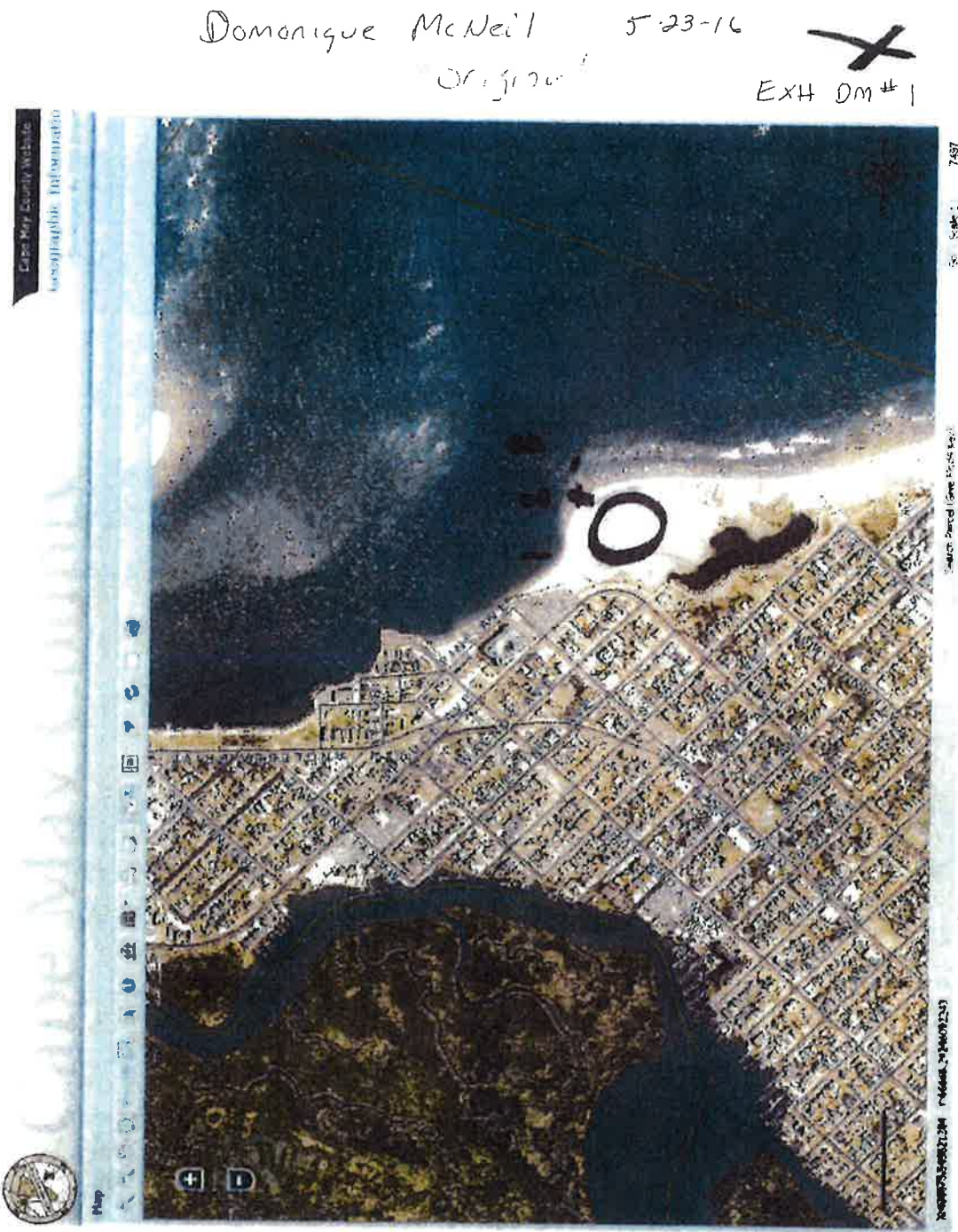
Suddenly the sand beneath McNeil's feet gave way and she was in deep water over her head. McNeil tried to touch bottom but could not. McNeil likened the event to standing on a trap door when the door opens and you fall into the dark. Once in the water, McNeil encountered a strange but strong current. She described the strange strong current as one that was pulling her downward but at the same time causing her to flip over like a reverse back flip. McNeil was able to resurface and yelled for help to Watkins and Hart who were nearby. Hart was approximately 3-5 feet away from her and Watkins was a little further. Suddenly Hart dropped and disappeared into the ocean just like what occurred to McNeil. McNeil knew that Hart couldn't swim and she feared for Hart's life. Seconds later, Watkins also dropped and disappeared into the ocean just like what occurred to Hart and McNeil.

§ Once all three were in the water, McNeil and Watkins were attempting to call out and swim to each other. Hart was not seen again until later on when rescue personnel pulled her lifeless body from the water. The strong currents swept Watkins away from land and McNeil was left to fend for herself. McNeil estimates she was in the water for over 15 minutes fighting to get back to shore. At one point, McNeil remembers being very close to a red and white navigational buoy. Mc Neil was eventually able to make it back to land. Once on land, McNeil ran to the first person she saw and asked him to call 911. That person turned out to be Joe Befurno who was interviewed on 04-27-2016 and corroborated McNeil's statement.

As rescue personnel arrived at the scene, McNeil called her father and told him that Jamiliah and Shayne had drowned. McNeil's father drove to the North Wildwood beach and transported Domonique and the three toddlers' home. Domonique refused medical treatment and was not interviewed by anyone regarding the drowning.

I provided Domonique McNeil a copy of a North Wildwood Police Report #09-17604 for her review. Domonique agreed with the details of the report with the exception of the notion that all three were swimming. According to Domonique, she, Jamiliah, and Shayne were walking in shin to waist deep water when they dropped into the Ocean. Domonique also disputes that

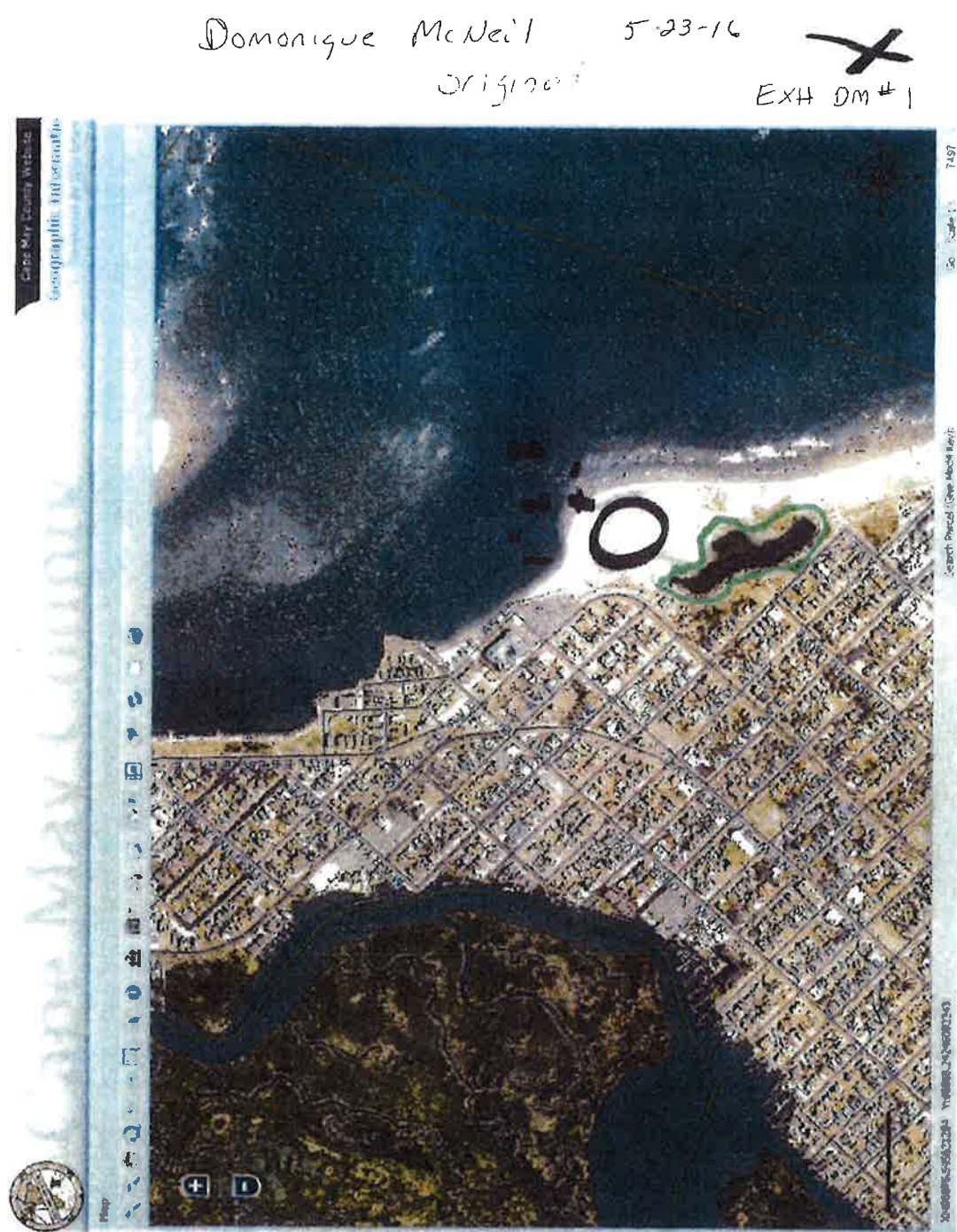
she was interviewed by North Wildwood Police Officer Rehrig. Domonique does not recall being interviewed by anyone after the drowning accident.



Lou DiJoseph

DiJoseph Investigations LLC

she was interviewed by North Wildwood Police Officer Rehrig. Domonique does not recall being interviewed by anyone after the drowning accident.



Lou DiJoseph

DiJoseph Investigations LLC



Paul R. D'Amato

From: Dom Mcneil <dommy.mcneil@gmail.com>
Sent: Wednesday, August 31, 2016 2:40 PM
To: Paul R. D'Amato
Subject: Entry essay 63009

The whistles blew just before 5:30pm as lifeguards motioned swimmers to come to shore at Surf Avenue beach along Hereford Inlet. After the life the guards left for the day, a few swimmers wanted to go back in for just one last dip. Little did they know for two of them it would be their last; literally. Before moving their beach equipment the swimmers ran off into the water to "body surf". They told the kids that were with them to stay put for two minutes. They were going to leave right after they were finished, but plans don't always turn out as scheduled. Approaching the water, one asks, "How well can ya'll swim?" One responds, "Enough to save myself" and the other responds "not at all", followed by laughter. The laughter ended abruptly. Soon after, they treaded into the water; one of the swimmers began to drown; flailing their arms while the water is seeping into every orifice in their body. Gasping for breath and still trying to save their life they call out "help me I am drowning". Meanwhile, the other two swimmers thought she was just kidding and continued to swim and to ignore it... until they began to drown too. Nothing was funny anymore they were all going to die if they didn't come up with a plan. Quickly! The swimmer who was drowning first remembered what her mother told her, FLOAT! She tried everything in her will to get out of that water. Once the currents stopped ripping her apart she freed herself from the pit of water and got to shore. Once on the land she called out to her fellow swimmers, they were still responsive. Shortly after she screams "I'm going for help and I love you" Sadly she only got one "I love you" in return. She drops to her knees once reaching the kids who we left ashore. They almost drowned as well since they didn't stay put as told. About two minutes goes by and she calls the police. They arrive within 1 minute and began the search for the bodies. The first one pulled from the water was fifteen year old Shayne Hart from Connecticut who died on vacation while visiting family. An hour goes by and stills no sign of twenty-seven year old Jamilah Watkins. Thirty minutes after she was found. Water logged and limped. No sign of life in her body. Wondering who the survivor is? Thirteen year old Domonique McNeil saved her five, three, and two year old siblings. Imagine being thirteen and losing your best friends. Imagine almost dying doing something so harmless such as swimming. Imagine thinking you're the reason why they died. For me, its reality! For me, it gives me strength to go on and complete the things they didn't get to do. For me, this experience changed my entire outlook on life. How? Life is short. Life is precious. Life needs to be lived to the fullest. You need to live life like it's the last day and no matter what be successful. You never know what day will be your day to leave this earth; you have to leave behind a legacy, just as they did for me. This experience led me to want to pursue a career as a Funeral Director and Mortician. Almost dying opens your eyes to something that words cannot explain ...



Smith v. North Wildwood

SENT TO PROSECUTOR
7-14-
CONFIDENTIAL JUV-111

09-372
Henry

North Wildwood Police Department

| | | | | | | | | | | | |
|--|--|----------------------------|--|---|--|---|--|---|--|---|--|
| 1. Complaint No. 09-17604 | | 2. Mun Code 0507 | | 3. Phone No. (609)522-2411 | | 4. UCR | | 21. Prosecutor's Case # 4502 | | 22. Department Case Number 09-17604 | |
| 5. Crime/Incident Drowning | | | | 6. NJS | | 23. Victim(s) Shayne Hart Jamilah Watkins | | | | 24. Age 15 28 | |
| | | | | | | S.S.# | | | | 25. Sex F F | |
| | | | | | | | | | | 26. Race B B | |
| Date And Time | | 7. Between | | 8. Hour | | 9. Day | | 10. Mo. | | 11. Date | |
| | | At X | | 1758 hrs | | 3 | | 6 | | 30 | |
| | | | | | | | | | | 12. Yr 2009 | |
| 27. Victim(s) Home Address 16 Wayne Ln Cape May Court House, NJ 08210 (local address) | | | | | | Telephone | | | | | |
| 13. Crime/Incident Location E 2nd Av & the beach | | | | | | 28. Employer | | | | | |
| | | | | | | Telephone | | | | | |
| 14. Municipality North Wildwood | | | | 15. County Cape May | | | | 16. Code 0507 | | | |
| 29. Person Reporting Crime/Incident Joe Befumo | | | | 30. Date and Time 6/30/09 1758hrs | | | | | | | |
| 17. Type of Premise Open Country | | | | 18. Code 20 | | | | 19. Weapons-Tools Other Action | | | |
| | | | | 20. Code 56 | | | | 31. Address 2 Mockingbird Ln Hackettstown, NJ 07846 | | | |
| | | | | | | | | Telephone 973-534-9970 | | | |
| 32. Modus Operandi: Subjects were swimming in ocean without lifeguard presence, became distressed resulting in their drowning. | | | | | | | | | | | |
| 33. Vehicle N/A | | 34. Year | | 35. Make | | 36. Body Type | | 37. Color | | 38. Registration No. & State | |
| | | | | | | | | | | 39. Serial Number/V.I.N. | |
| Value Stolen Property | | 40. Currency | | 41. Jewelry | | 42. Furs | | 43. Clothing | | 44. Auto | |
| | | | | | | | | | | 45. Misc. | |
| 46. Tot Value Stolen | | 47. Tot Value Recov. | | 48. Teletype Alarm | | 49. Tech Services | | 50. Technician-Agency | | | |
| 51. Weather Clear | | 52. | | 53. | | 54. | | 55. | | 56. | |
| 57. | | 58. | | 59. | | 60. | | 61. | | 62. | |
| List Accused-List and Identify Additional Victims-Describe Perpetrators or Suspects-Action Taken Include Findings and Observation of Investigator-Physical Evidence Found-Where By Whom-Disposition and Technical Services Performed-Interview of Victims-Witness-Persons Contacted-Accused Suspects-List-Describe Stolen Property-Value-Court Action-Attach Statement. | | | | | | | | | | | |
| 63. No. of Accused | | 64. Adult | | 65. Juvenile | | 66. Status Crime Active | | 67. Status Case Investigation | | 68. UCR Status Month Year | |
| | | | | | | | | | | 69. Date Cleared | |
| 70. Name | | Address | | | | | | 71. Age | | 72. Sex | |
| | | | | | | | | | | 73. Race | |
| | | | | | | | | | | 74. D.O.B. | |
| <p>At 1755hrs on June 30th 2009 I, Ofc. Barry Strube, was transporting Ofc. Rehrig from the boardwalk to Police Headquarters. During transport at 1758hrs we received a report of three distressed swimmers in the ocean in the area of E. 2nd Ave and the beach. We immediately responded with emergency lights and sirens to the area. We parked the patrol vehicle at the end of Surf & 2nd Aves and ran onto the beach. As we approached the beach area we were waved down by a white male @ 50 years of age to an area near the edge of the water. As we approached the male, (later identified as Joe Befumo), two North Wildwood Beach Patrol (NWBP) vehicles passed in front of us to the area of Mr. Befumo and were told by him that there were three swimmers in the water having difficulty swimming but he has since lost sight of them. Four members of the NWBP immediately entered the water with "floatation cans" to begin a search. Neither myself nor Ofc. Rehrig could see any persons in the water at this time with a naked-eye scan. As the lifeguards entered the water, I noticed a female, (later identified as Dominique McNeil), walking toward us from a northeasterly direction approx. 100ft up the beach. As she approached she said that her cousin, (later identified as Shayne Hart), and her aunt, (later identified as Jamilah Watkins), were still in the water. She confirmed that she was the third individual in the water as was initially reported. I immediately requested EMS and additional police personnel with binoculars and vehicles that were able to travel on the beach</p> | | | | | | | | | | | |
| 75. Name B. Strube | | | | 76. Badge # 2527 | | 77. Page # 1 of 2 | | 78. Date Report 7-13-09 | | 79. Reviewed By <i>[Signature]</i> | |

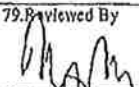


N. Wildwood/000053

Smith v. North Wildwood

North Wildwood Police Department

Continuation Page

| | | |
|--|------------------------------|--|
| 1. Complaint Number 09-17604 | 21. Prosecutor's Case Number | 22. Department Case Number |
| <p>itself. As the lifeguards continued the search of the water, I continued with the visual search while Ofc. Rehrig interviewed Ms. McNeil and other witnesses.</p> <p>At approximately 1810hrs a NWBP waverunner arrived on scene as well as Ofc. R. Champion of the North Wildwood Police Department (NWPD) with binoculars and 4-wheel drive vehicle to aid in the search. This was almost immediately followed by North Wildwood Fire Department Emergency Medical Service (NWFD-EMS) and several other members of the NWBP and NWPD.</p> <p>At approximately 1815hrs a black female, (later identified as Shayne Hart), was found approx. a hundreds yards out in the water by the waverunner patrol members of the NWBP and immediately brought her out of the water onto the beach. Myself and members of the NWFD-EMS carried the female from the waters edge and laid her on a surfboard for back support. She was unconscious and not breathing. I immediately began chest compressions while the EMS attempted to gain an airway. Due to the amount of water in her lungs, it was difficult to establish an airway as there were large amounts of water being expelled from the victims' nose and mouth with every chest compression. After three series of compressions I stopped to check the victims carotid pulse with none being detected. I resumed compressions as an Automated External Defibrillator (AED) was attached to the victims' chest. After taking a reading from the victim, the AED concluded that, "no shock was advisable, continue with compressions". The victim was placed in the bed of an NWBP pick-up truck and transported to an ambulance that was located at the end of Surf Ave at 2nd Ave. We continued CPR in the back of the vehicle until we reached the ambulance; a distance of about 300 yards from the waters edge. The victim was then transferred into the ambulance and immediately transported to Cape Regional Medical center.</p> <p>While aid was being given to Ms. Hart, the search for the 2nd victim continued. The search was joined by members of the NJ State Police Marine Unit and helicopter as well as U.S. Coast Guard vessels and helicopter, Wildwood Fire/Rescue, Stone Harbor Fire/Rescue, and Wildwood Beach Patrol and Police Officers.</p> <p>At approx. 1940hrs, the 2nd victim, (later identified as Jamillah Watkins), was found by a Coast Guard vessel. Due to the currents and water depth, she was brought to an area near 8th Ave and the beach so the boat would be able to navigate close enough to where she could be transferred to shore. Members of the NWBP transferred Ms. Watkins from the Coast Guard vessel to shore and into a NWFD ambulance. She was then transported to Cape Regional Medical Center.</p> <p>*This IR will be forwarded to detectives</p> | | |
| 75. Name B. Strube | 76. Badge Number 2527 | 77. Page # 2 of 2 |
| 78. Date of Report 7-13-09 | | 79. Reviewed By  |



6.5.3 C Conservation

A. Principal permitted uses on the land and in buildings.

- (1) Public playgrounds, public conservation areas, public parks and public open space.
- (2) Public purpose uses as defined in Article II of this Chapter.¹³²

B. Accessory uses permitted.

- (1) Those uses ordinarily associated with the principal permitted uses on the lands, including parking, where appropriate, on the dunes.

- (2) Tennis courts and other usual recreational facilities.

C. Maximum building height. No building height shall exceed 35' in height and 2½ stories except as provided in §276-47 of this Chapter.

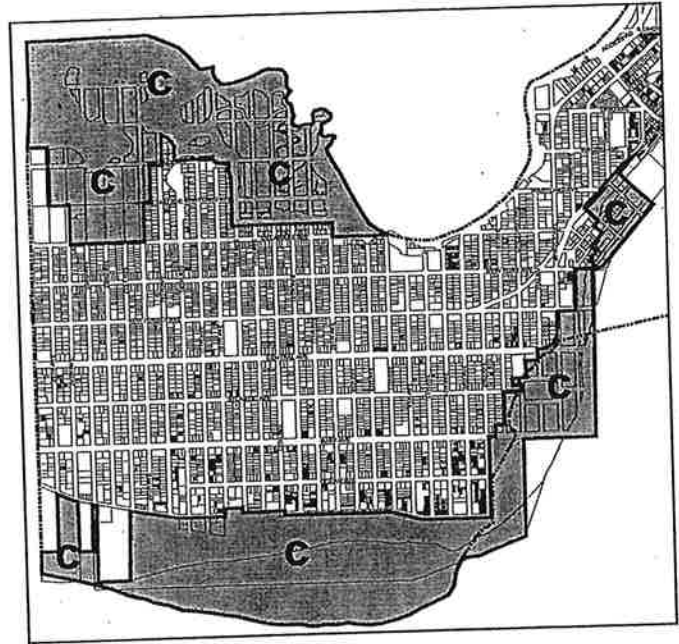
D. General requirements. All uses and activities must comply with appropriate state and federal regulations, specifically, the state aid agreement between the City and the state (May 22, 1973), under the Shore Protection Program, and the New Jersey State Division of Coastal Resources (N.J.A.C. 7:7E-1.1 et seq.).

E. Recommendations

(1) At Publication:

- a. The City's Land Use Plan contained a single, Conservation Zone applicable to environmentally-sensitive lands in the Beach, Inlet and Bay. Permitted Principal Uses in this Zoning District are limited to appropriate public uses and open space.

While the City recognizes the need to protect its natural resources, opportunities exist in certain portions of the Conservation Zone to expand permitted uses to include environmentally-related recreation and eco-tourism activities.



¹³² "The use of land or buildings by the governing body of the City or any officially created authority or agency thereof."



- b. Accessory Uses in the Conservation Zone include "uses ordinarily associated with the principal permitted uses", "tennis courts and other usual recreational facilities" and "parking, where appropriate, on the dunes".

Tennis Courts and other usual recreation facilities are more appropriately classified as Principal Uses in a Conservation Zone.

The concept of parking on the dunes is in conflict with NJDEP regulations regarding Dunes and their preservation.

- c. While regulations for the Conservation Zone specify a maximum building height, no other bulk regulations are included.

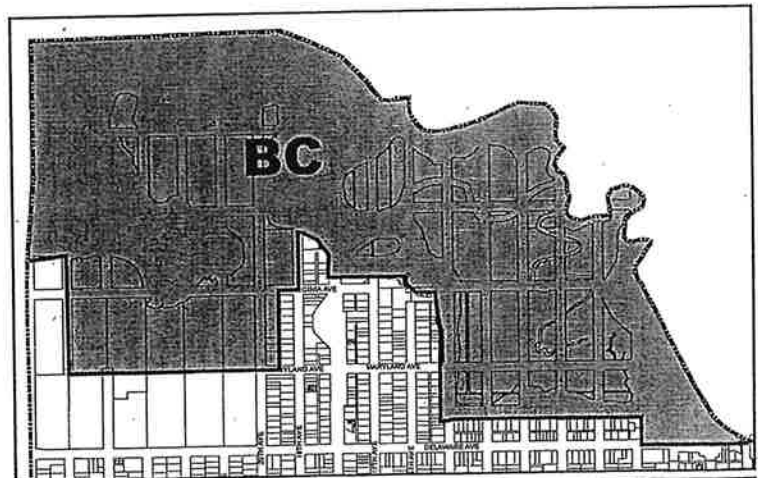
- (2) A growing trend in the Tourism Industry is the concept of Ecological Tourism.¹³³ This trend recognizes the many benefits that the natural environment has to offer and attempts to capitalize on them.

Situated on a barrier island between the Atlantic Ocean and the bay area known as Grassy Sound, North Wildwood is uniquely suited to take advantage of its varied marine habitat. While primarily a seasonal / shoulder month activity, more hearty Eco-Tourists also enjoy the environment in the winter.

North Wildwood has historically been home to sport fishing, excursion and tour boat operations. The availability of waterfront land along Grassy Sound and Ottens Basin provides an excellent opportunity for an expanded water fleet. Whale / dolphin watching, bird watching, recreational fishing and other similar activities, either as commercial ventures or by private boat-owners, should be encouraged.

- (3) In light of the foregoing, it is recommended that the unitary Conservation Zone be divided into three (3) separate Zoning Districts with regulations as follows:

- a. *BC Bayside Conservation*



¹³³ "Eco-Tourism"



i. *Purpose*

Recognizing that North Wildwood is located on a barrier island in New Jersey's Coastal Zone and that its bayside shoreline is extremely environmentally sensitive, the Bayside Conservation Zone was crafted to protect this natural environment while permitting appropriate use of the City's bayside waterfront for water-dependent, tourist-related uses and facilities, including uses and facilities related to eco-tourism.

The regulations established for the Bayside Conservation Zone are those of the City of North Wildwood. While such regulations were designed to conform with CAFRA and the Coastal Zone Management Rules, they do not substitute for CAFRA, the CZM, or any other law, code, rule or regulation established by any State or Federal agency. All development within the Bayside Conservation Zone shall comply with such laws, codes, rules and regulations as applicable.

- ii. *All Structures and Uses in the Bayside Conservation Zone shall be considered Conditional Structures and Uses and shall be subject to approval by the Planning Board or Zoning Board of Adjustment, as the case may be:*
- iii. *Permitted Principal and Accessory Structures and Uses.*¹³⁴

- [a] Recreational marinas;*
- [b] Rental of personal watercraft;*
- [c] Public Parks, Playgrounds and other Open Space, whether active or passive;*
- [d] Public Conservation Areas;*
- [e] Such educational, recreational or eco-tourism structures and activities as may be permitted by relevant Governmental*

¹³⁴ Such uses may be freestanding or combined with other Permitted Uses on a lot.



2010 Comprehensive Master Plan Update
City of North Wildwood
Cape May County, New Jersey

Agencies having jurisdiction over this section of the City, including observation decks, overlooks, scenic / nature trails, environmental interpretation stations and like and similar uses, including normal and customary parking and ancillary uses;

[f] Public Utility (Central) Substations and Public Utility Cabinets; and

[g] Such environmental protection measures structures and/or activities as may be required by relevant Governmental Agencies having jurisdiction over this section of the City.

iv. Bulk Requirements for Principal and Accessory Structures:

No requirements established.

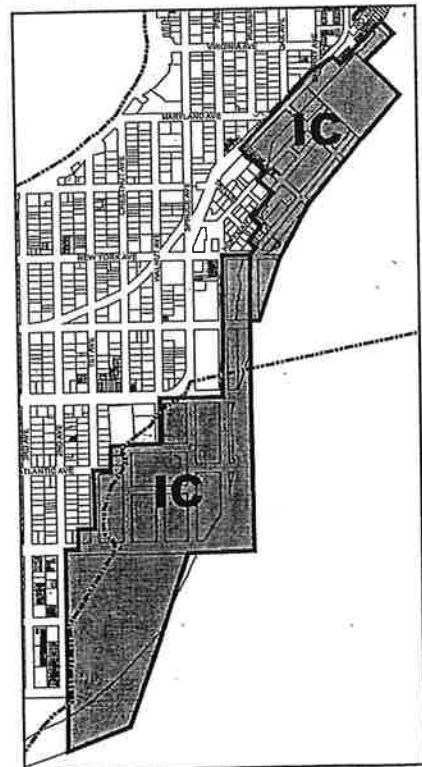
This Chapter defers specific requirements for physical development in the Bayside Conservation Zone to the various Governmental Agencies having jurisdiction over this section of the City.

b. IC Inlet Conservation

(1) Purpose

North Wildwood's Hereford Inlet is waterway connecting the Atlantic Ocean to the Bay at the Anglesea section of the City.

While officially navigable, Hereford Inlet is an ever changing tidal channel whose waters, until recently, threatened to claim the lands along the City's northern edge.¹³⁵



¹³⁵ The City has completed installation of a stone and masonry seawall along Hereford Inlet to stabilize and protect North Wildwood's northern shoreline from tidal erosion. Repairs are ongoing.



The Inlet Conservation Zone was crafted to recognize the natural environment along Hereford Inlet and to limit the land uses permitted in this area accordingly.

The regulations established for the Inlet Conservation Zone are those of the City of North Wildwood. While such regulations were designed to conform with CAFRA and the Coastal Zone Management Rules, they do not substitute for CAFRA, the CZM, or any other law, code, rule or regulation established by any State or Federal agency. All development within the Inlet Conservation Zone shall comply with such laws, codes, rules and regulations as applicable.

(2) All Structures and Uses in the Inlet Conservation Zone shall be considered Conditional Structures and Uses and shall be subject to approval by the Planning Board or Zoning Board of Adjustment, as the case may be:

(3) Permitted Principal and Accessory Structures and Uses:¹³⁶

[1] Passive Public Open Space and Public Conservation Areas;

[2] Such educational, recreational or eco-tourism structures and activities as may be permitted by relevant Governmental Agencies having jurisdiction over this section of the City, including observation decks, overlooks, scenic / nature trails, environmental interpretation stations and like and similar uses, including parking and ancillary uses normal and customary to such uses;

[3] Public Utility Cabinets; and

[4] Such environmental protection measures, structures and/or activities as may be required by relevant Governmental Agencies having jurisdiction over this section of the City.

(4) Bulk Requirements for Principal and Accessory Structures:

[1] No requirements established.

¹³⁶ Such uses may be freestanding or combined with other Permitted Uses on a lot.



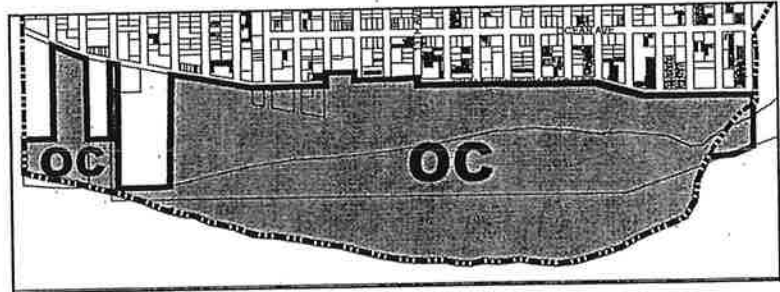
This Chapter defers specific requirements for physical development in the Inlet Conservation Zone to the various Governmental Agencies having jurisdiction over this section of the City.

c. OC
Oceanfront
Conservation

i. Purpose

*As a
seaside
resort,*

North Wildwood's economic health is inextricably tied to the Beach and Ocean. Recognizing the special nature and economic opportunities presented by these elements, the Oceanside Conservation Zone was created to allow for unique and imaginative development and uses while protecting and preserving the precious environmental resources in this area.



Regulations for the Oceanside Conservation Zone reinforce the City's policy to ensure the continued unobstructed view from the Boardwalk to the Beach and Ocean, to ensure continued use of these resources for the City's residents and visitors and to ensure the vitality of the Beach as a natural resource.

The regulations established for the Oceanside Conservation Zone are those of the City of North Wildwood. While such regulations were designed to conform with CAFRA and the Coastal Zone Management Rules, they do not substitute for CAFRA, the CZM, or any other law, code, rule or regulation established by any State or Federal agency. All development within the Oceanside Conservation Zone shall comply with such laws, codes, rules and regulations as applicable.

- ii. *All Structures and Uses in the Oceanside Conservation Zone shall be considered Conditional Structures and Uses and shall be subject to approval by the Planning Board or Zoning Board of Adjustment, as the case may be:*



iii. *Permitted Principal and Accessory Structures and Uses:*

- [a] *Public Open space and bathing beaches;*
- [b] *Such shore / environmental protection measures, structures and/or activities as may be required by relevant Governmental Agencies having jurisdiction over this section of the City;*
- [c] *Such educational, recreational or eco-tourism structures and activities as may be permitted by relevant Governmental Agencies having jurisdiction over this section of the City, including pedestrian accessways, observation decks, overlooks, scenic / nature trails, environmental interpretation stations, play stations / structures, and like and similar uses, including ancillary uses normal and customary to such uses;*
- [d] *Temporary seasonal recreation, entertainment and/or athletic activities and/or events, including temporary facilities for same;*
- [e] *Seasonal recreation and/or tourist-related concessions and other commercial activities not involving permanent structures;*
- [f] *Governmentally sponsored public safety and public use structures, uses and amenities designed to service the beach and Boardwalk;*
- [g] *Grading and maintenance of beach land in accordance with a Beach Maintenance Plan approved by the New Jersey Department of Environmental Protection and with an expressed written permit issued by the City's Commissioner of Public Works.*

iv. *Bulk Requirements for Principal and Accessory Structures:*

No requirements established. This Chapter defers specific requirements for physical development in the Oceanside Conservation Zone to the various Governmental Agencies having jurisdiction over this section of the City.



d. *General regulations for all Conservation Zones:*

- i. *All seasonal activities may remain in place during the period of May 1 through October 31, provided that any structure required for said activities does not exceed 64 s.f. in area, and further provided that no excavation, grading or filling is required for such structure.*

Equipment or facilities not meeting such standards must be removed each day at the end of the hours of operation.

- ii. *All Uses are required to remove garbage daily.*
- iii. *Hours of operation: 10:00 a.m. to 5:30 p.m., unless otherwise approved by the Planning Board or Zoning Board of Adjustment, as the case may be, during the approval process.*

Special Event Permits to allow uses to exceed such hours of operation may be issued by the City in accordance with its standard Special Event permit process. All Special Event Permits shall include specific requirements for hours of operation, length of event and daily garbage and litter collection and removal.



As a coastal community, the City is subjected to tidal flooding caused by normal astrological (moon) tides and coastal storms. Under normal astrological conditions, property damage is relatively infrequent. Property damage routinely occurs during coastal storm events, primarily northeastern (Nor-Easter) storms, which are a common event, especially during the winter and spring seasons. Depending on the severity of the storm and astrological conditions occurring at the time of the event, significant flooding occurs.

Attempts to minimize potential flood damage are addressed via the City's Land Development Ordinance, FEMA and NJDEP / CAFRA regulations, all of which regulate land use and development within the City.

The City's oceanfront is protected by a bulkhead from Hereford Inlet south to 15th Avenue, and the Anglesea Beach Colony section of the City (located in and along the Hereford Inlet), protected by a seawall. The homes in Anglesea are located very close to this seawall, and experience significant splash-over during coastal storm events.

Planning for growth in this mature resort community presents a challenge. Limited vacant parcels, growing residential and commercial demand and environmental constraints unique to North Wildwood must be balanced in order to preserve the quality-of-life City residents ~ both permanent and seasonal ~ have come to expect. An ongoing goal of the community is to maintain natural habitat and open space while providing the amenities and services required by residents and visitors.

12.2.3 Beaches

- A. North Wildwood's Beach is 1½ miles long and represents approximately 30% of the City's land area. The City's beach is a flat, low profile beach averaging 1,000' in width. While the beach has had a long history of accretion,⁴³⁵ a sustained period of erosion began in 1998. Since then, the City's beaches have witnessed severe retreat, especially along the North end. The extensive fore-dune system between 2nd Avenue and 13th Avenue has been reduced significantly, and in some places wiped out completely.

The winter of 2002 - 2003 saw more storms with more intense wave activity than any other winter on record. The less intense winter of 2003 - 2004 produced less beach damage, which was followed by better recovery and landward migration of sand to the beach. In North Wildwood, the oceanfront beach retreated an additional 152' following the 210' retreat in the 18 months between spring 2001 and fall 2002. The beach saw over 200 cubic yards of sand move to Hereford Inlet or south into Wildwood (City) since 2001.

Had such erosion occurred in any New Jersey City other than the Wildwoods', with its extremely-wide beaches, serious property damage would have resulted.

⁴³⁵ Caused by the Cape May (a.k.a. Cold Spring) Inlet jetties.



During this same period, the City has gained significant beach along Hereford Inlet ~ between 2nd Avenue and the Hereford Inlet Lighthouse at Central and 1st Avenues. The inlet beach, known locally as Moore's Beach, has lost some width but remains stable. Where the low water line was once located at the Seawall, the City now enjoys a wide beach-front along the inlet; thereby creating an intertidal environment.

Atmospheric events routinely alter the natural features of the shoreline⁴³⁶ and threaten people and property. Construction of new and reconstruction of existing development, as well as the conversion of single-family dwellings into multi-unit dwellings, continue in hazardous areas. Although application of more stringent construction standards and techniques has improved storm-resistance, the value of property at risk has appreciably increased. With sea levels anticipated to rise and storm frequency anticipated to increase in frequency and intensity, vulnerability to coastal hazards may be expected to worsen and the cost of damage and loss resulting therefrom to increase. Such events require prior planning in terms of rapid response and post-event recovery.

B. Coastal Protection

- (1) The NJDEP Bureau of Coastal Engineering has recently undertaken an oceanfront beach renourishment project for several Cape May County communities, including North Wildwood. Details regarding this \$25.5 million project may be found in sections 12.2.3 B. and 13.7.4 A. herein.
- (2) The City has a bulkhead from 2nd Avenue to approximately 17th Avenue and rock-revetment/concrete-capped seawall from the Angelsea beach colony in the northwestern portion to 2nd Avenue. Bulkheads are installed along the oceanfront and bay waters to minimize flooding and to protect land. Details regarding the Inlet Seawall project may be found in section 9.4 herein.
- (3) The City has groin structures at 2nd, Atlantic and Surf Avenues. Their purpose is to control the rate of sand transport and reduce the rate of sand lost in the Hereford Inlet section of North Wildwood.

C. Beach Recreation

In addition to coastal protection, North Wildwood's beaches, with their gentle slope and concomitant shallow surf afford the City with the opportunity to develop unique but environmentally friendly recreation and entertainment attractions on selected areas east of the Boardwalk. Such attractions include, but need not be limited to, the Indoor Waterpark anticipated for the Seaport Pier Redevelopment Area (section 6.6 herein).

⁴³⁶ beaches, dunes and wetlands



The Wildwoods beaches continue to be recognized destination for the vacationing public, a fact supported by recent honors from two of the country's most influential companies:

- A. Time.com placed the Wildwoods on its list of "50 Authentic American Experiences" for 2009. Time chose one location from each of the 50 states to be part of the list. The Wildwoods was chosen not only for being one of New Jersey's most important musical sites, but for its one-of-a-kind Boardwalk and its unique Doo-Wop ambiance.
- B. Sherman's Travel (one of the country's leading publishers of top travel deals and destination advice) named the Wildwoods Boardwalk to its list of the nation's "Top 10 American Boardwalks". Sherman's included the Boardwalk for its amusement piers, water parks, tram cars and exceptional food, and because it "offers something for everyone in the family ~ from kids to adults".

Additionally, the Wildwoods won the 2008 award as New Jersey's Best Beach from the New Jersey Marine Sciences Consortium and Richard Stockton College' Coastal Research Center.

12.3 Geology

North Wildwood City is located within the New Jersey's Coastal Plain, a seaward-dipping wedge of unconsolidated sediments that range in age from Cretaceous to Holocene. These sediments, for the most part, are classified as Continental, Coastal or Marine-type deposits. These Coastal Plain deposits thicken seaward from less than 1' at the Fall Line (north / northeast of Trenton) to more than 6,500' at the southern tip of Cape May County. The City is located at the southern tip of Cape May County, where the coastal plain has a thickness of more than one (1) mile.

12.3.1 Soils⁴³⁷

Soils in North Wildwood City consist of a variety of upland and lowland types, as well as those soils that fall somewhere in between. Uplands are characterized as well-drained soils that have a relatively deep seasonal high water table. These soils usually occupy high positions in the landscape. Lowland-type hydric soils drain poorly and are usually associated with low positions in the landscape such as stream corridors and depressions.

The following soils classifications have been mapped for the City of North Wildwood City by the United States Department of Agriculture.⁴³⁸

⁴³⁷ Exhibit 33

⁴³⁸ Soil Survey of Cape May County, New Jersey (2002)



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⁴³⁸ Soil Survey of Cape May County, New Jersey (2002)



Exhibits 26-48



State of New Jersey

Department of Environmental Protection

LAND USE REGULATION PROGRAM

PO BOX 439

TRENTON, NJ 08625-0439

(609) 292-8115 (Fax)

www.state.nj.us/dep/landuse

Richard J. Codey
Acting Governor

Bradley M. Campbell
Commissioner

mailed
8.2.05

JUL 13 2005

Steven C. Morey
Lomax Morey Consulting
P.O. Box 9
Cape May Court House, N.J. 08210

RE: Authorization for Coastal General Permit
LURP File No.: # 0507-03-0009.1 CAF 030001
CITY OF NORTH WILDWOOD
Block(s): N/A; Lot(s): N/A
North Wildwood, Cape May County

Dear Mr. Morey:

The Land Use Regulation Program has reviewed the referenced application for a General Permit authorization pursuant to the requirements of the Coastal Permit Program Rules at N.J.A.C. 7:7-7 and in accordance with the Coastal Area Facility Review Act (N.J.S.A. 13:19 et seq.) and/or the Waterfront Development Law (N.J.S.A. 12:5-3).

This permit authorizes beach and dune maintenance activities conducted in accordance with Best Management Practices as found in the Rules on Coastal Zone Management at N.J.A.C. 7:7E-3A. The names, title, address and telephone number of the person(s) responsible for supervising the proposed activities to ensure compliance with N.J.A.C. 7:7E-3A.1, 3A.2 and 3A.3 are:

City of North Wildwood
Department of Public Works
P.O. Box 499
901 Atlantic Ave.
North Wildwood, NJ 08260
Tim O'Leary, Superintendent
(609) 522-4646 Phone
(609) 522-1141 FAX

Van Note-Harvey Associates
211 North Main Street, Suite 203
Cape May Court House, NJ 083210
Ralph Petrella, Jr., P.E. & L.S.

6. No raking may occur within vegetated areas of the beach.
7. In areas documented by the Department as habitat for threatened or endangered beach nesting shorebirds, no raking of the beach may occur between April 1 and August 15.
8. The proposed activities MUST be conducted in accordance with Best Management Practices as defined by the Department in the Rules on Coastal Zone Management, N.J.A.C. 7:7E-3A (copy enclosed). Activities other than those outlined in this Subchapter (3A) shall require additional authorization from the Program. Failure to receive such additional authorization prior to activities may warrant enforcement action by the Bureau of Coastal and Land Use Enforcement.
9. Sand transfers to or from wetland areas that may exist on a beach are NOT authorized by this permit.
10. Records of all sand transfer activities shall be maintained by the township, and shall be available for inspection by the Department, upon request. These records shall include, but not be limited to, dates of transfer, borrow area limits, fill area limits, estimates of amount of sand transferred, the name of the person supervising the transfer activities, and the engineering certification required (if appropriate) for all sand transfer activities.
11. Bulldozing, excavation, grading, vegetation removal or clearing and relocation of existing dunes whether existing or constructed in conjunction with this permit are NOT authorized under this general permit.

Standard Permit Conditions

The following standard conditions shall apply to all General Coastal Permits:

1. This permit is NOT VALID until the permit acceptance form has been signed by the applicant, accepting and agreeing to adhere to all permit conditions, and returned to the appropriate regional office within the Land Use Regulation Program.
2. This permit, including all conditions listed herein, shall be recorded in the office of the County Clerk (the Registrar of Deeds and Mortgages if applicable) in the county or counties wherein the lands included in the permit are located within ten (10) days after receipt of the permit by the applicant. A copy of the recorded permit shall be forwarded to the Land Use Regulation Program immediately thereafter.
3. The permittee shall notify, in writing, the NJDEP, Bureau of Coastal and Land Use Enforcement at 1510 Hooper Avenue, Toms River, NJ 08753, three working days prior to the commencement of construction on the site or site preparation.

4. The issuance of this permit shall in no way expose the Department to liability for the sufficiency or correctness of the design of any construction or structures. Neither the State nor the Department shall be liable for any loss of life or property which may occur by virtue of the activity or development resulting from any permit.
5. The permittee shall allow the authorized representatives of the Department free access to the site at all time when construction activity is taking place, and at other times upon notice to the permittee.
6. The activities shown by plans and/or other engineering data, which are this day approved, shall be constructed and/or executed in conformity with such plans and/or engineering data and conditions herein. No change in plans or specifications upon which this permit is issued shall be made except with the prior written permission of the Department, in accordance with N.J.A.C. 7:7-4.10.
7. A copy of this permit and approved plans shall be kept at the construction site and shall be exhibited upon request to any person.
8. The permittee shall immediately inform the Department of any unanticipated adverse effects on the environment not described in the application or in the conditions of this permit. The Department may, upon discovery of such anticipated adverse effects, and upon the failure of the permittee to submit a report thereon, notify the permittee of its intent to suspend the permit, pursuant to N.J.A.C. 7:7-4.11.
9. This permit does not waive the obtaining of any local, State or Federal permits which may be required. This permit is not valid and no work shall be undertaken until such time as all other required approvals and permits have been obtained.
10. All fill and other earth work on the lands encompassed within this permit authorization shall be stabilized in accordance with "Standards for Soil Erosion and Sediment Control in New Jersey," (obtainable from local Soil Conservation District Offices) promulgated by the New Jersey State Soil Conservation Committee, pursuant to the soil Erosion and Sediment Control Act of 1975, N.J.S.A. 4:24-42 et. seq. and N.J.A.C. 2:90-1.3 through 1.14. These standards are hereby incorporated by reference.


Duration of Authorization/Notification of Work

This authorization for a General Permit is valid for a term not to exceed five years from the date of receipt from the Department. If the term of this authorization exceeds the expiration date of the general permit issued by rule, and the permit upon which the authorization is based is modified by rule to include more stringent standards or conditions, the permittee must comply with the requirements of the new regulations by applying for a new General Permit authorization unless construction is already underway. If this General permit is not reissued, the permittee must apply for an individual CAFRA permit unless construction pursuant to the prior General Permit is underway. The expiration date of the General Permits issued by rule is October 16, 2005.

In order to promote inter-governmental cooperation in management of our natural resources, a copy of this decision shall be shared with appropriate local and federal agencies.

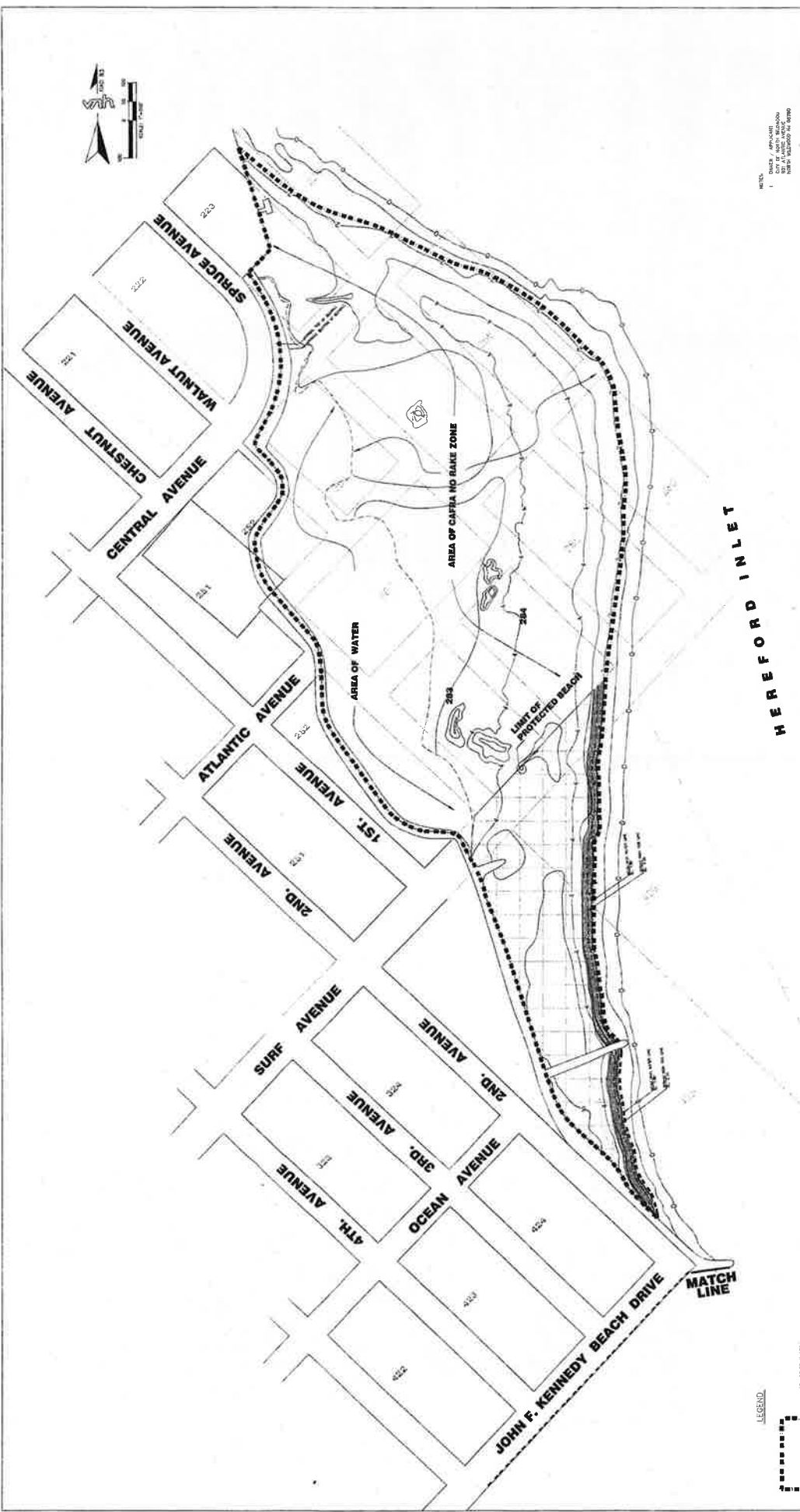
If you have any questions regarding this General Permit authorization, please contact Gail J. Moore of our staff at (609) 292-8262. Please reference the permit number in any future communication concerning this action.

Sincerely,



Christopher M. Dolphin
Supervisor, Coastal Region
Land Use Regulation Program

- c. NJDEP, Bureau of Coastal and Land Use Enforcement, Toms River
US Army Corps of Engineers, Philadelphia District



1. THE CITY OF NORTH PLAZA
 2. THE CITY OF NORTH PLAZA
 3. THE CITY OF NORTH PLAZA

HEREFORD INLET

LEGEND

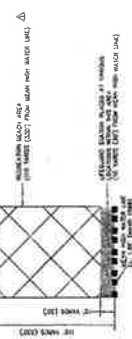


250
 250
 250

LOCAL RANGE OF TIDES



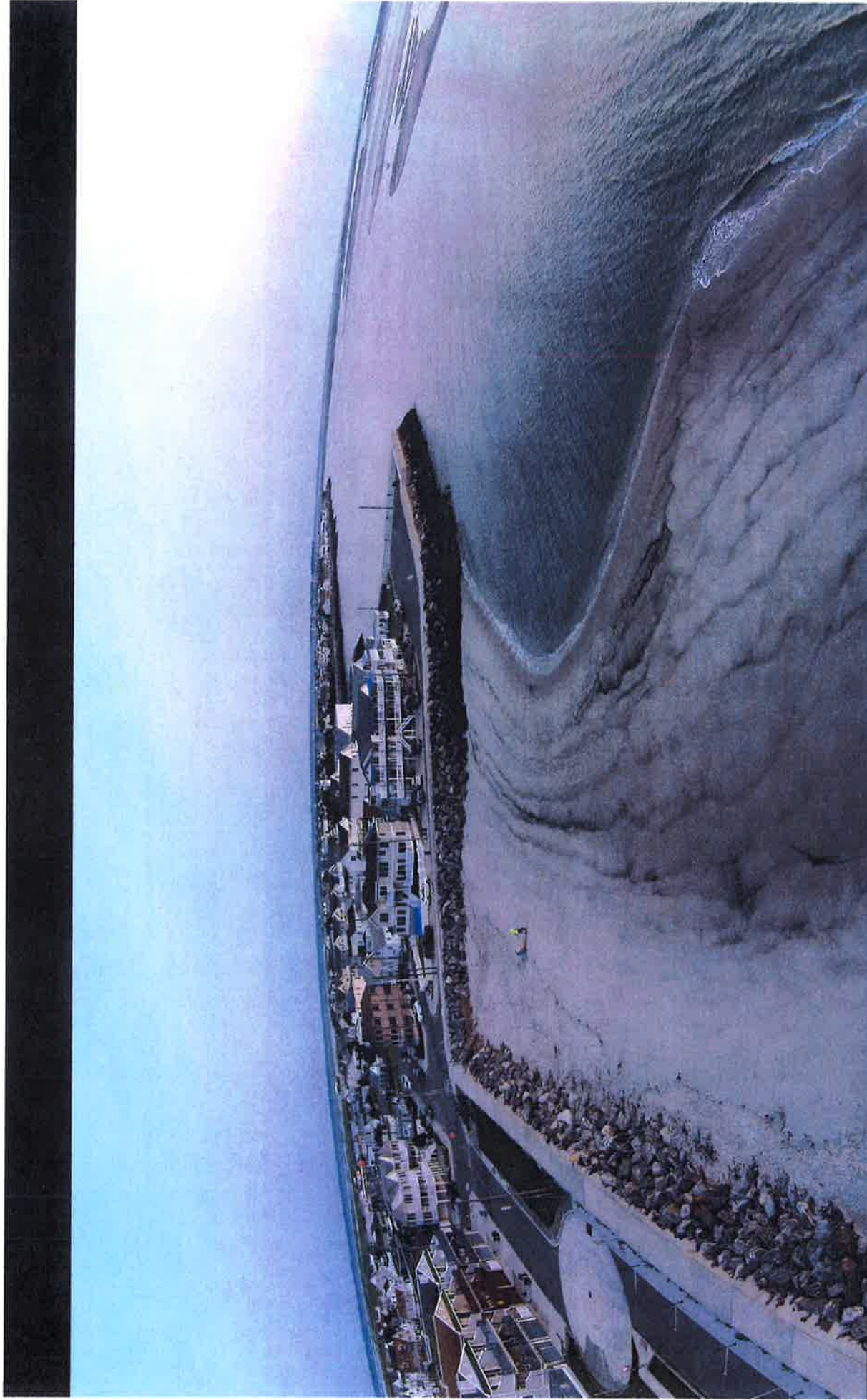
THE CITY OF NORTH PLAZA
 THE CITY OF NORTH PLAZA
 THE CITY OF NORTH PLAZA



MATCH LINE
 LIMIT OF WATER



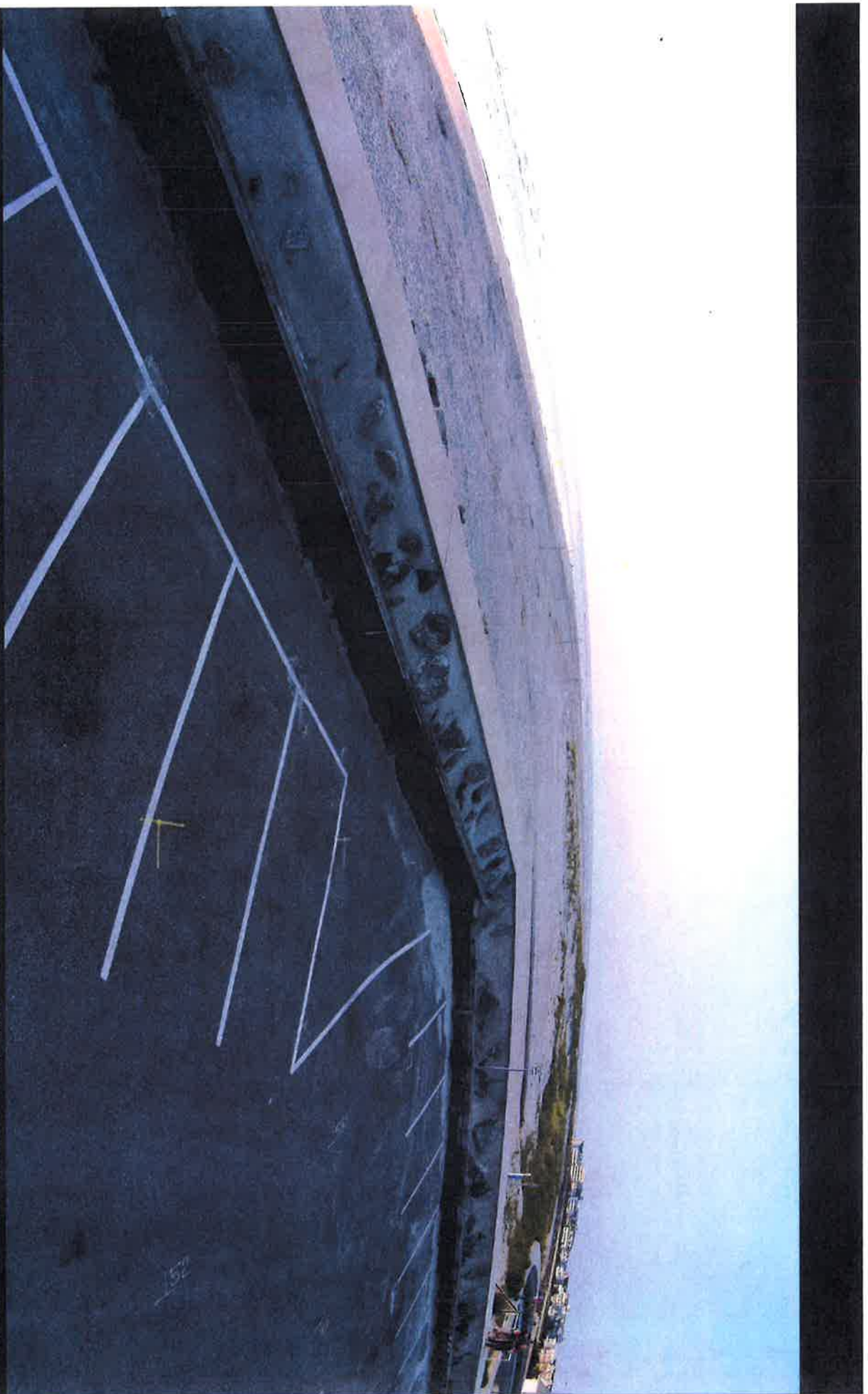
| | |
|---|---------------------------------------|
| GENERAL PERMIT FOR BEACH & DUNE MAINTENANCE ACTIVITIES CITY OF NORTH PLAZA CAPE MAY COUNTY, N.J. | |
| RAUL PETRELLA, JR. 1000 1st Avenue Cape May, NJ 08204 | 1000 1st Avenue Cape May, NJ 08204 |
| 1000 1st Avenue Cape May, NJ 08204 | 1000 1st Avenue Cape May, NJ 08204 |



D'Amato Law-Smith Estate • Aerial View • July 31, 2014 • AC Photo • 609-926-1200 • Frame 209



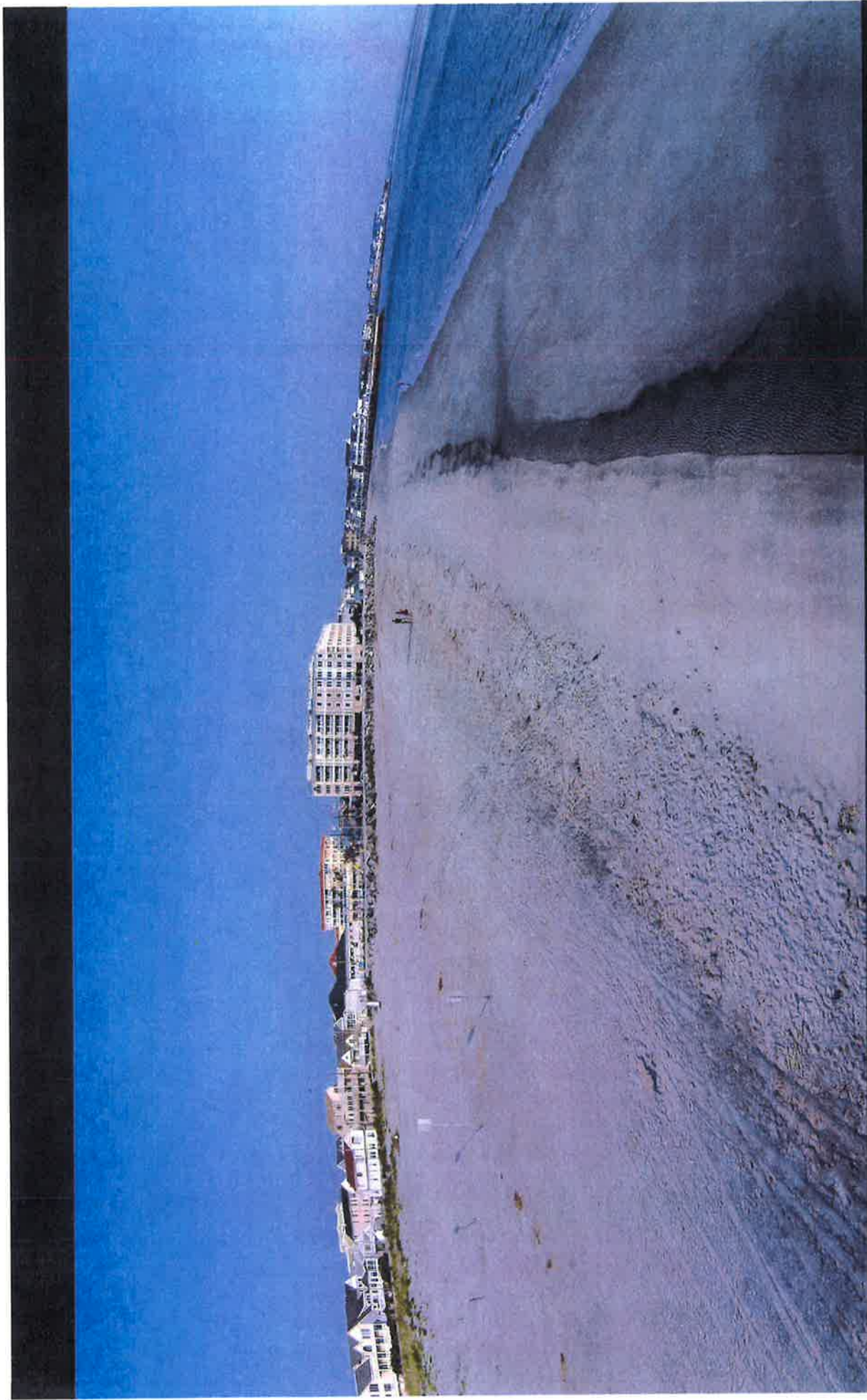
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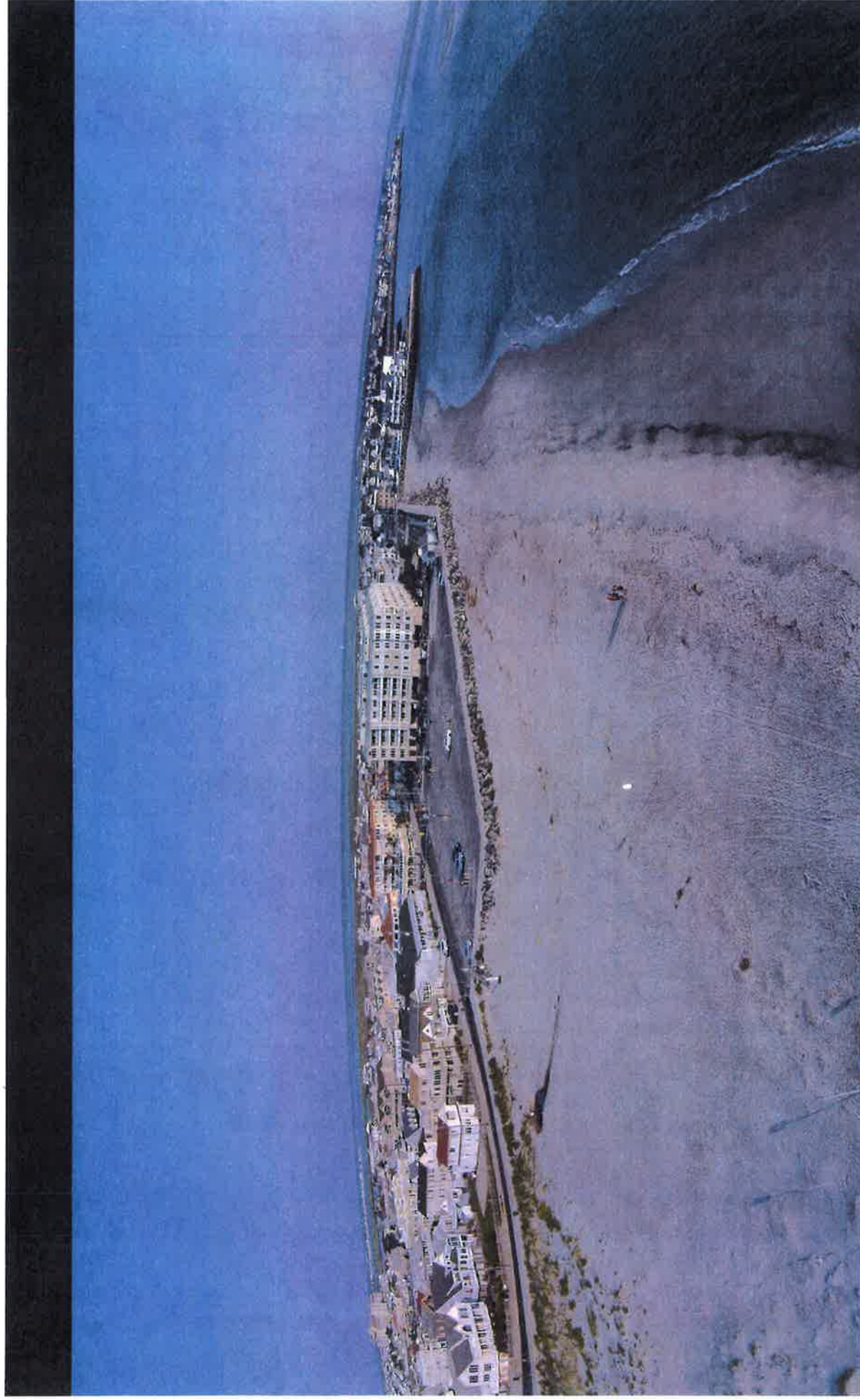
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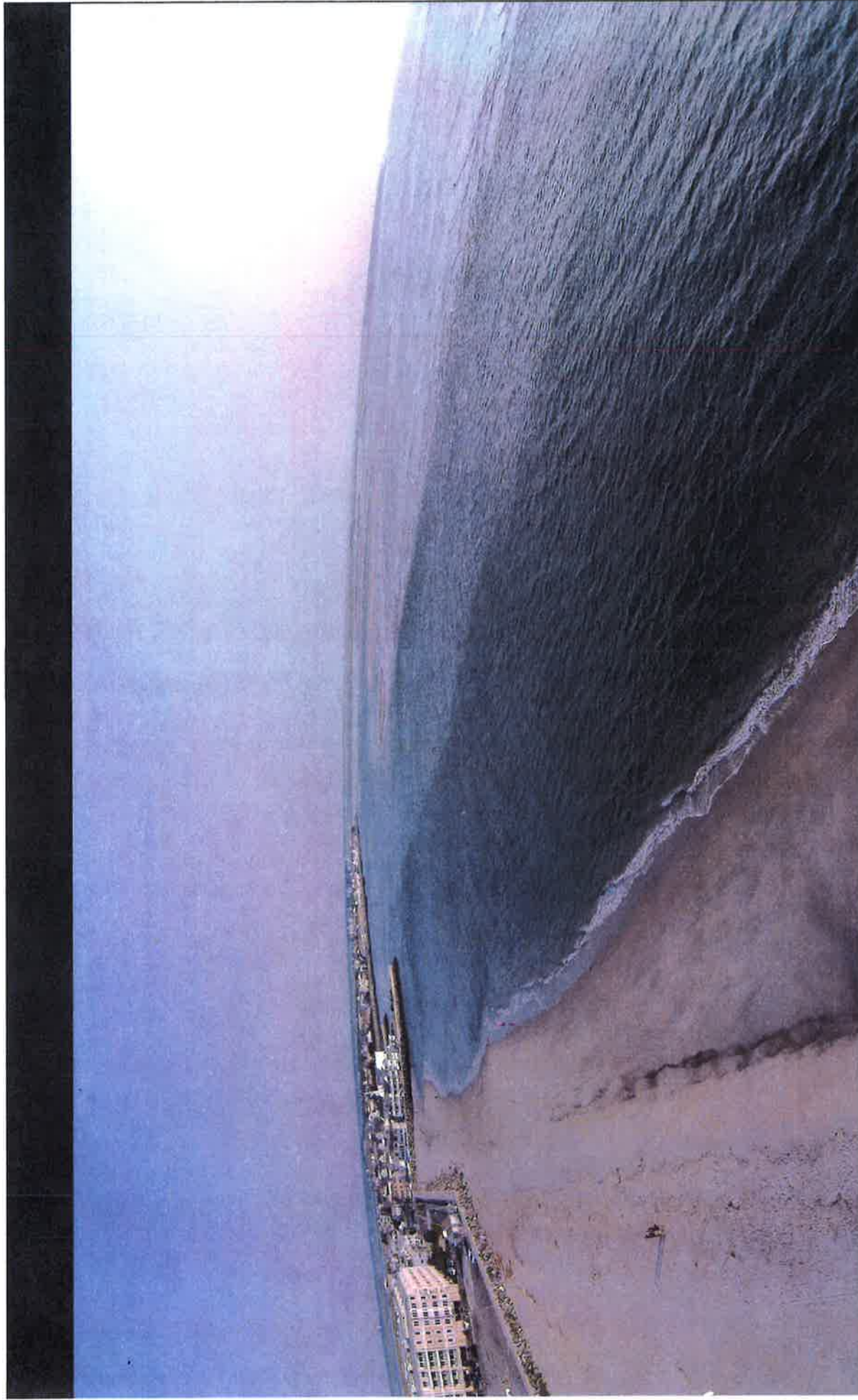
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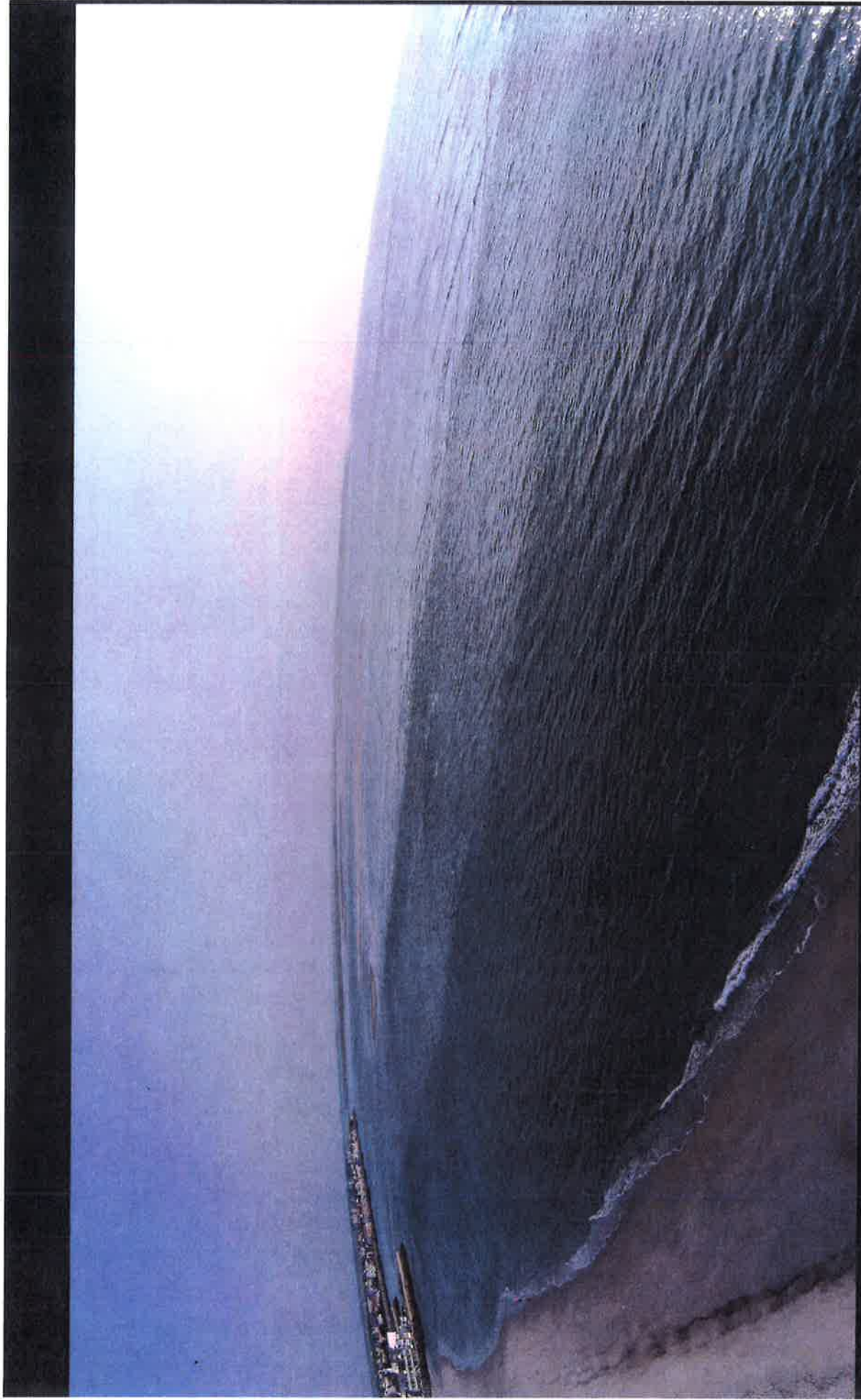
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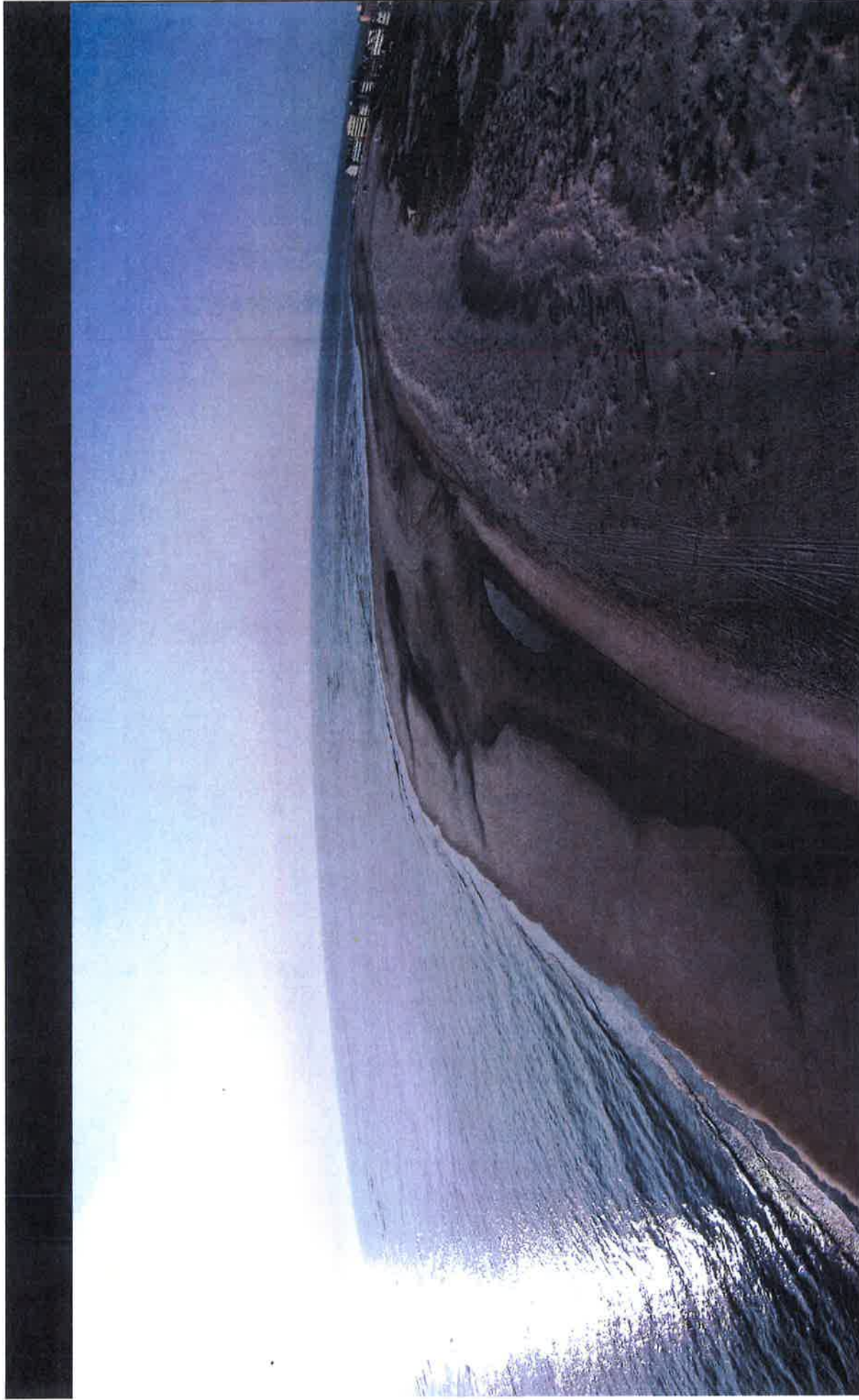
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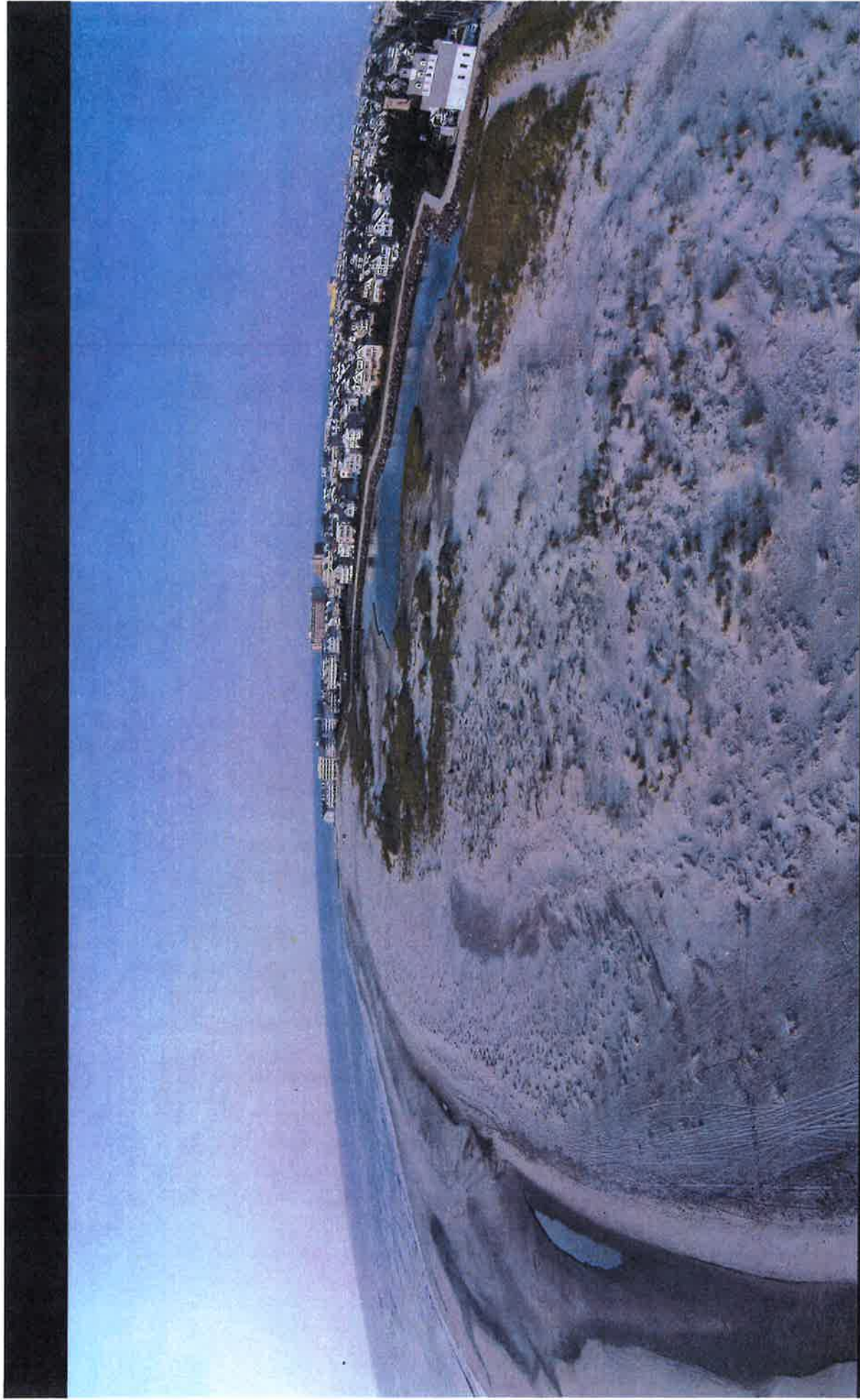
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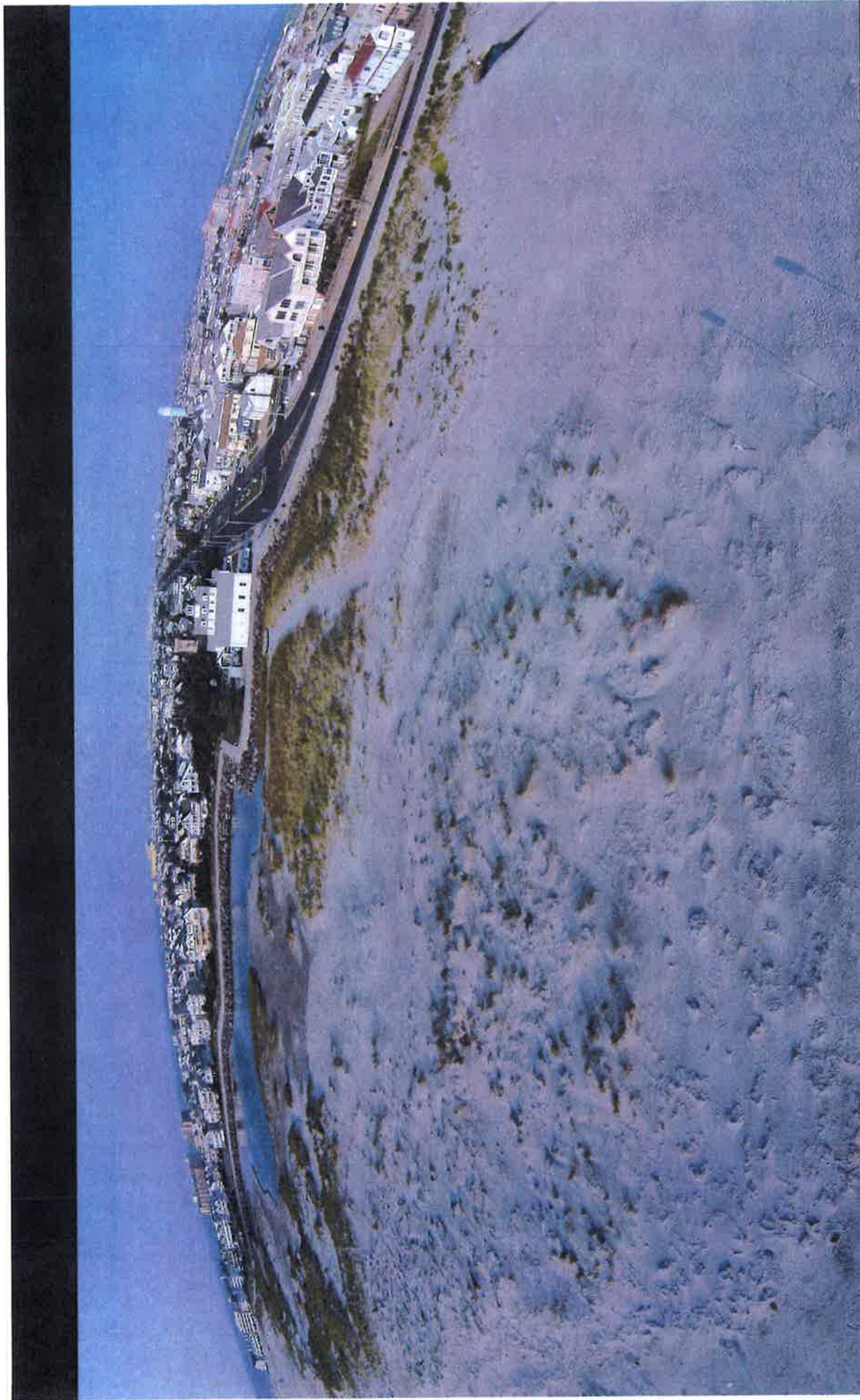
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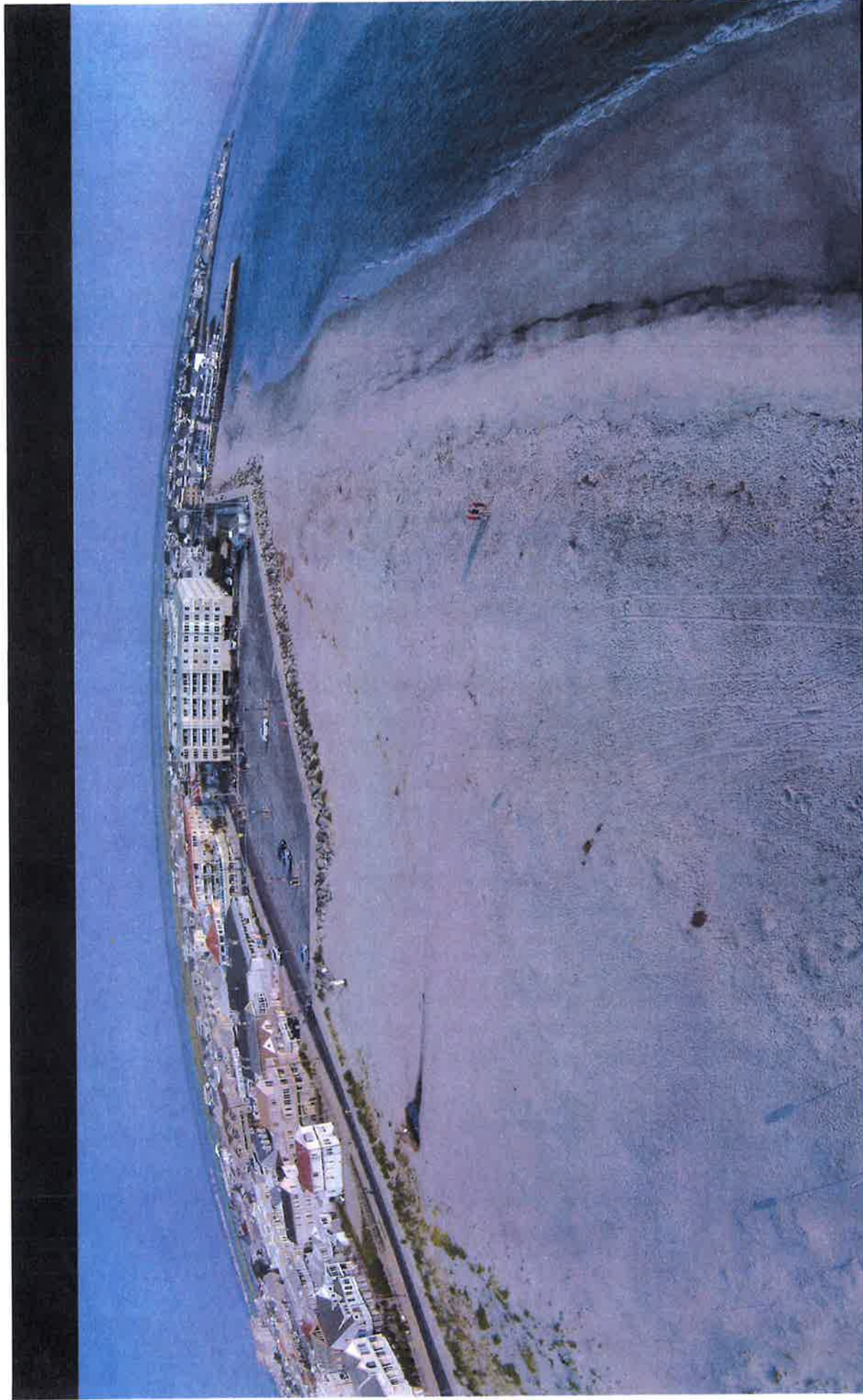
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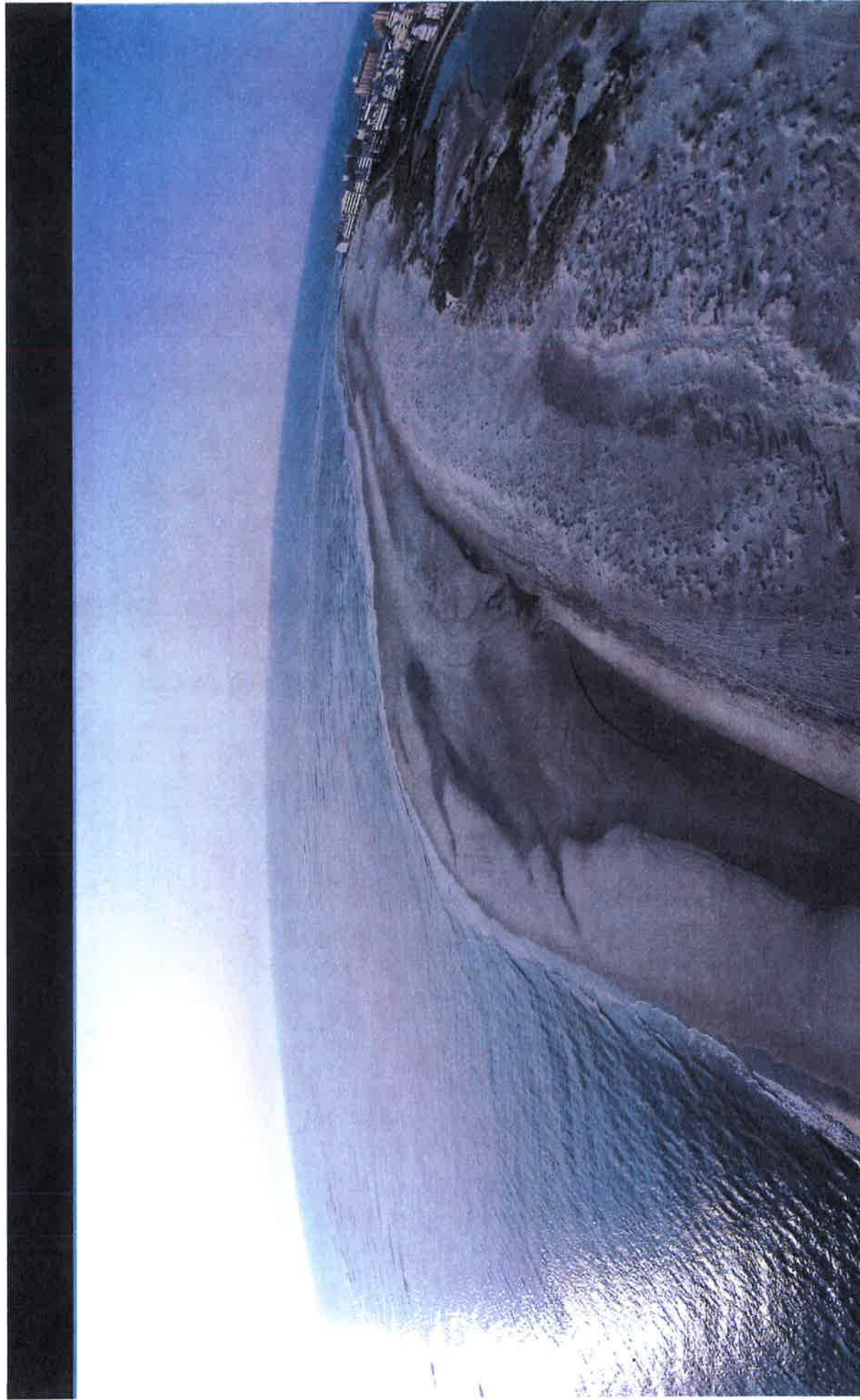
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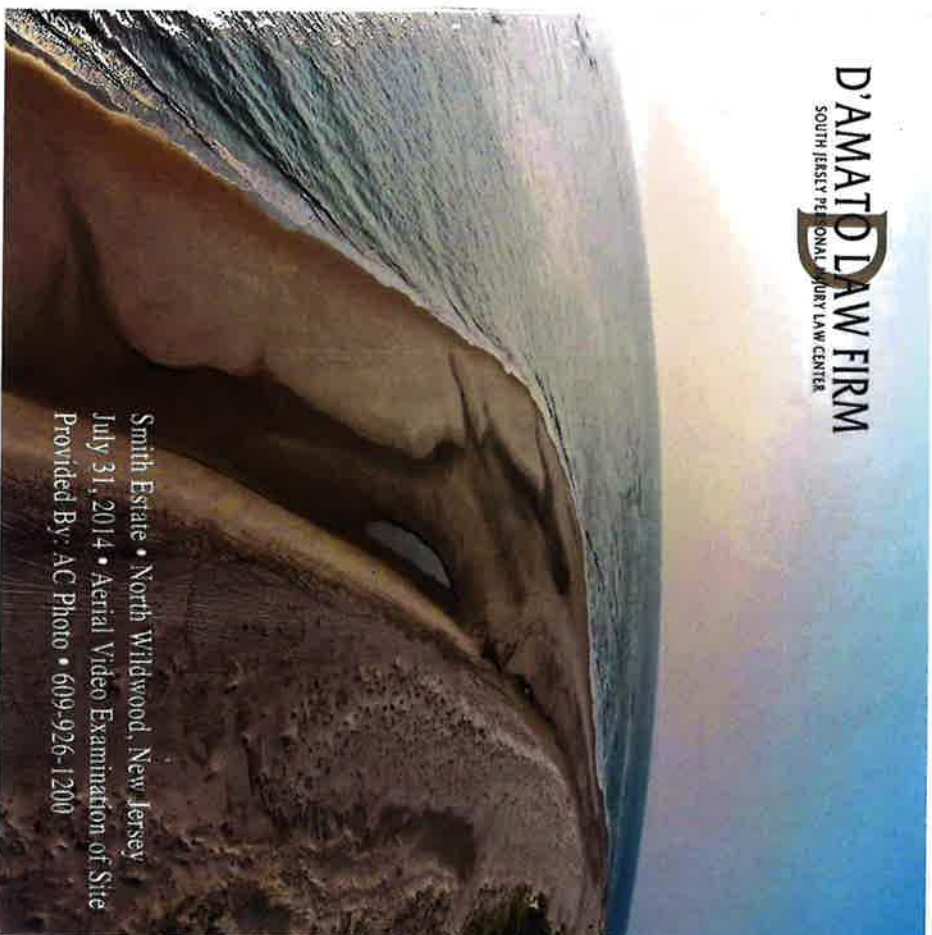
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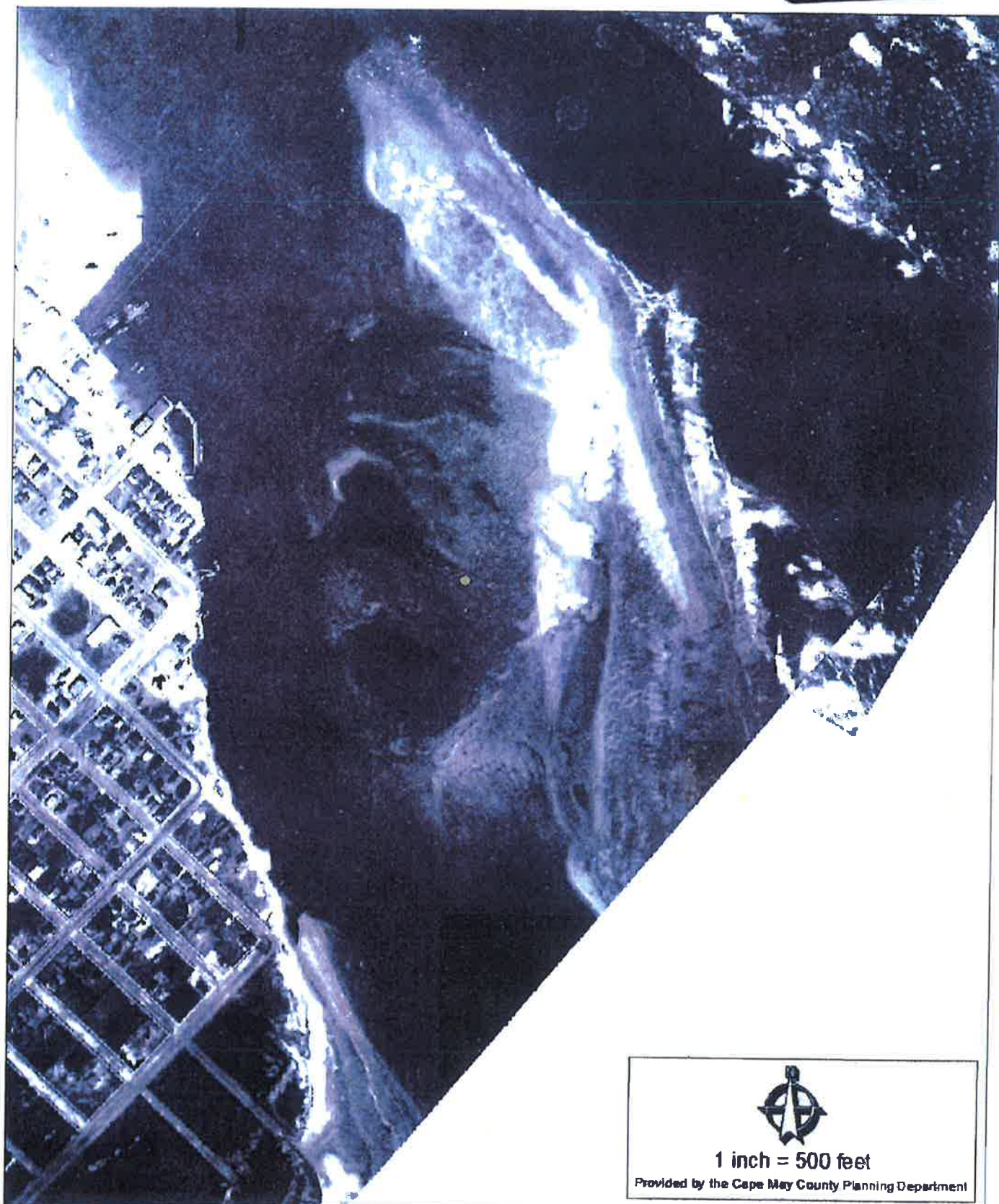
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Exhibit 42

Separate DVD Attached



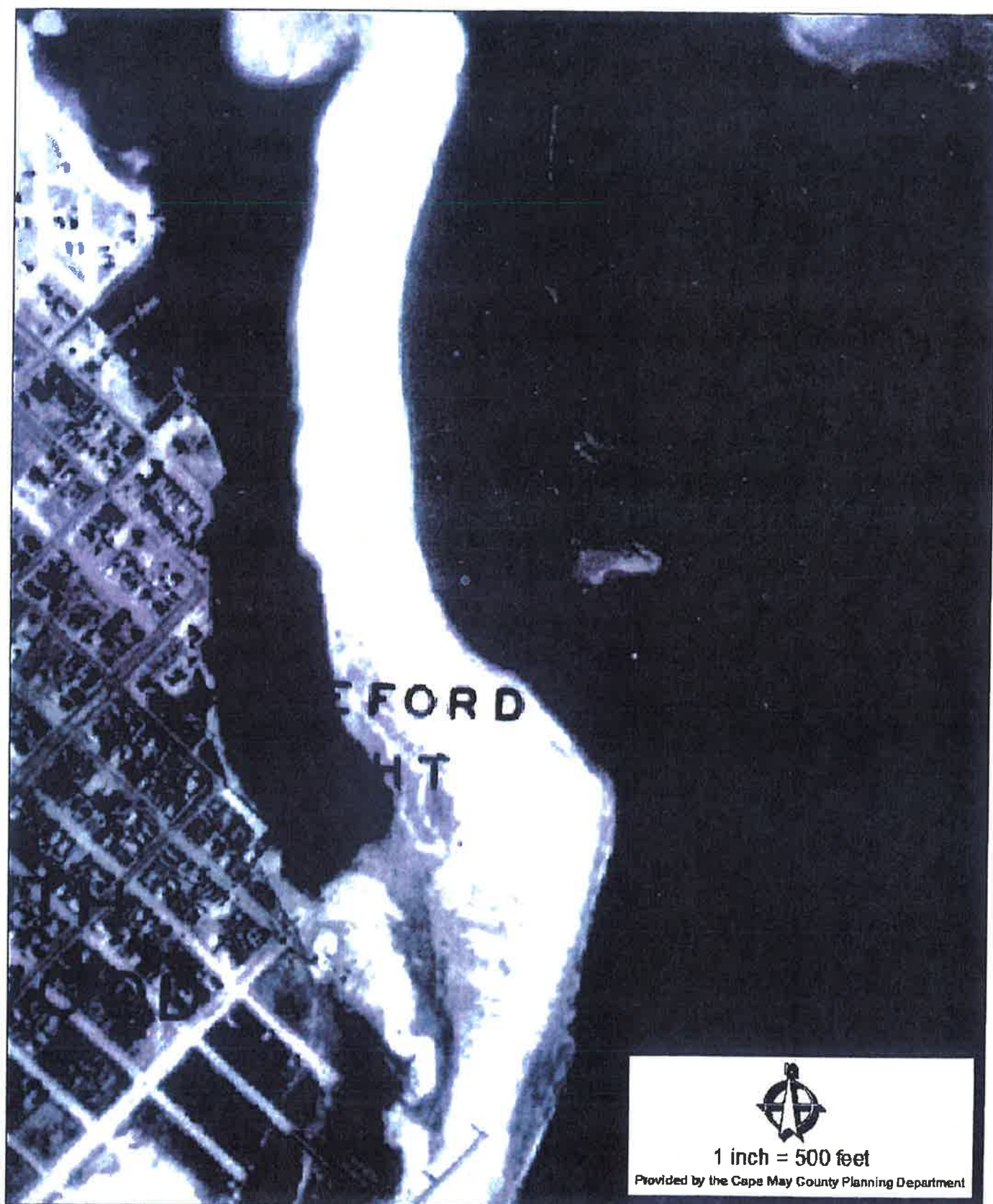
1920



1 inch = 500 feet

Provided by the Cape May County Planning Department

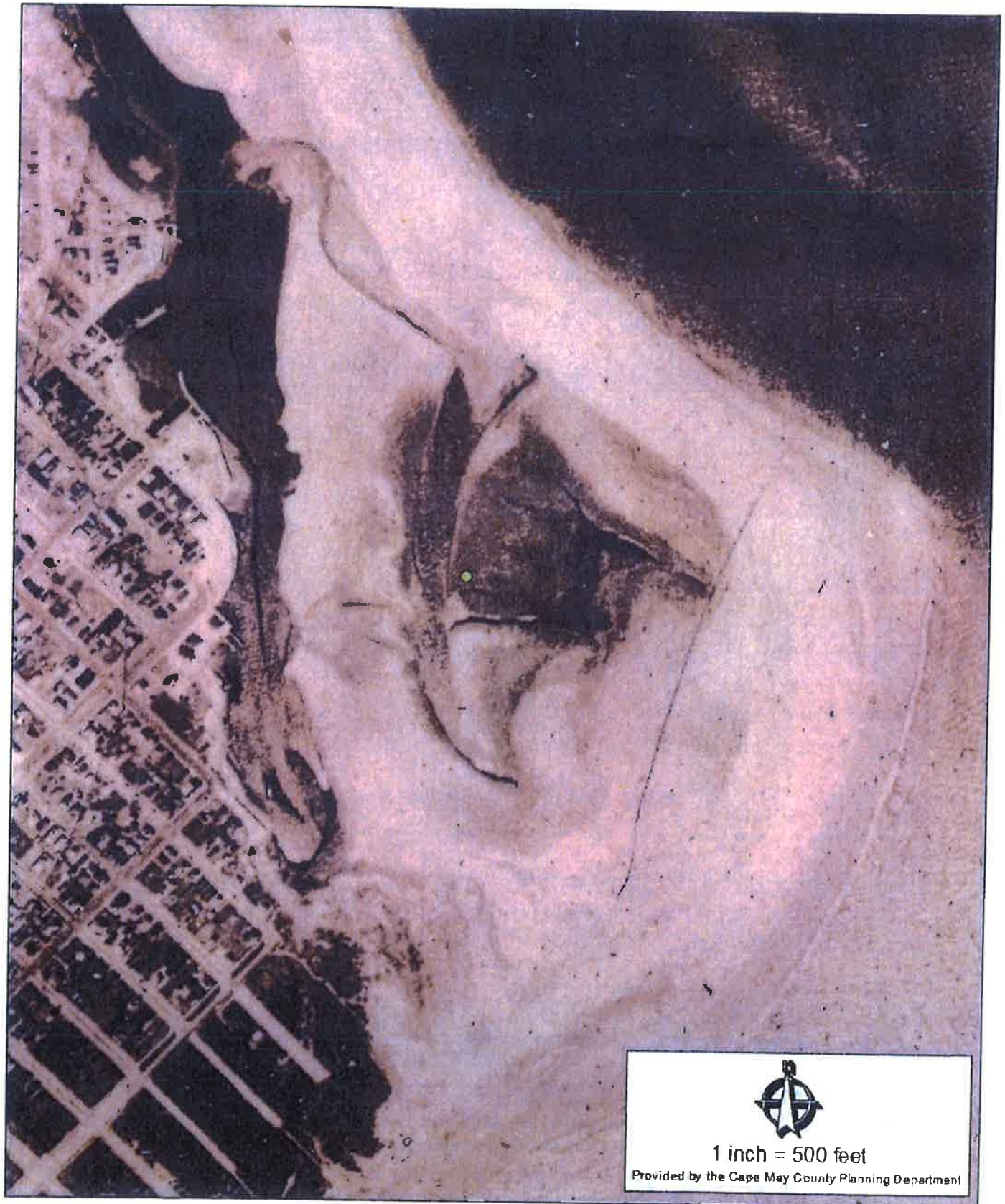
1930



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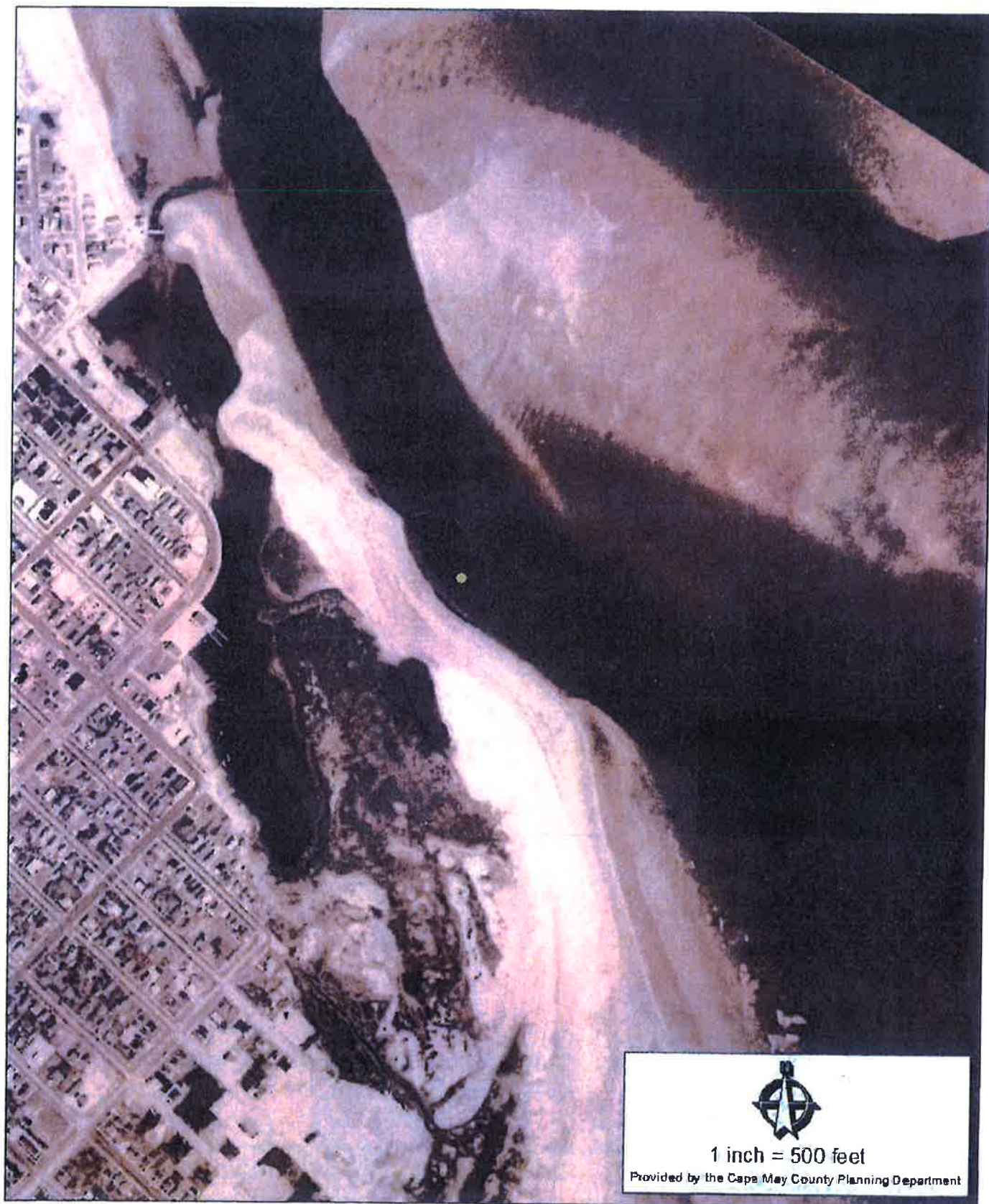
Provided by the Cape May County Planning Department

1941

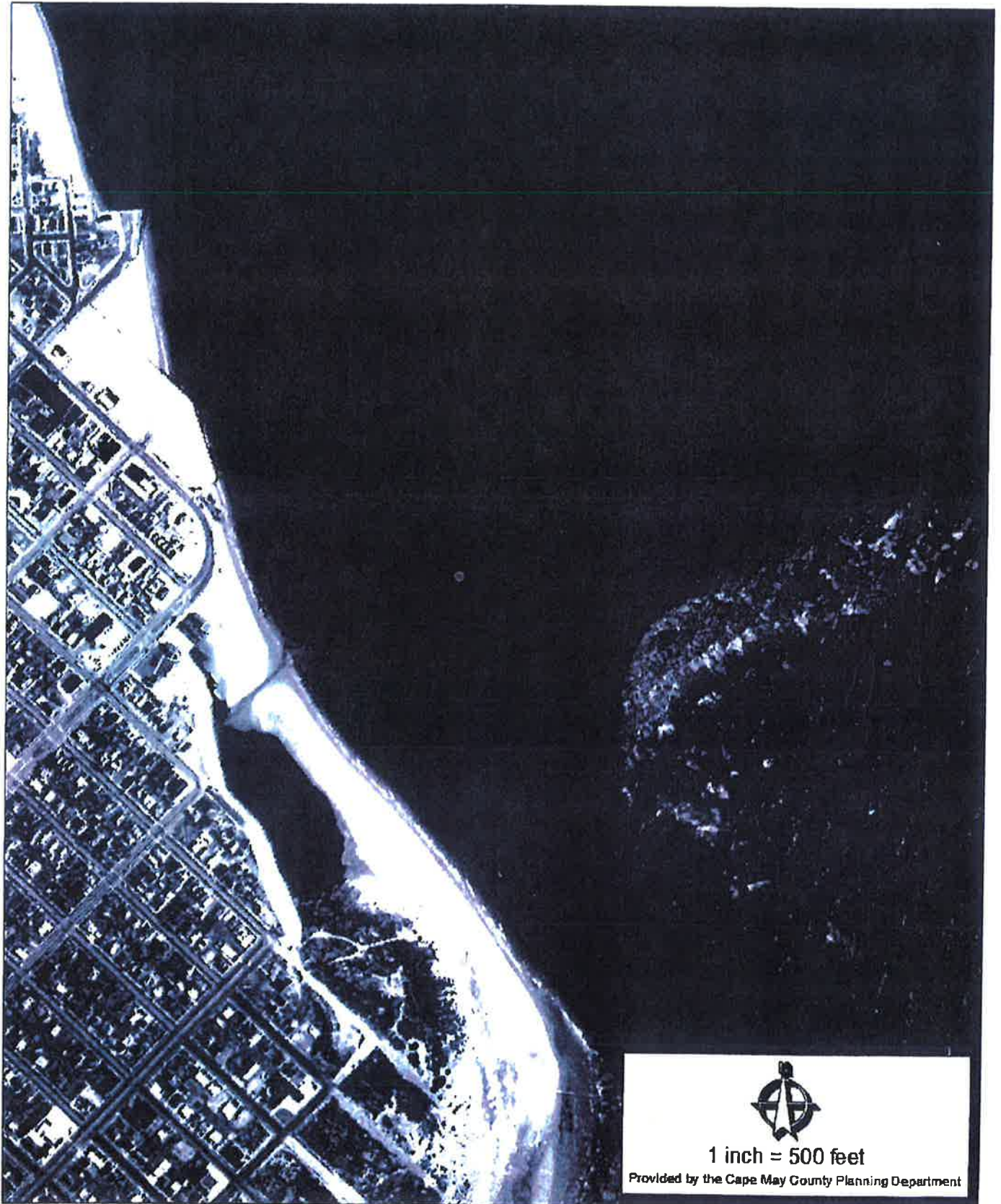



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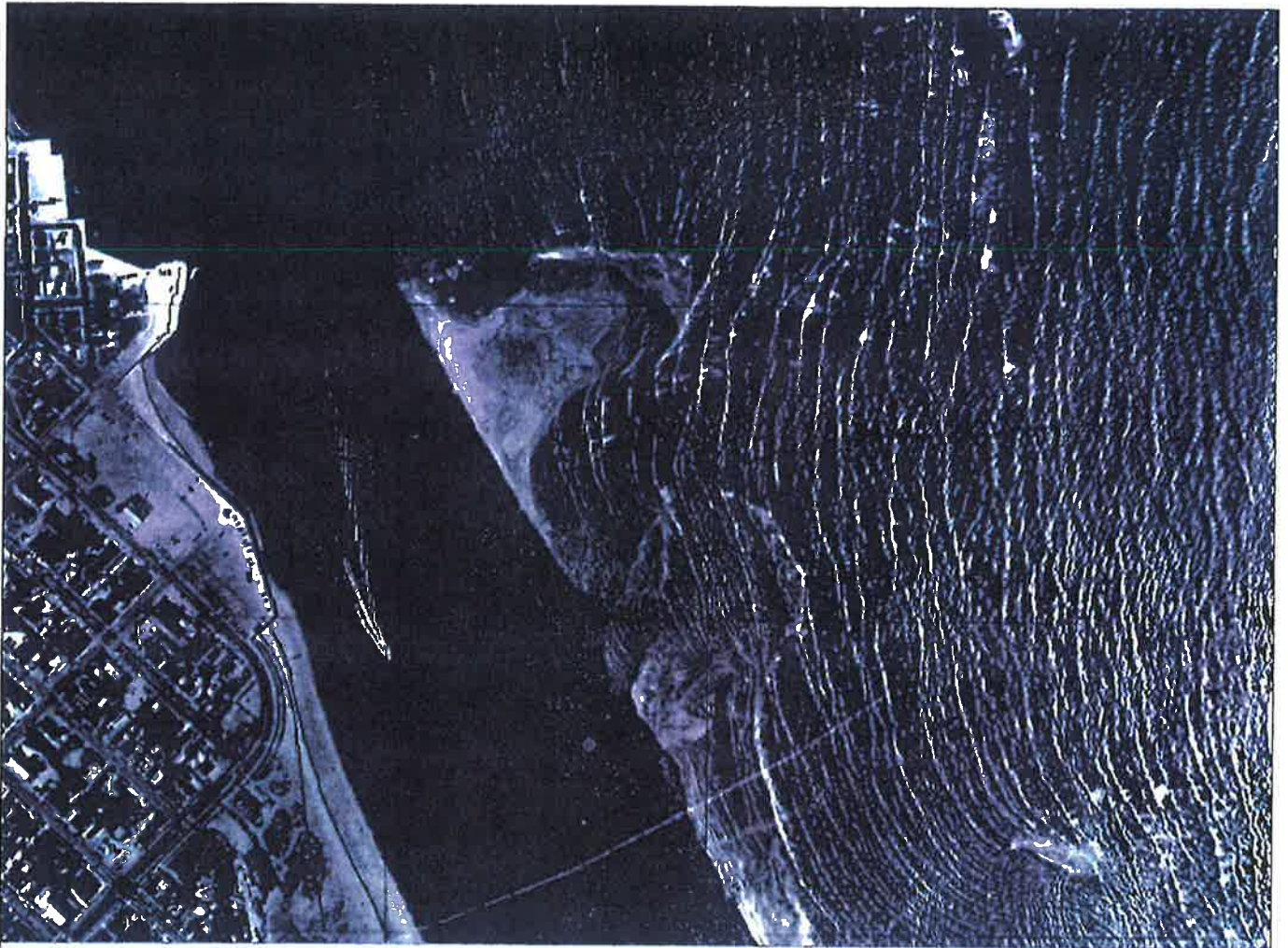
1956



1963



1970



1 inch = 500 feet

Provided by the Cape May County Planning Department
Aerial - NJDEP 1970 Wetlands Basemap

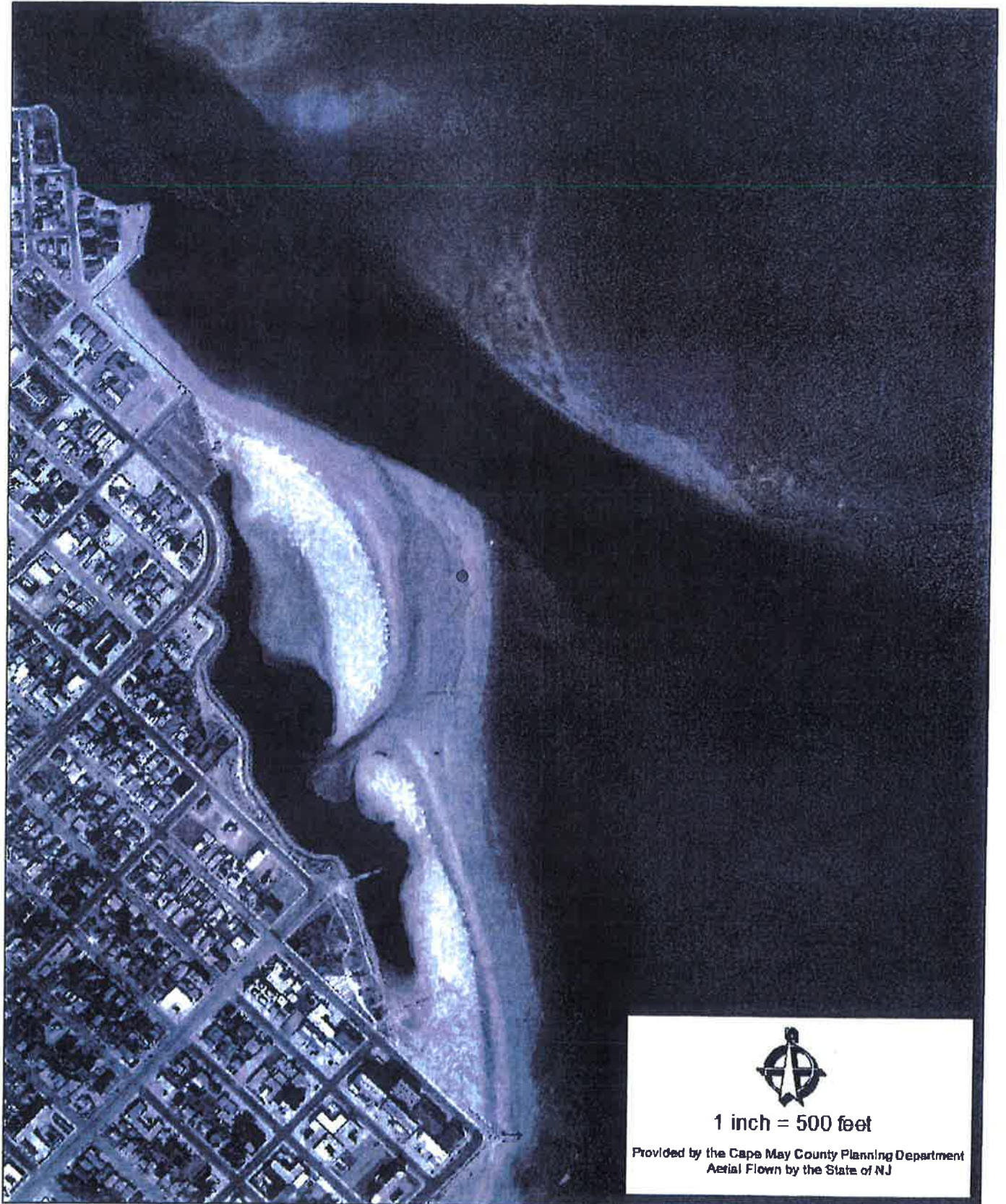
1995



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Provided by the Cape May County Planning Department
Aerial Flown by the State of NJ

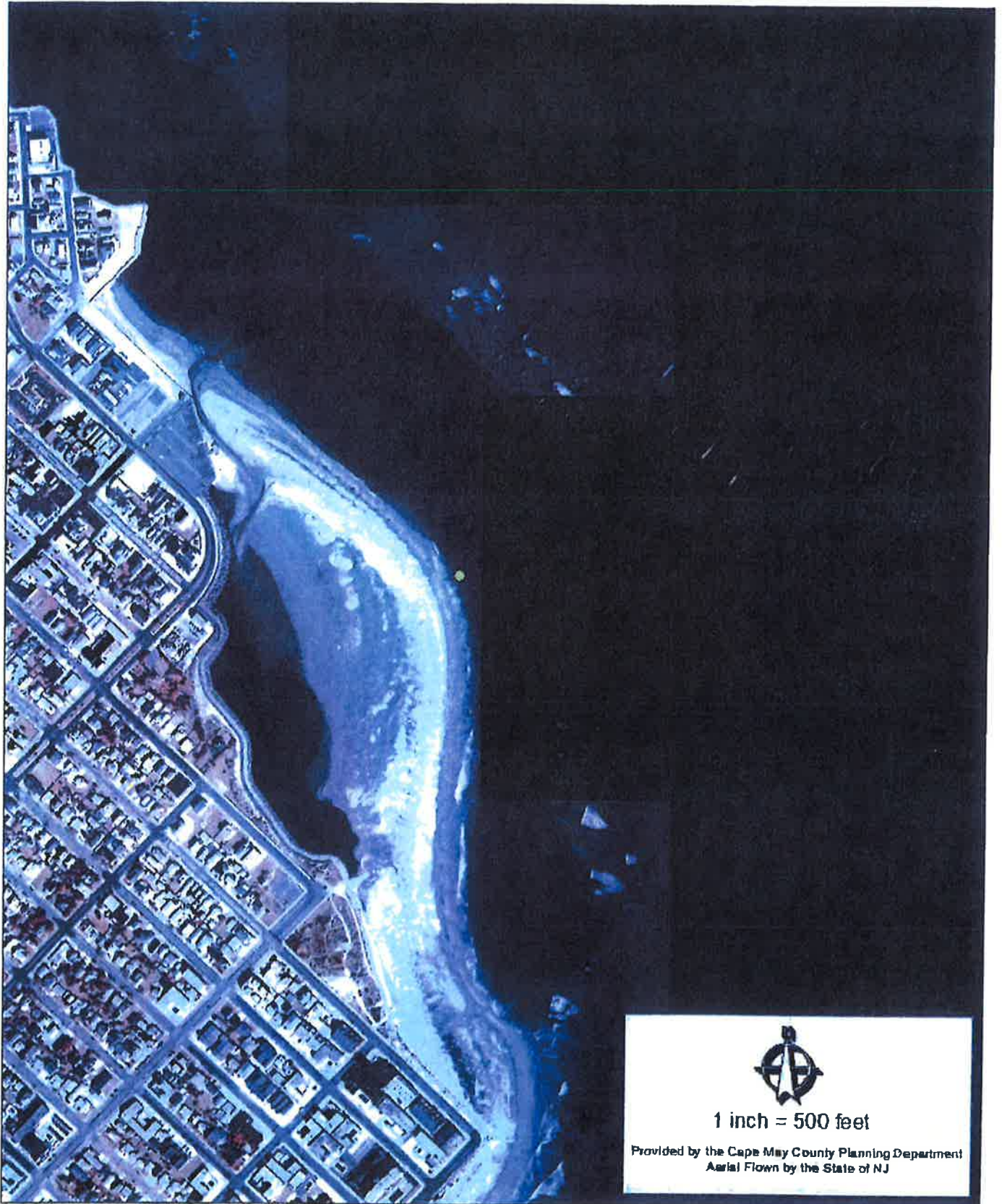
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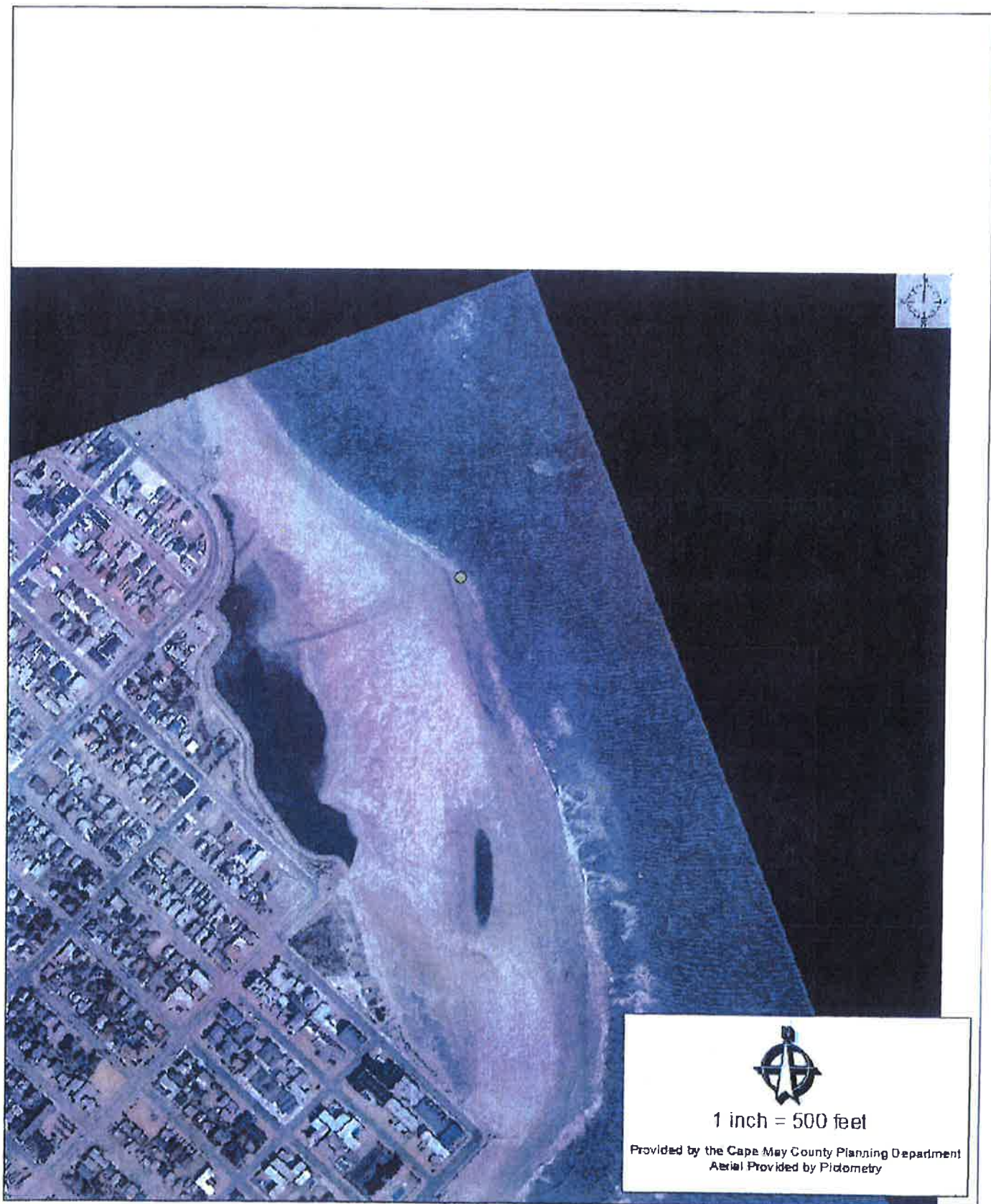
2002



1 inch = 500 feet

Provided by the Cape May County Planning Department
Aerial Flown by the State of NJ

April 1, 2003



April 6, 2005



1 inch = 500 feet

Provided by the Cape May County Planning Department
Aerial Provided by Pictometry

March 19, 2007



1 inch = 500 feet

Provided by the Cape May County Planning Department
Aerial Provided by Photometry

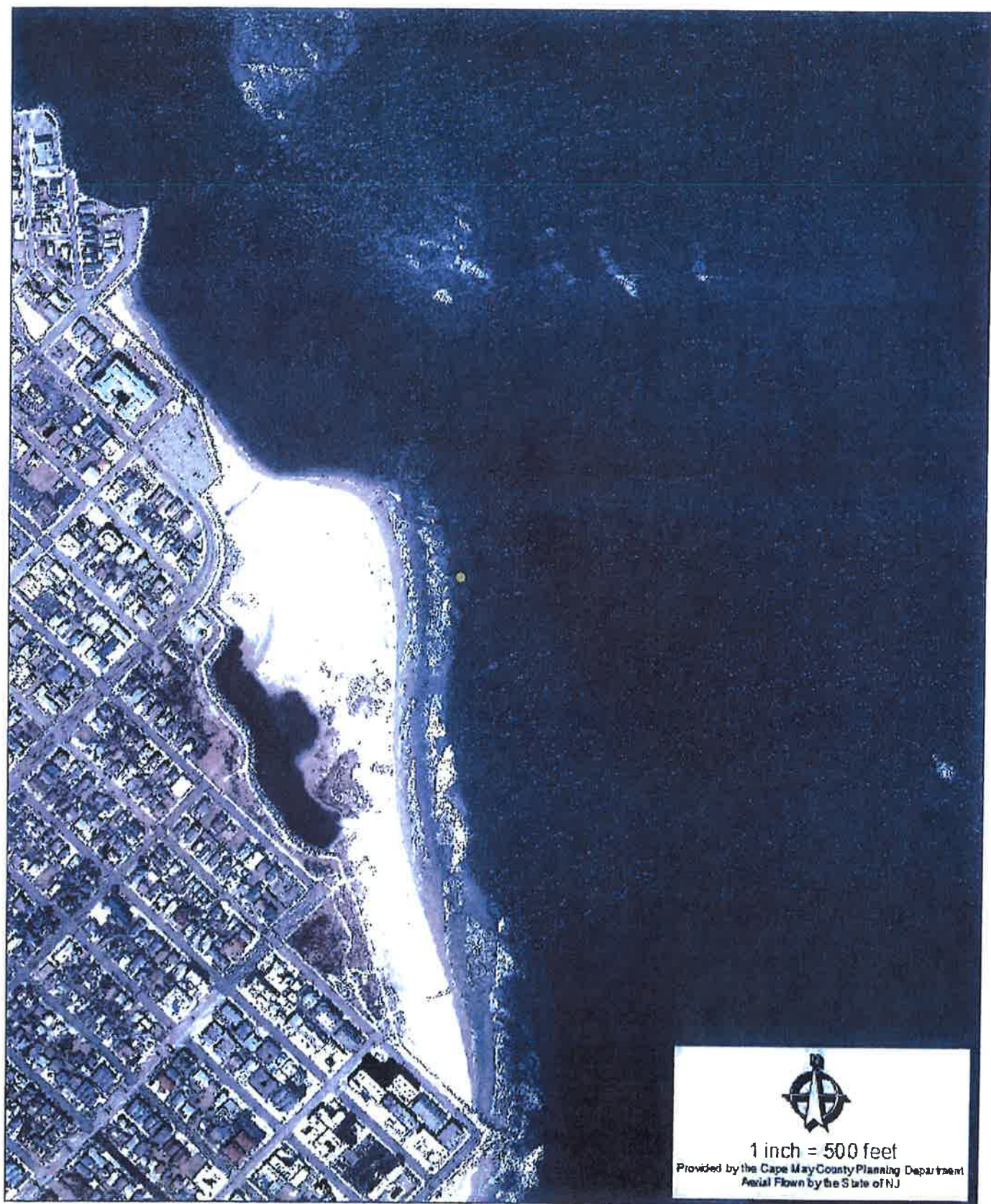
November 17, 2009



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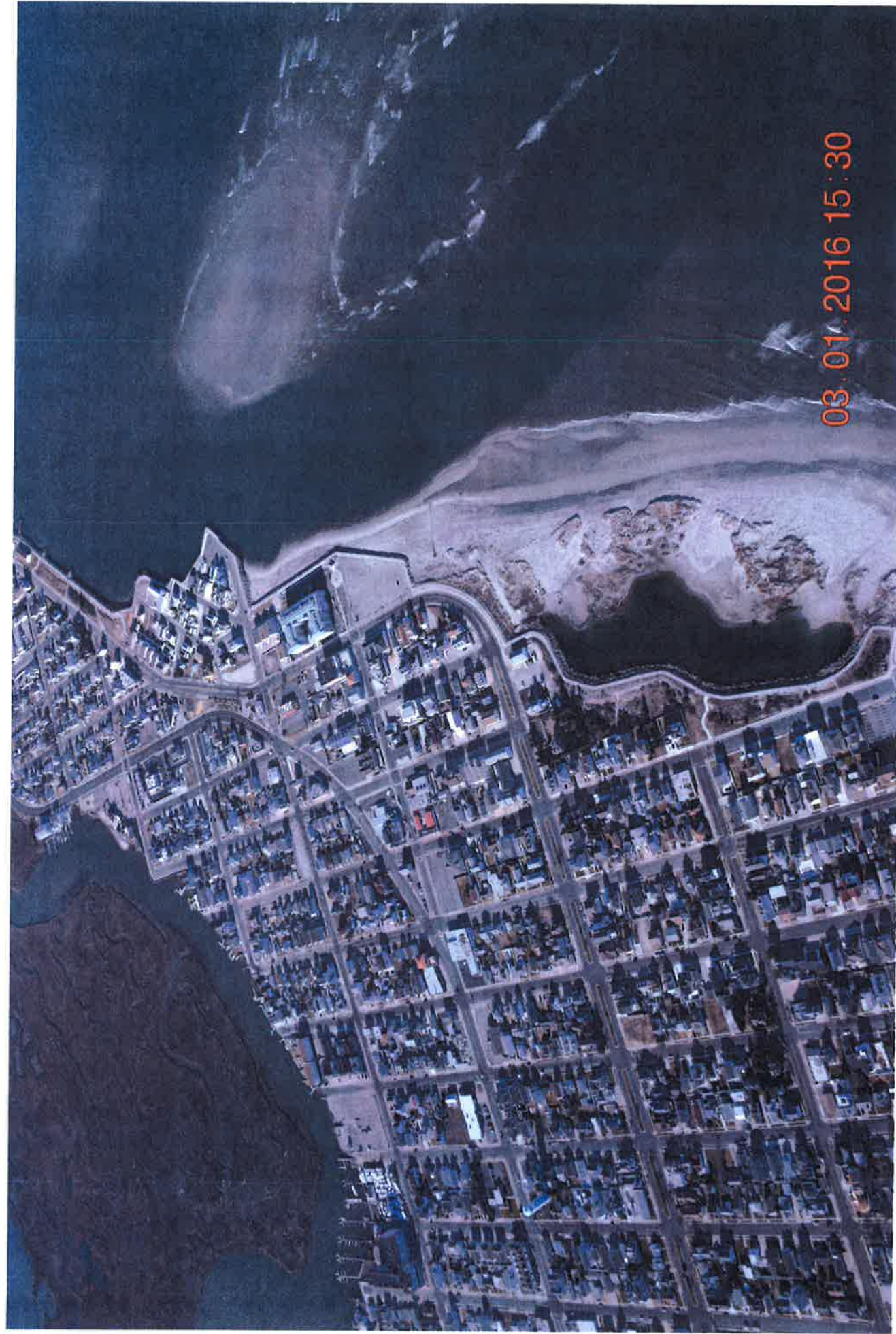
Provided by the Cape May County Planning Department
Aerial Provided by Pictometry

March 14, 2012



February 22, 2013





03.01.2016 15:30



03 01 2016 15:30



03.01.2016 15:30



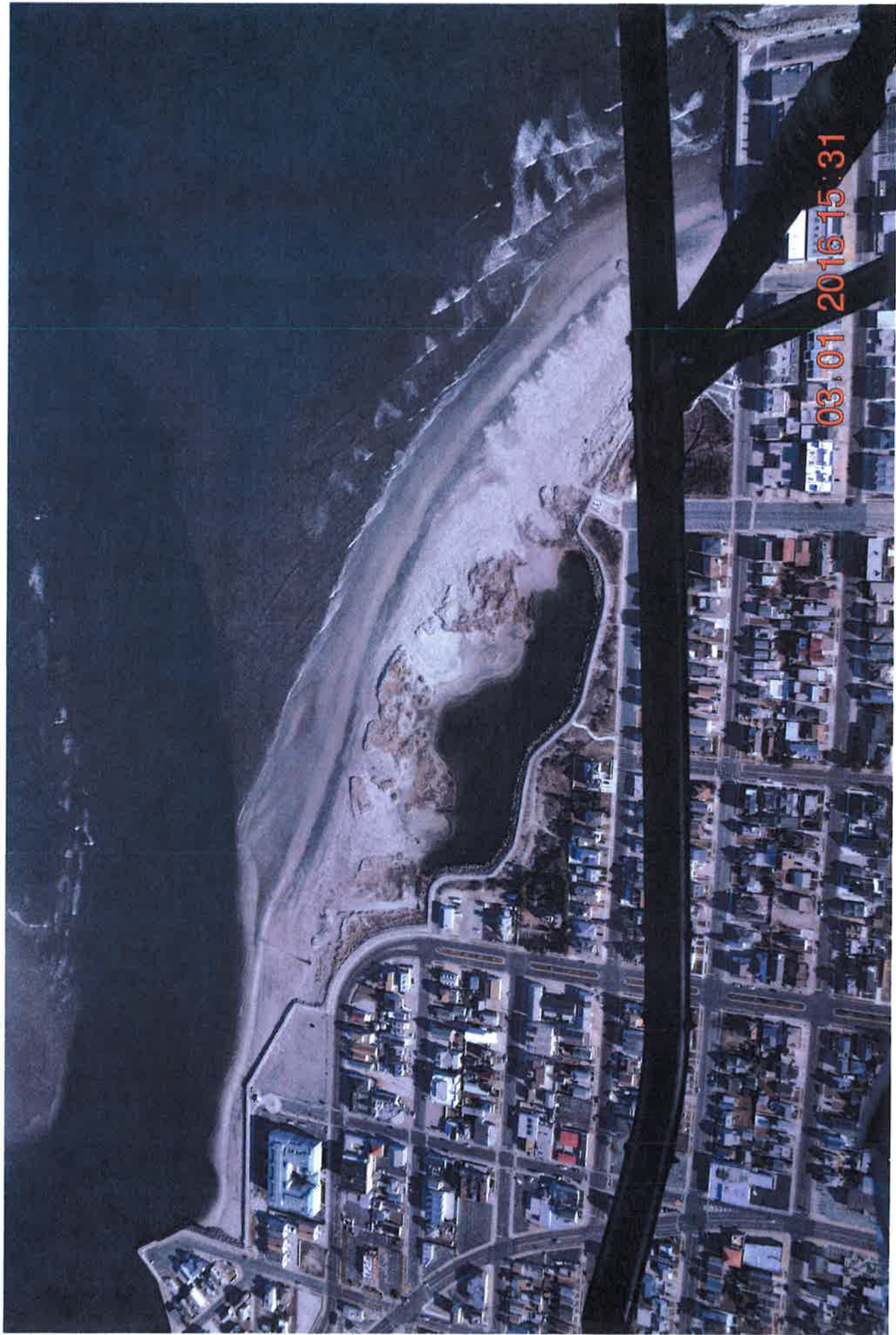


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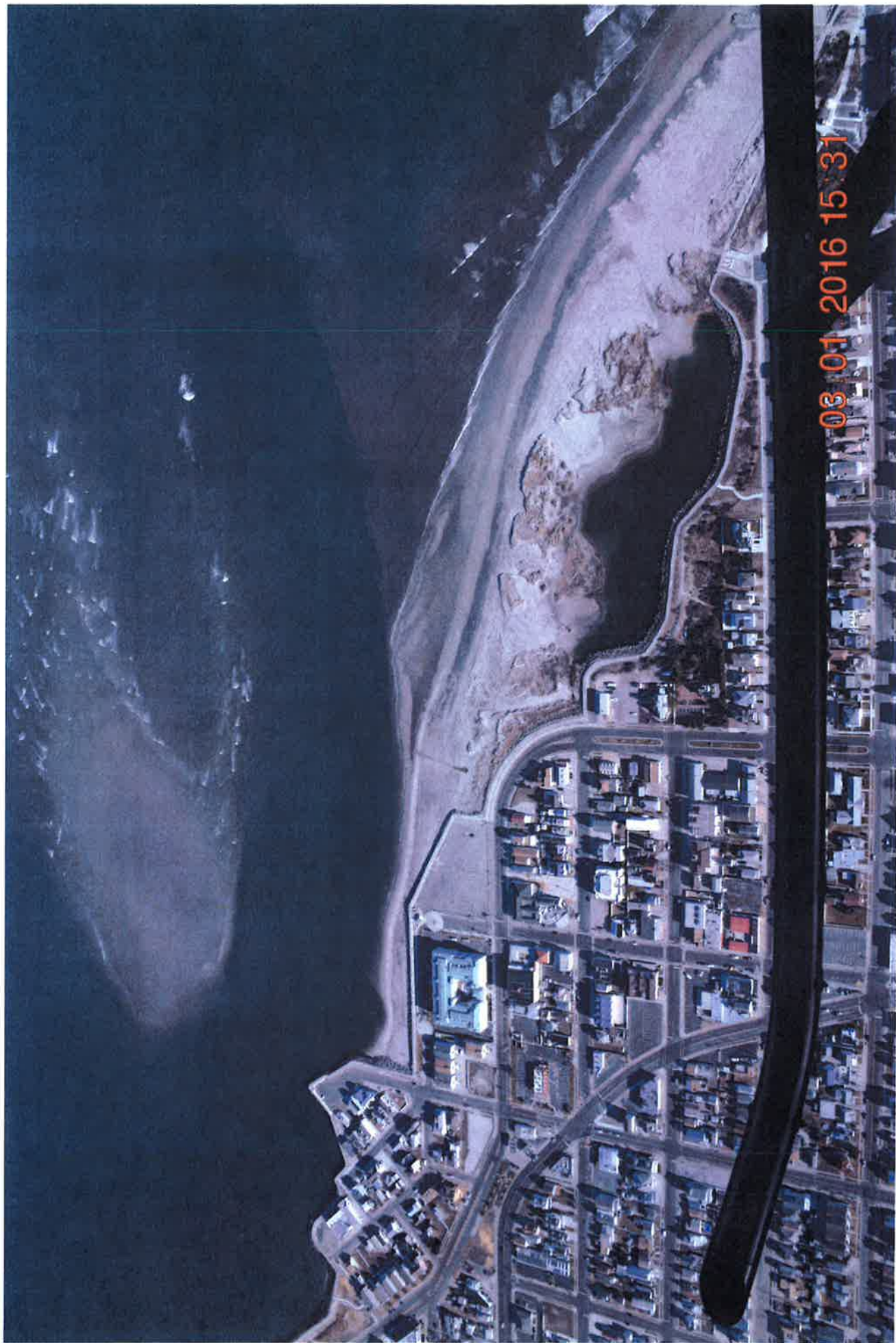




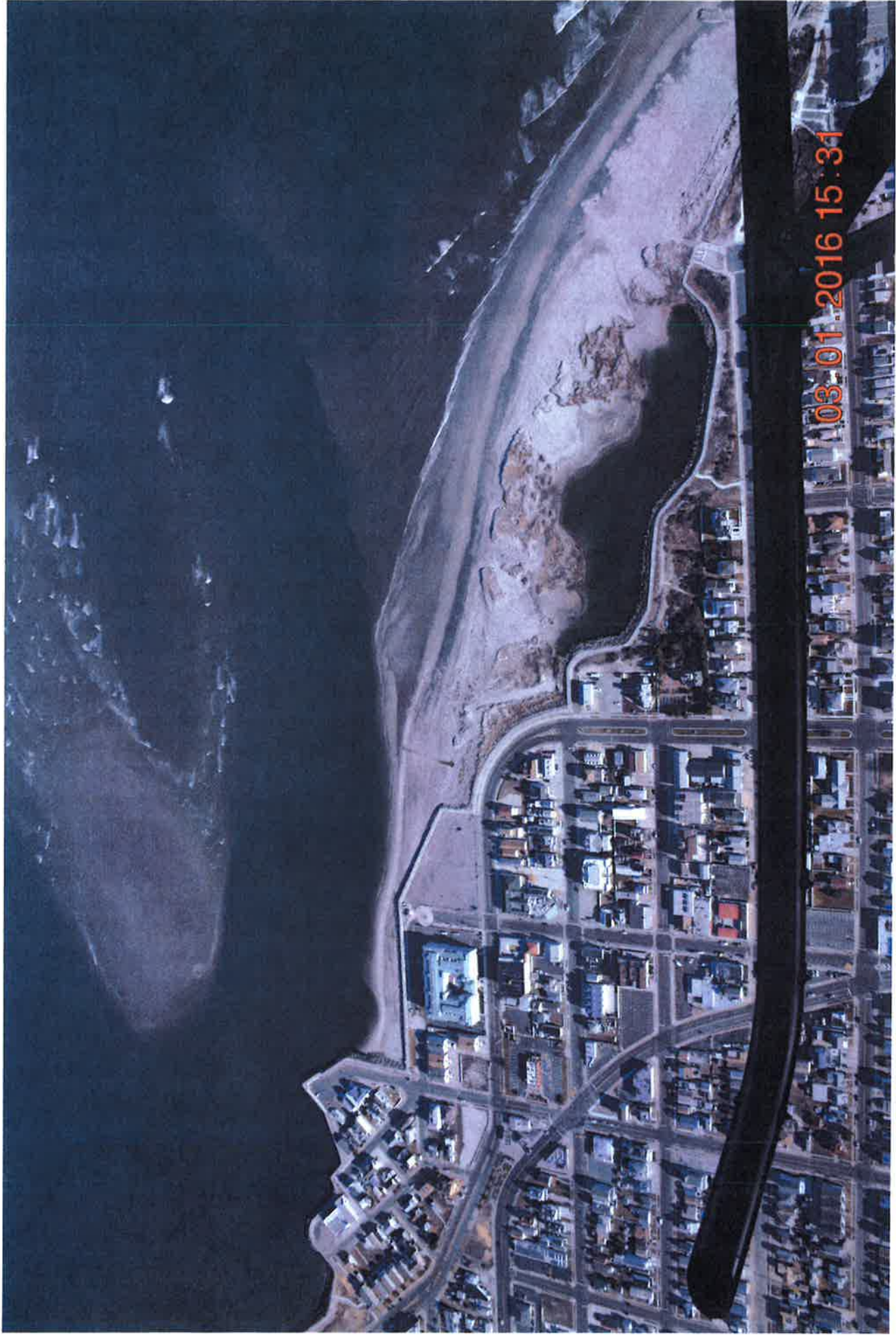
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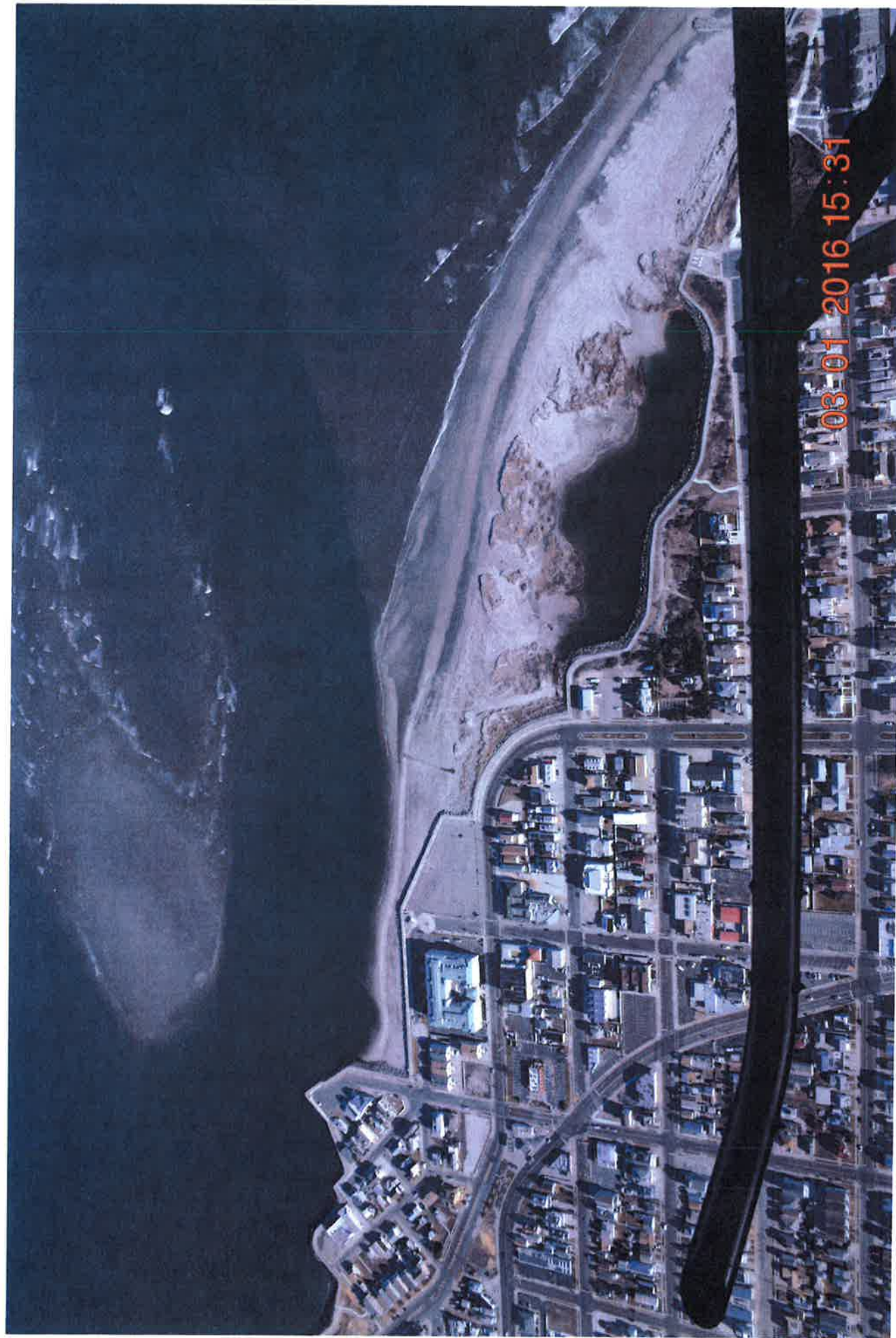
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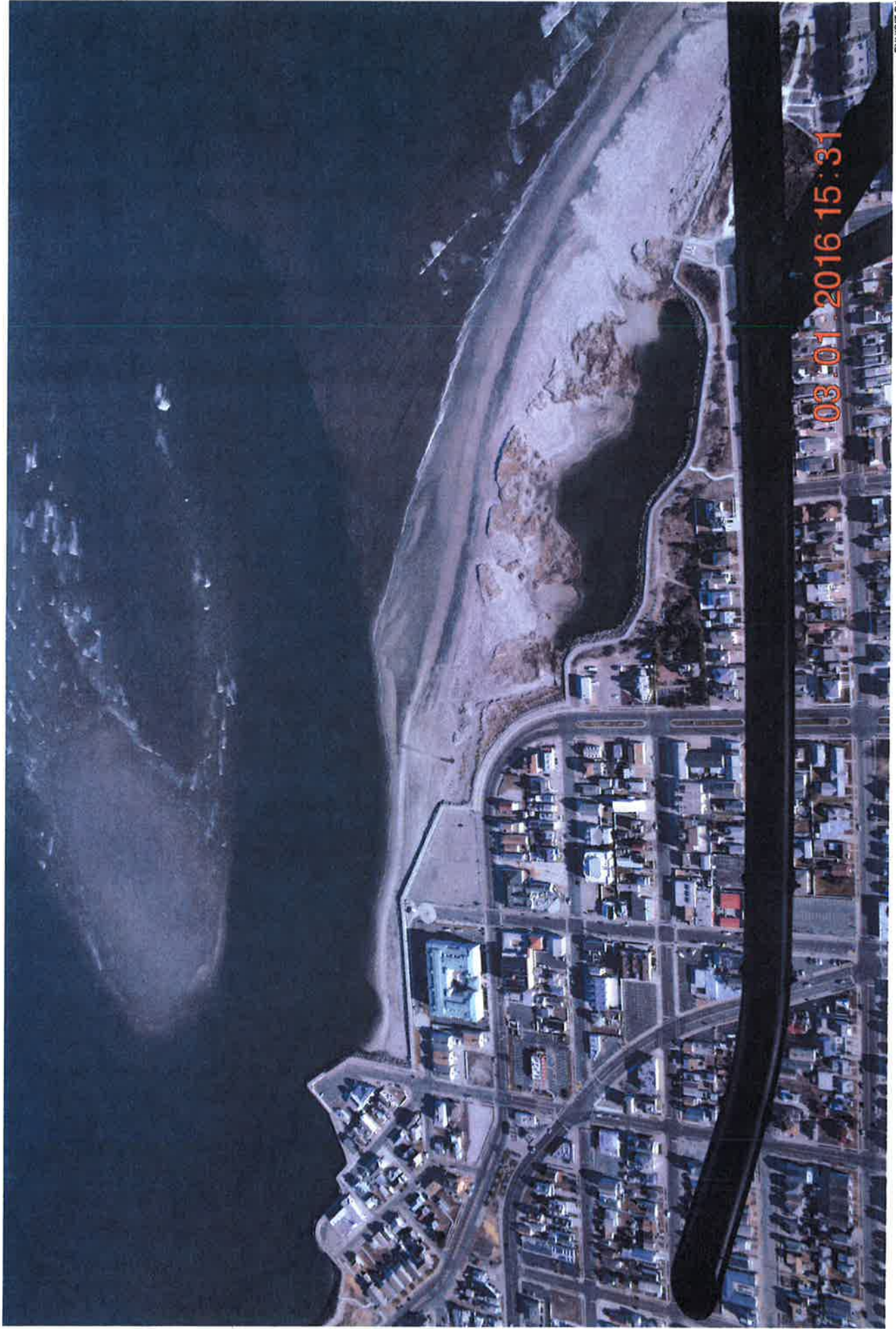
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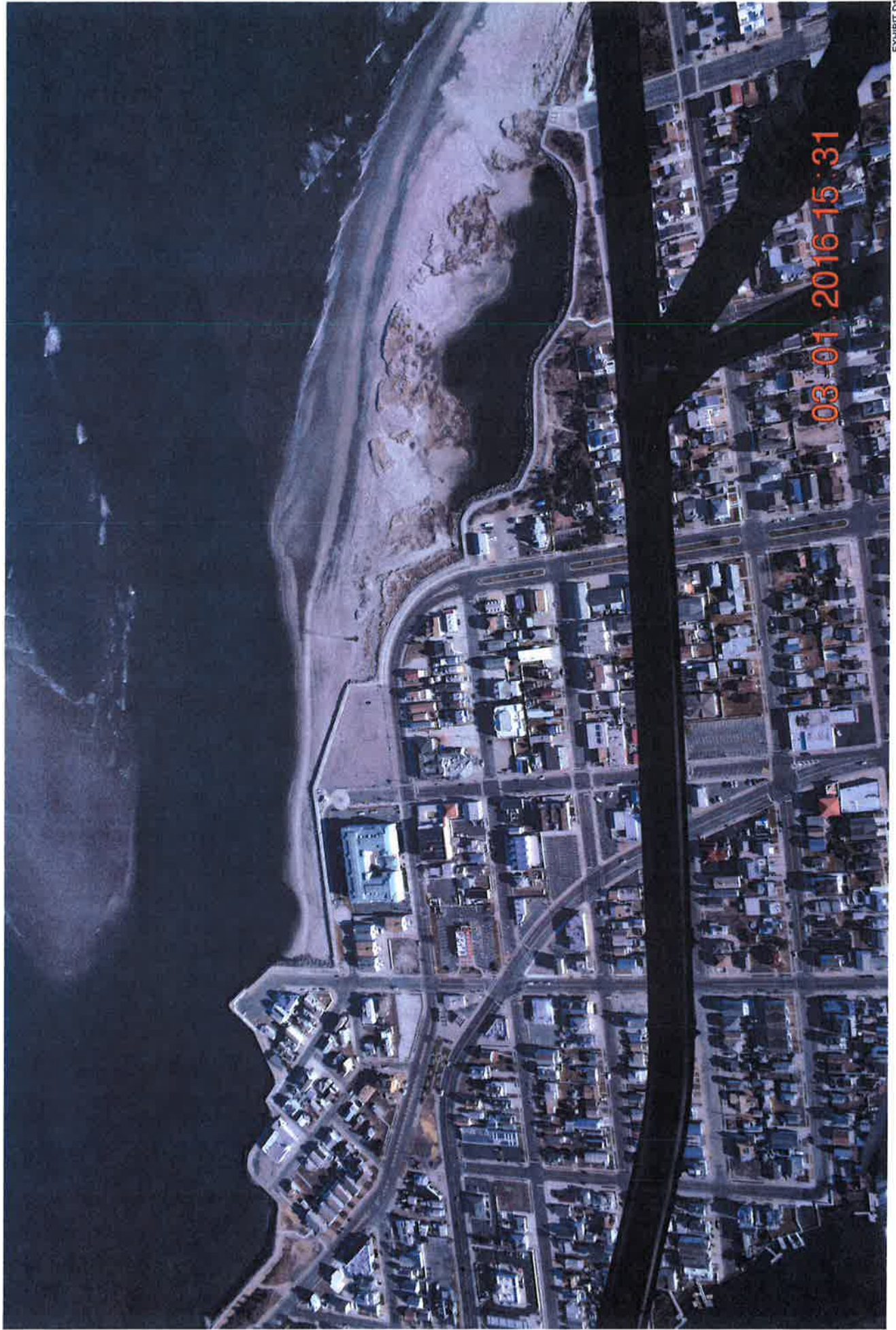
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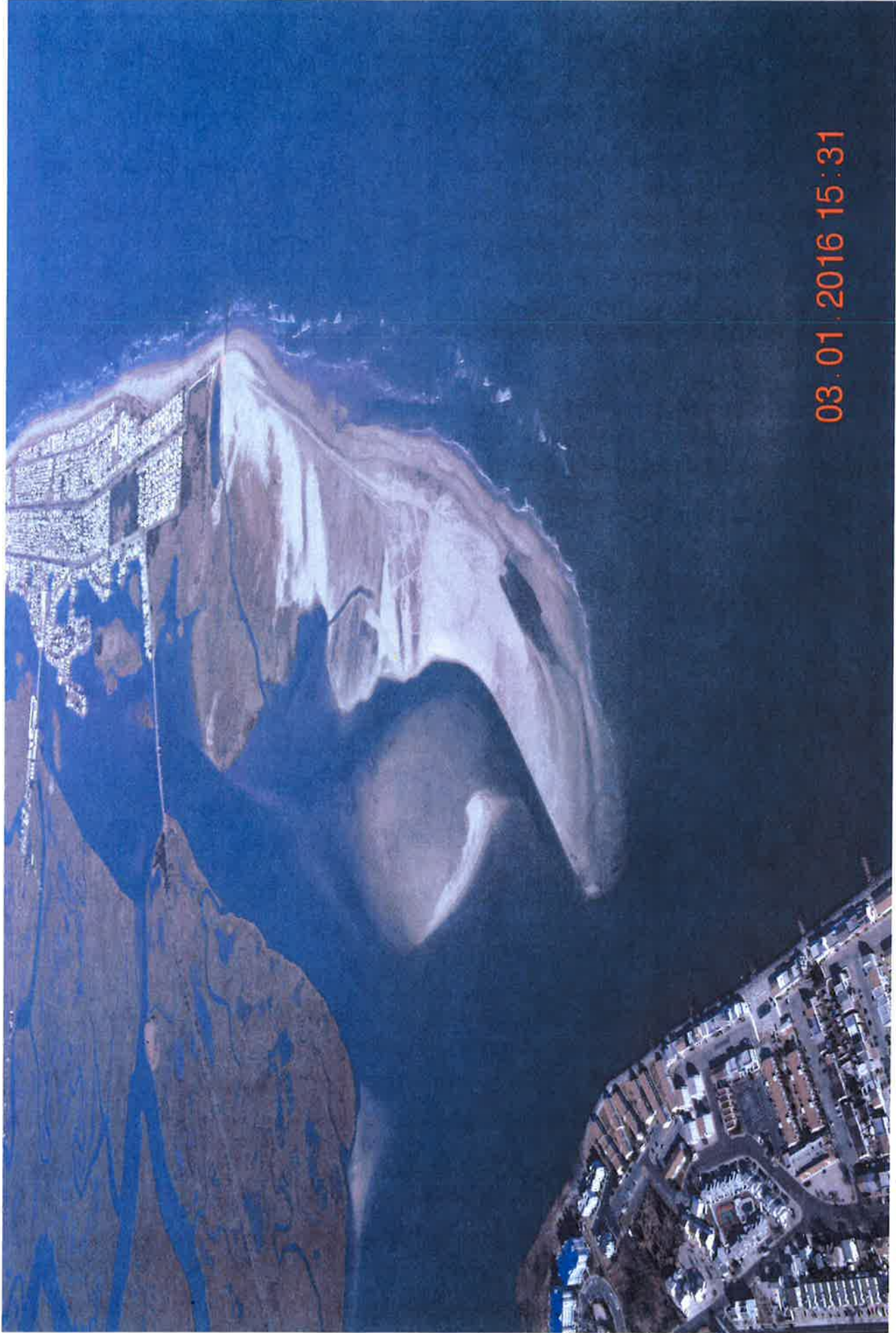


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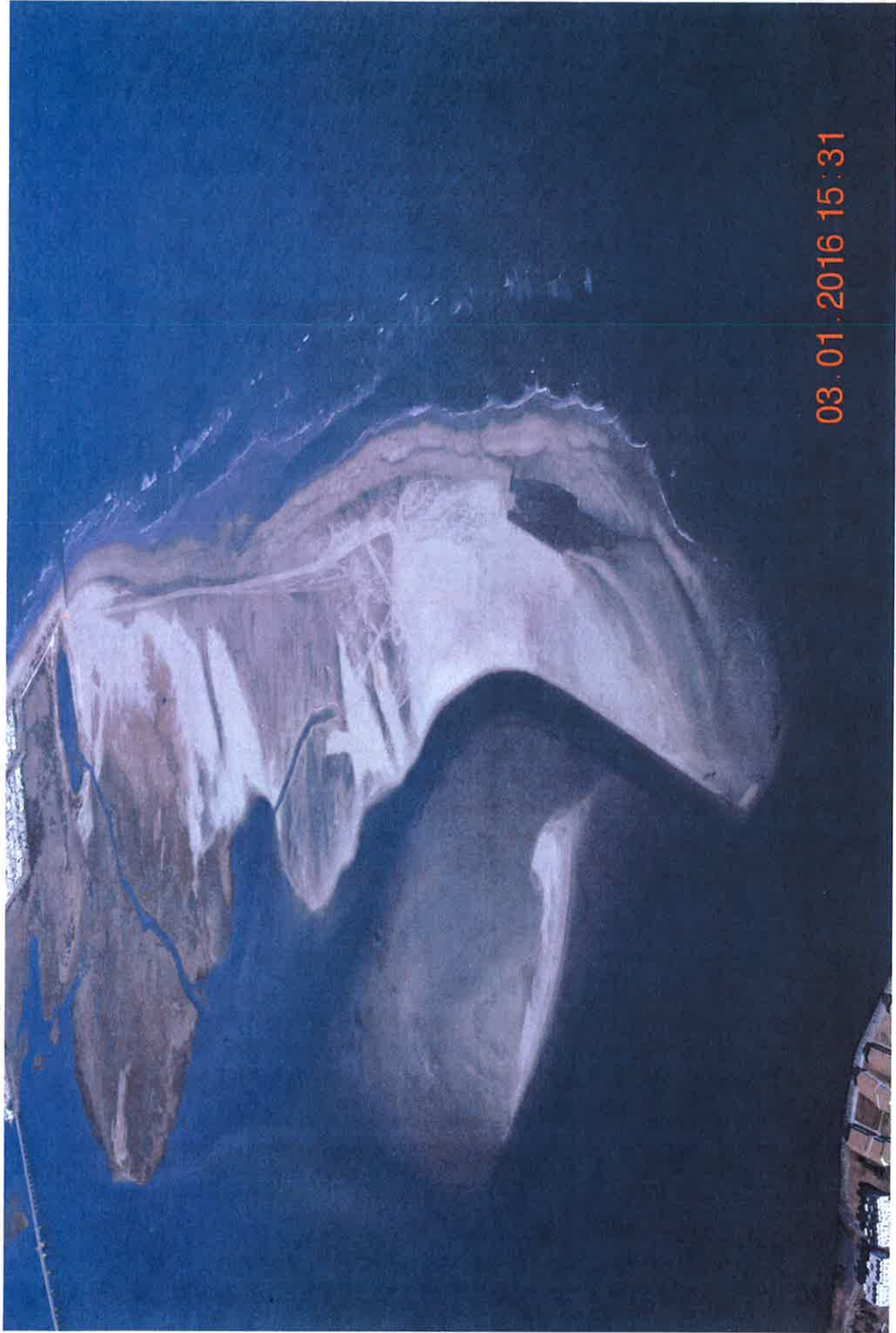


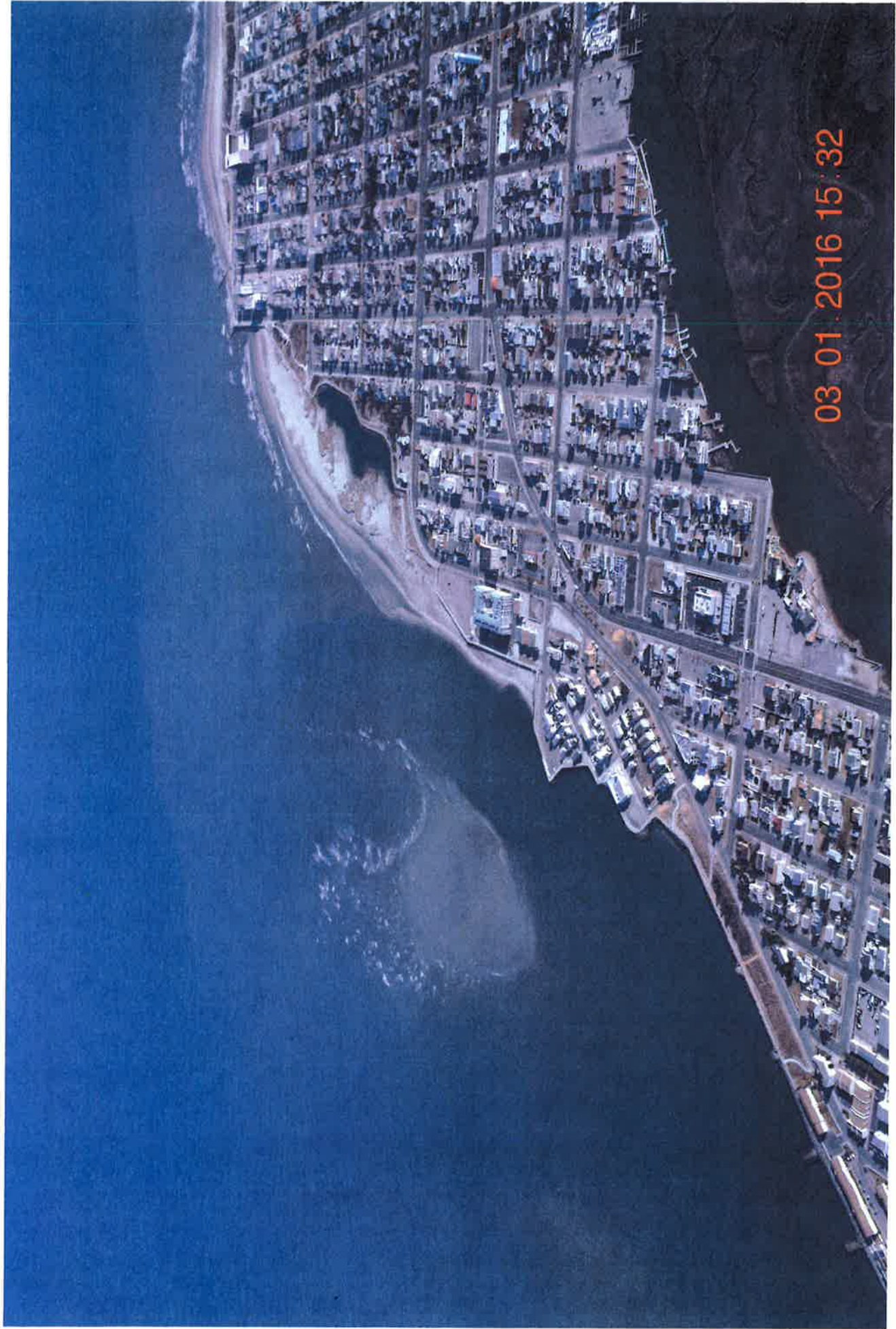




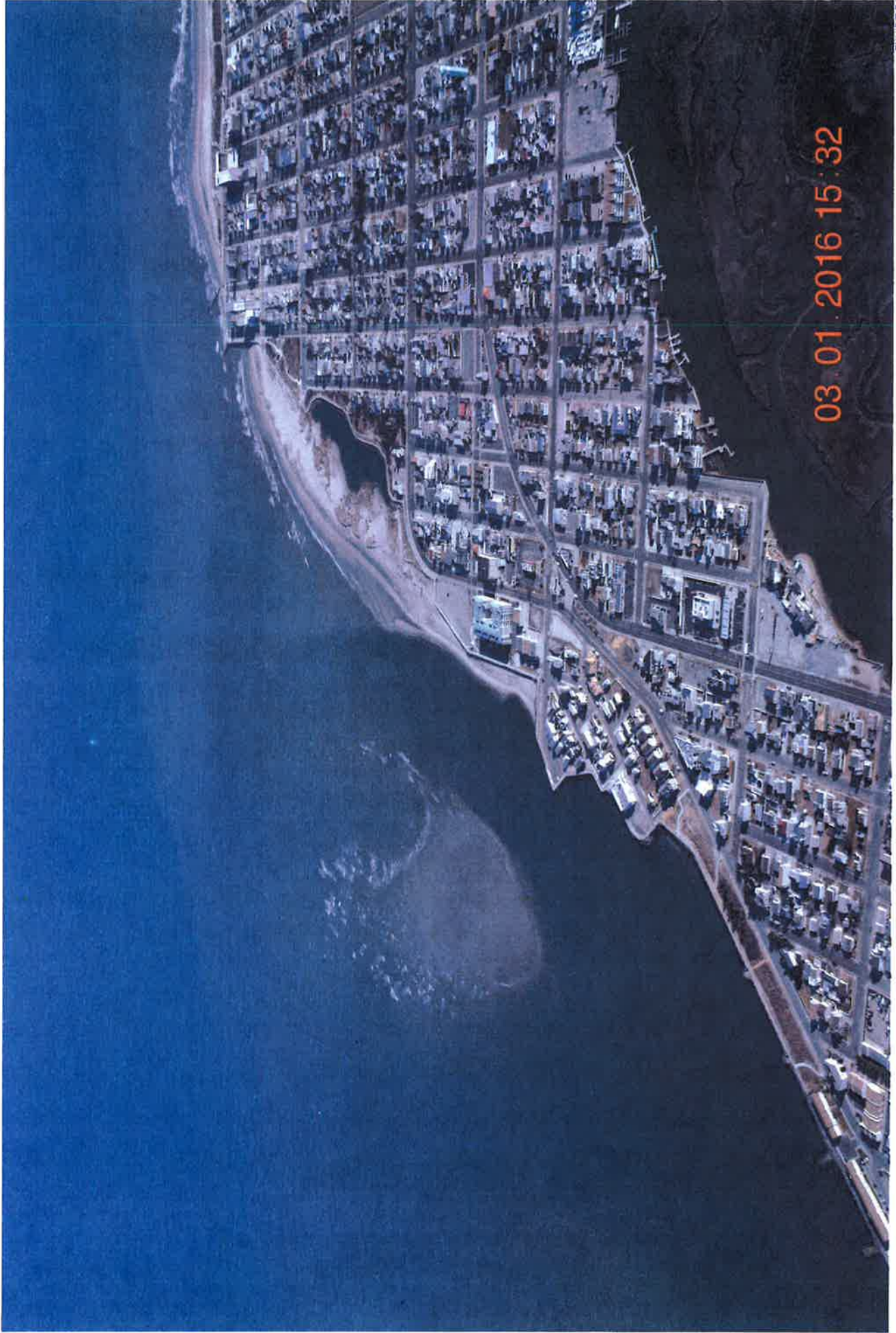


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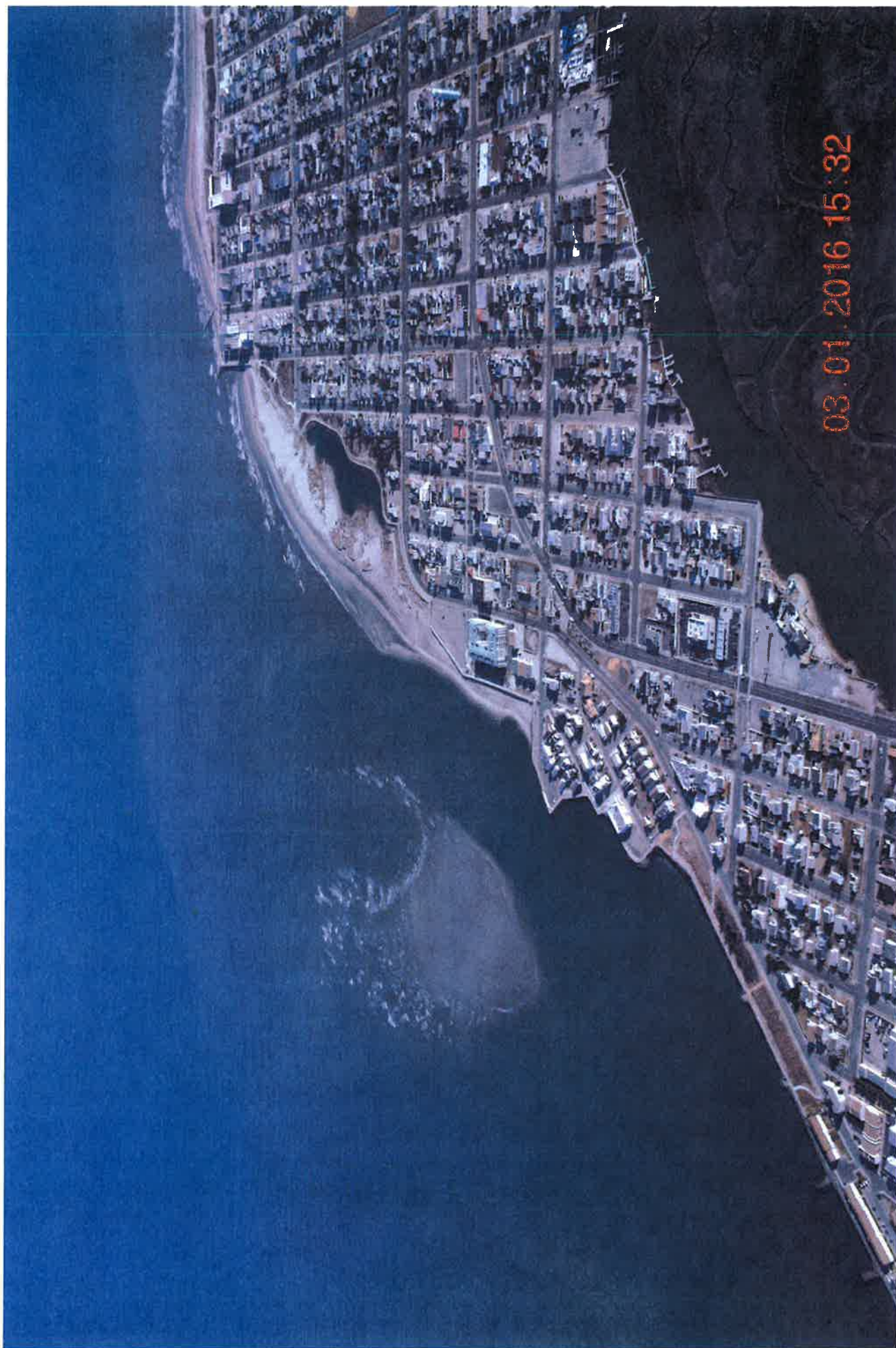


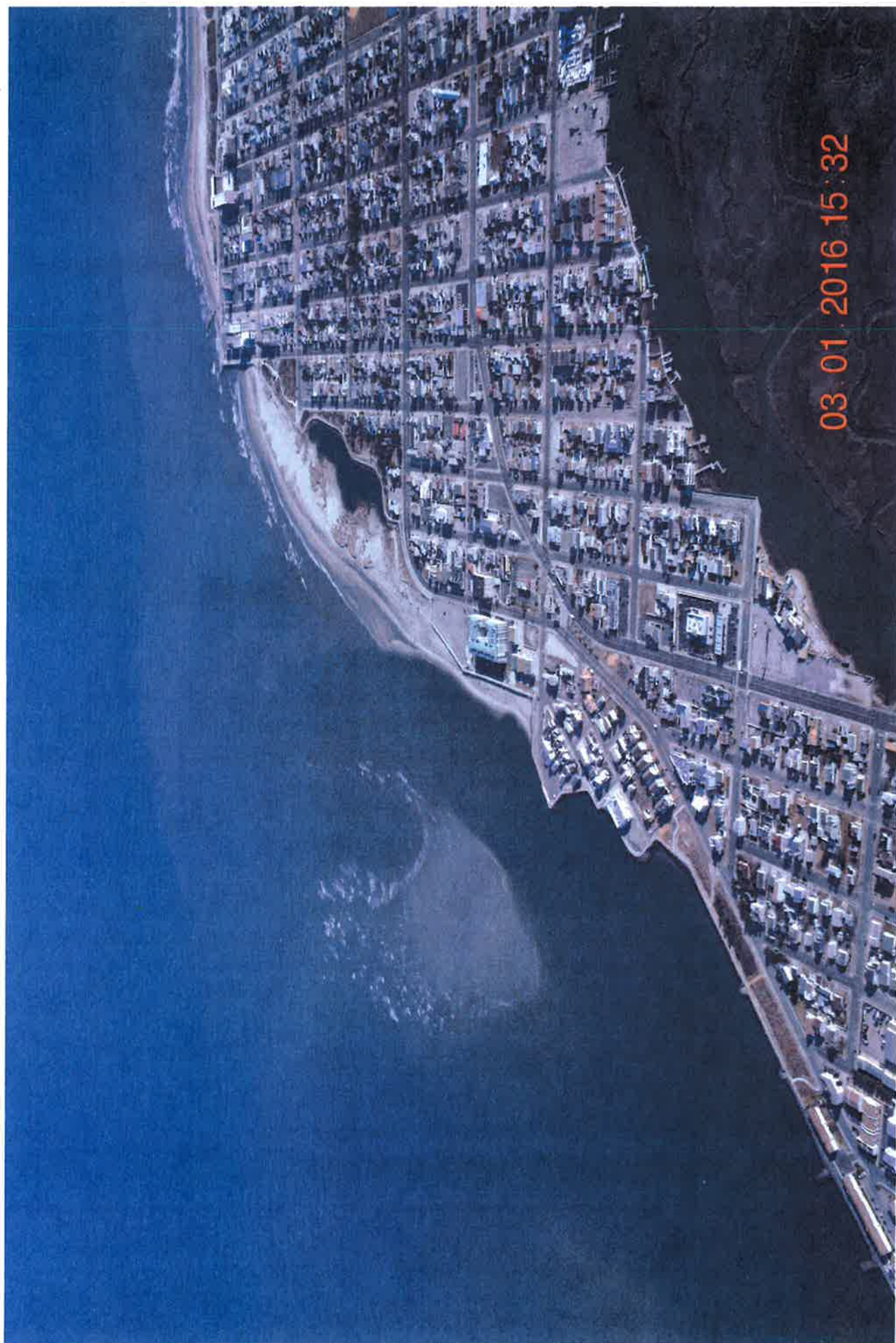


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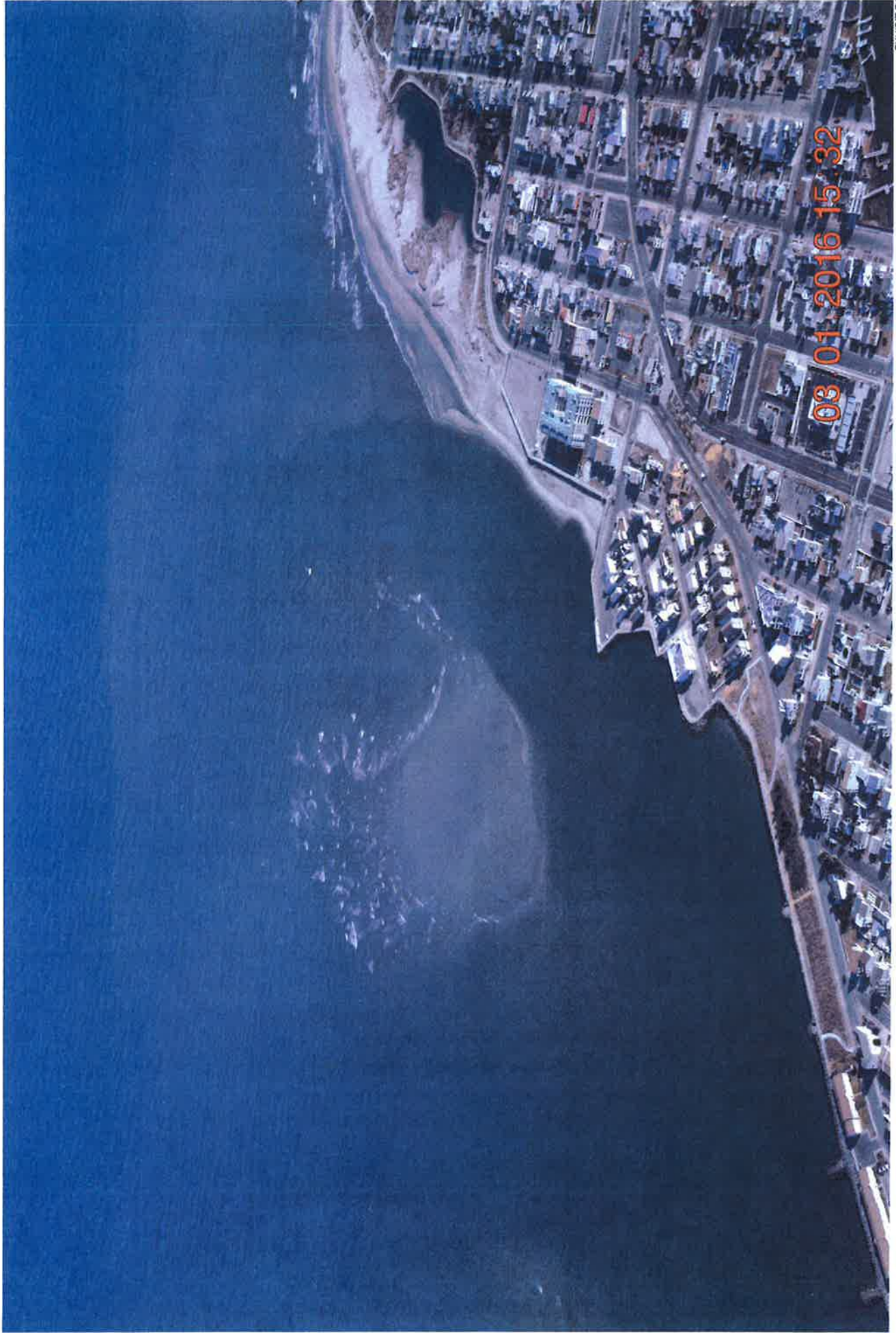


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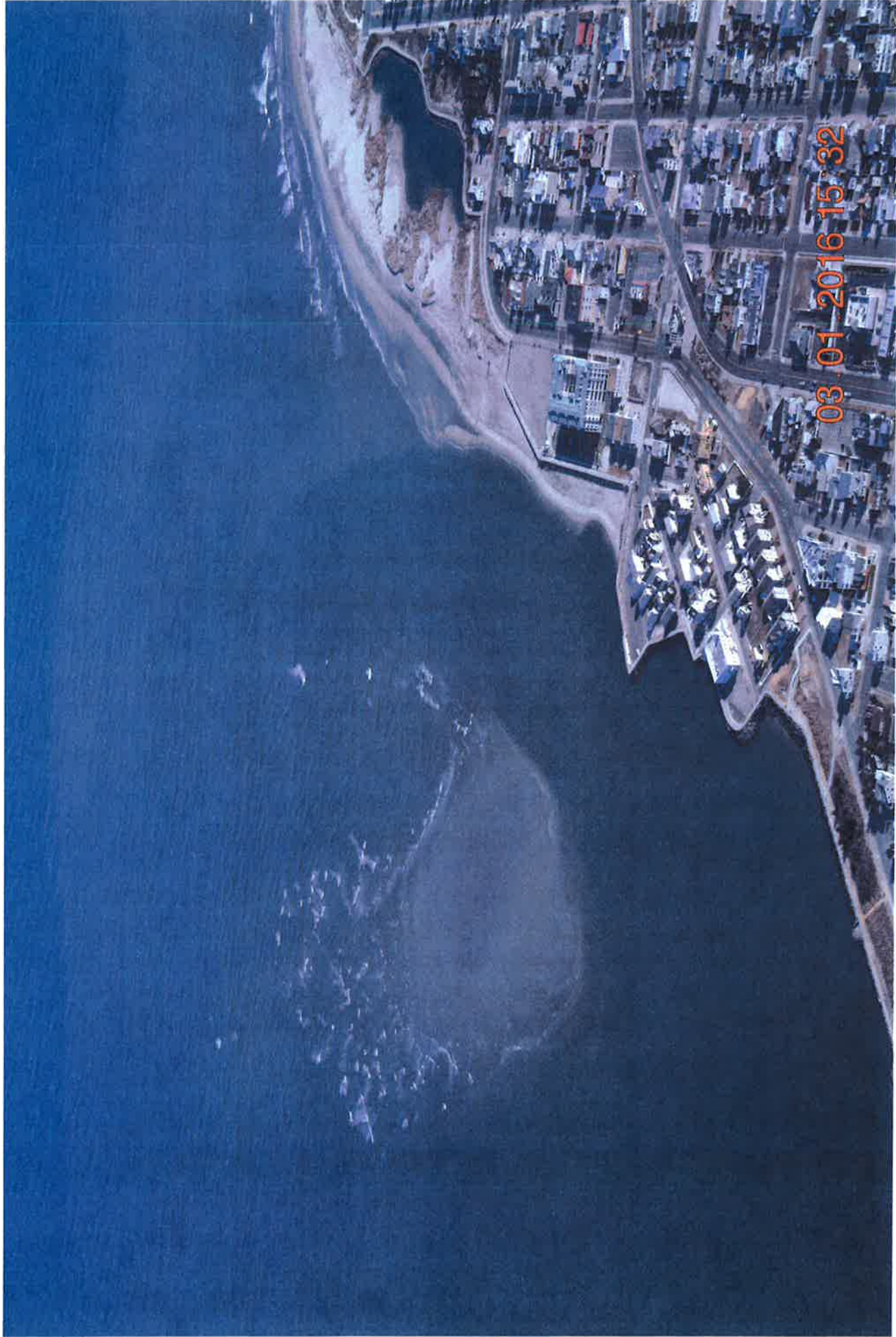




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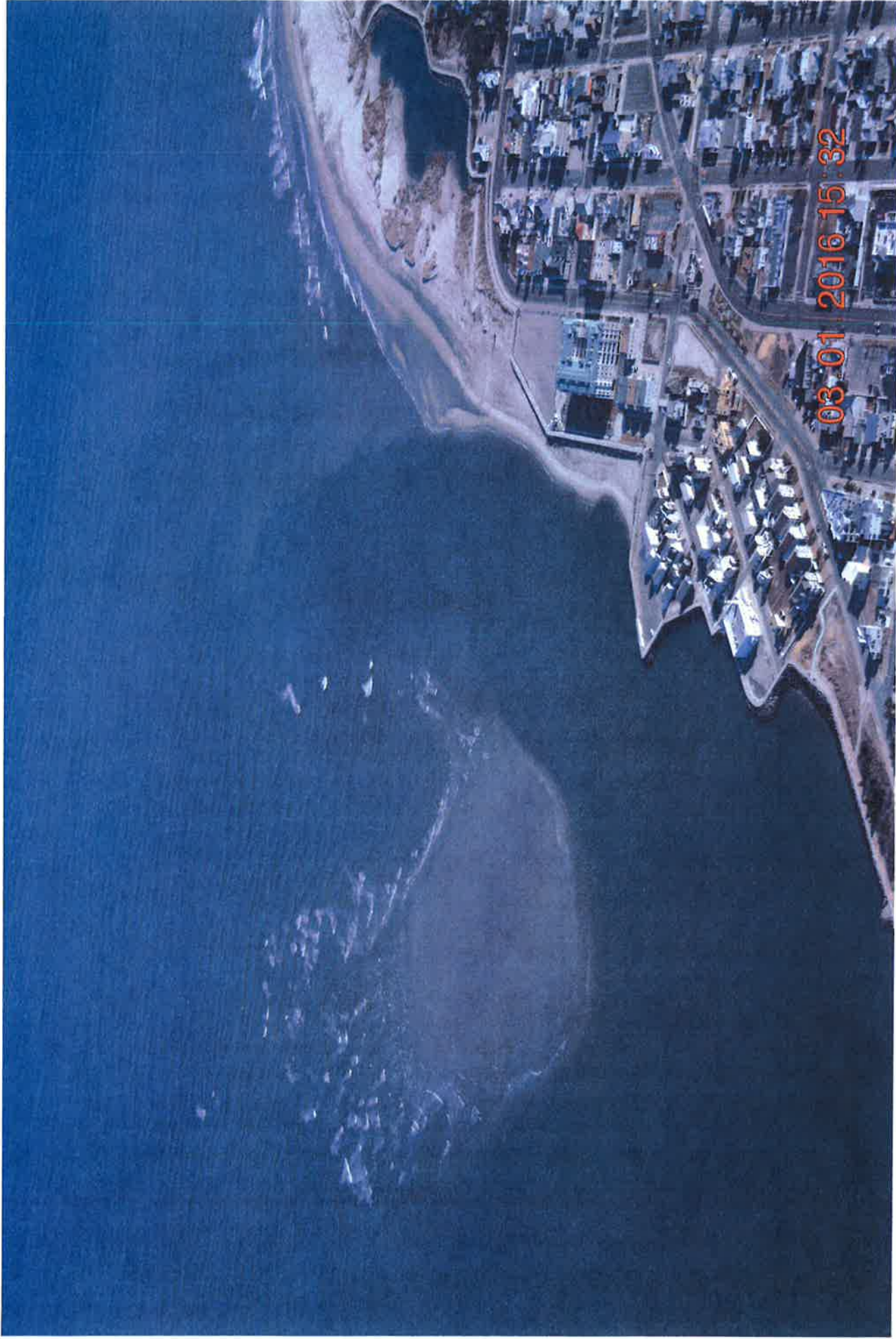


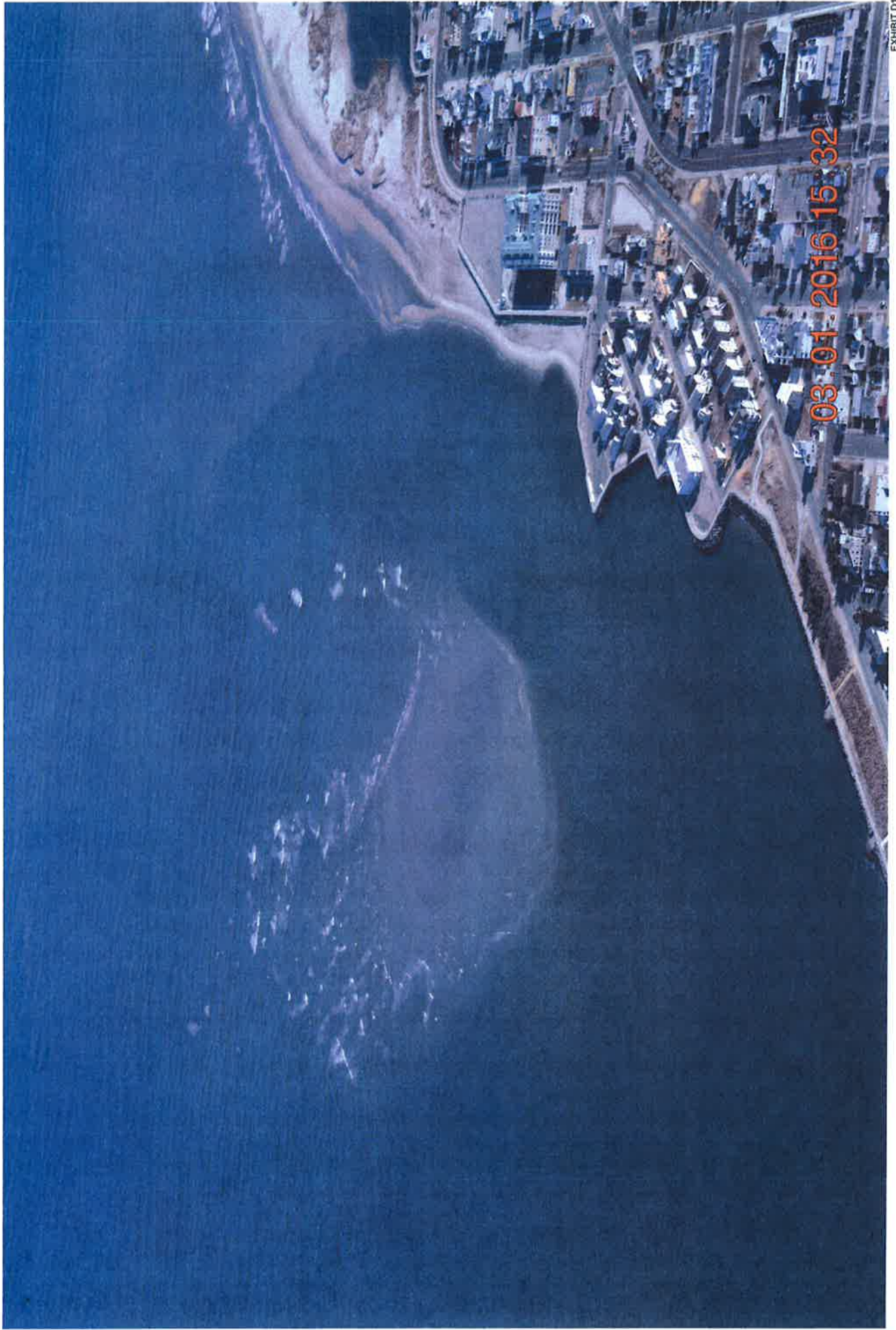
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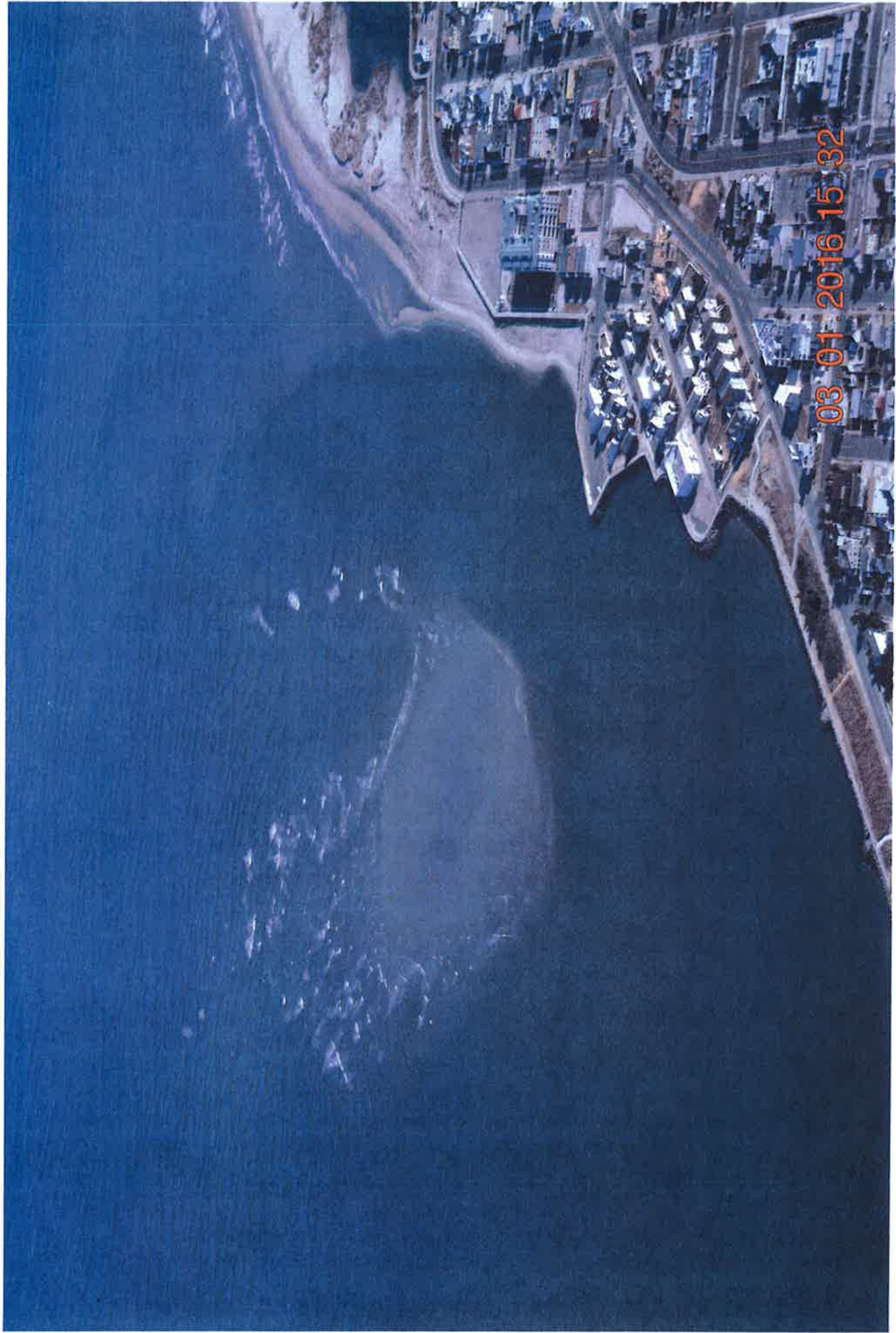


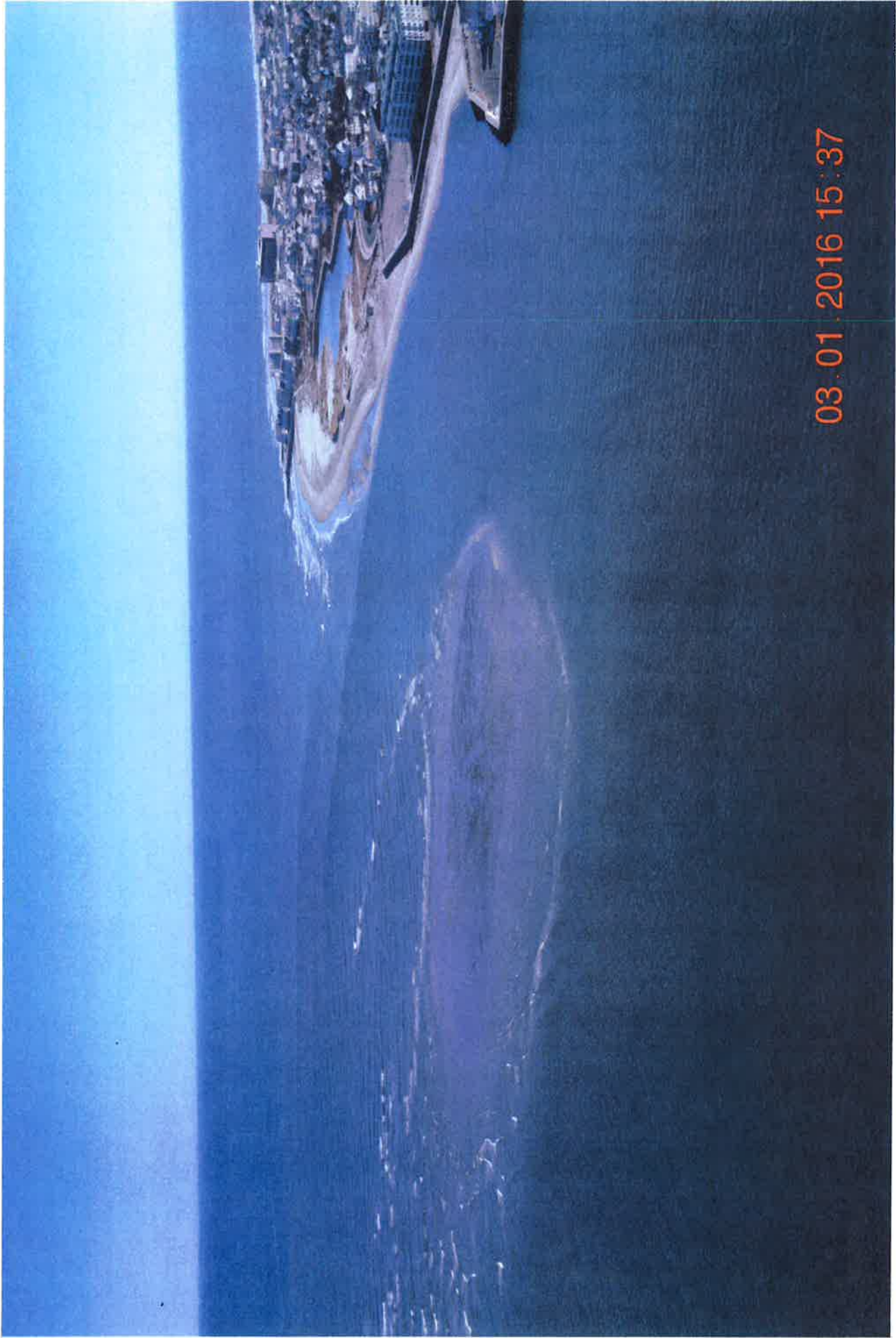




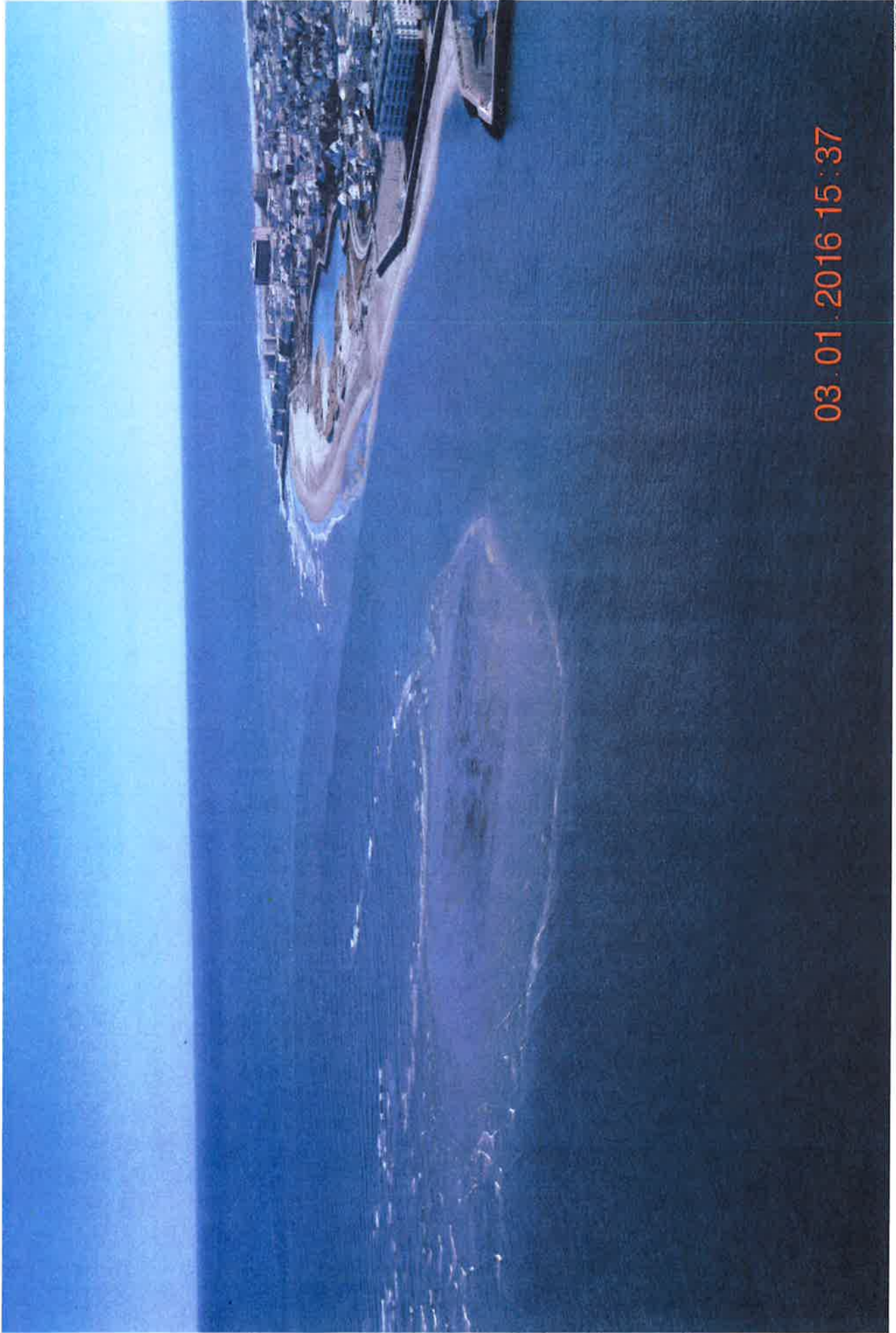




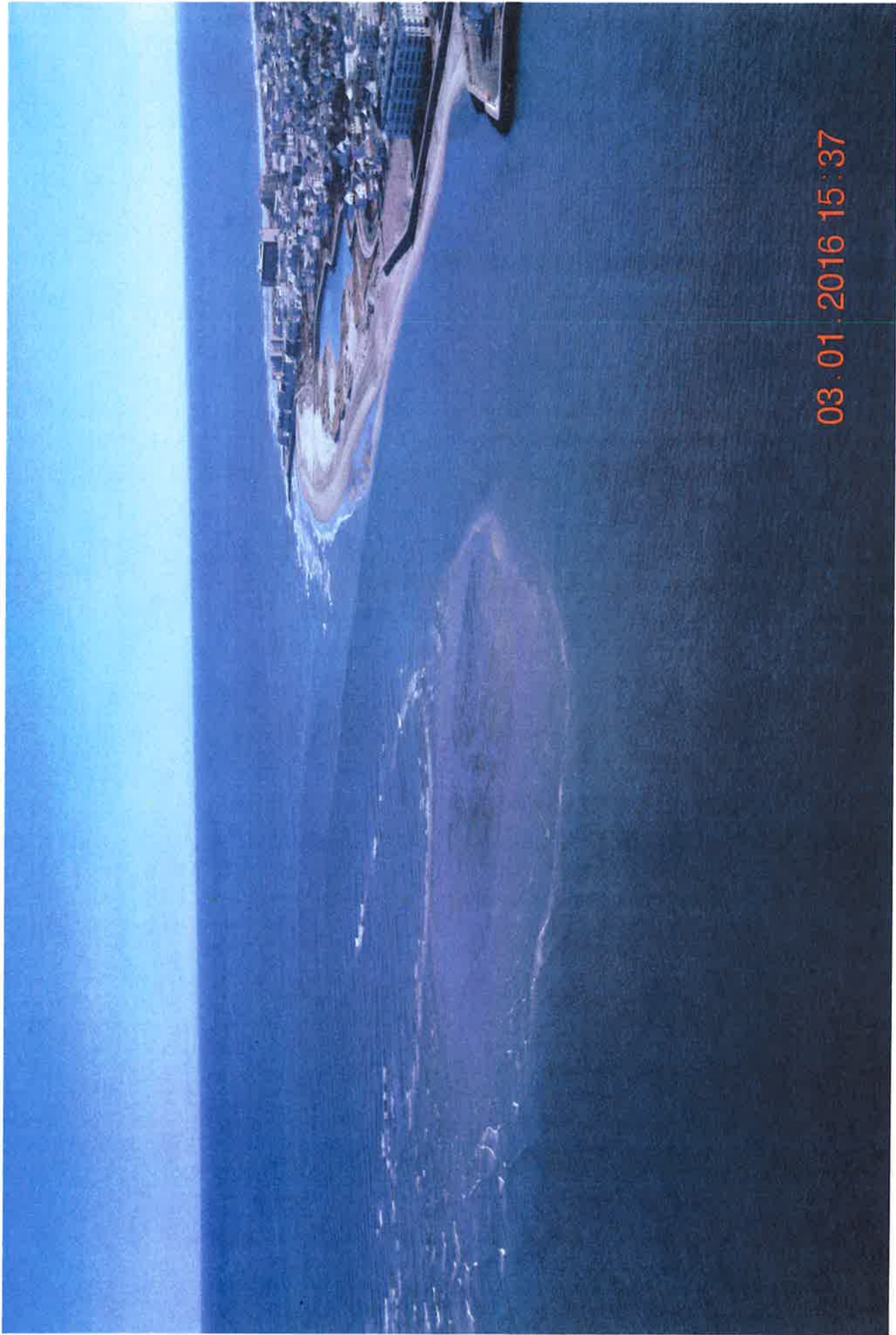




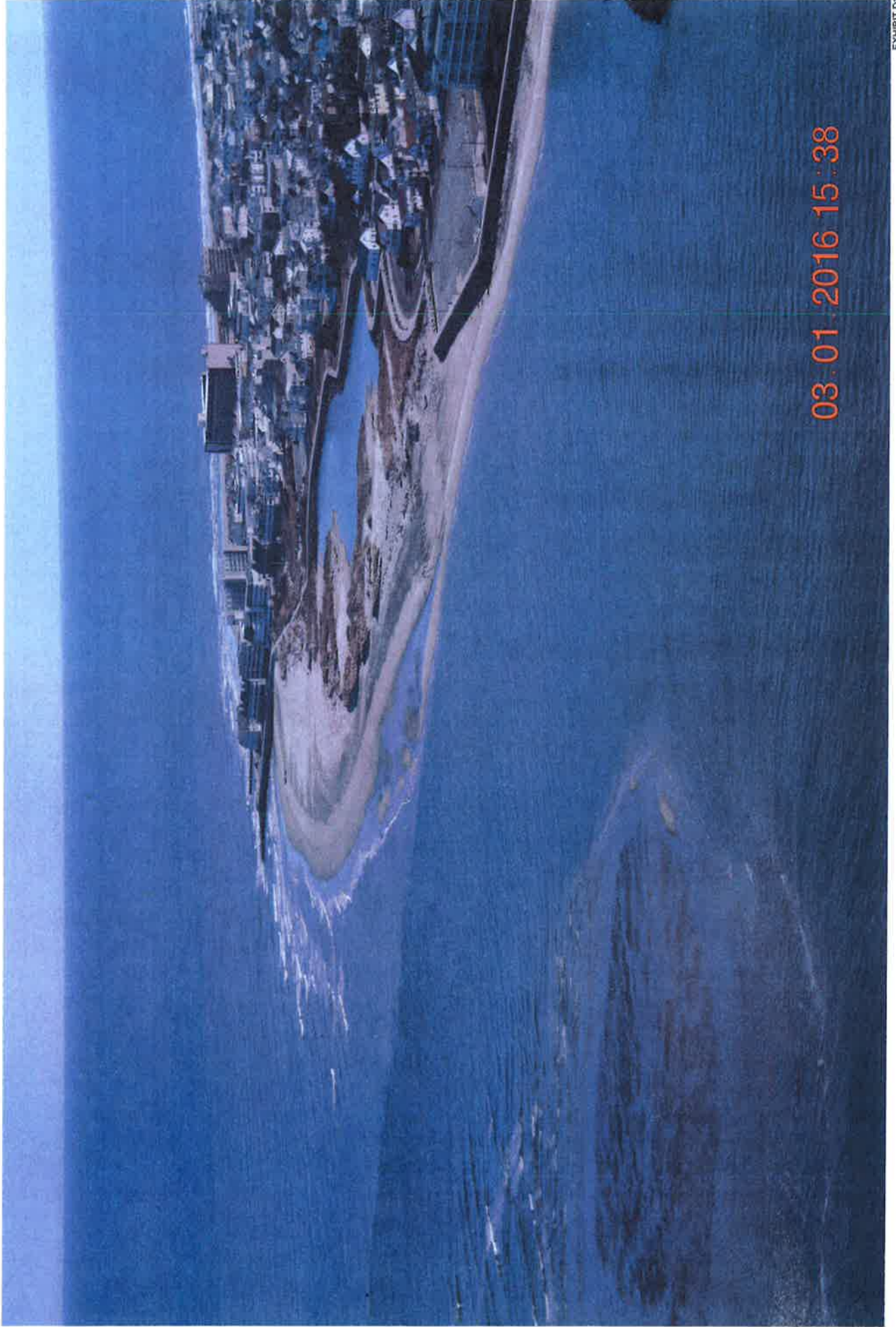
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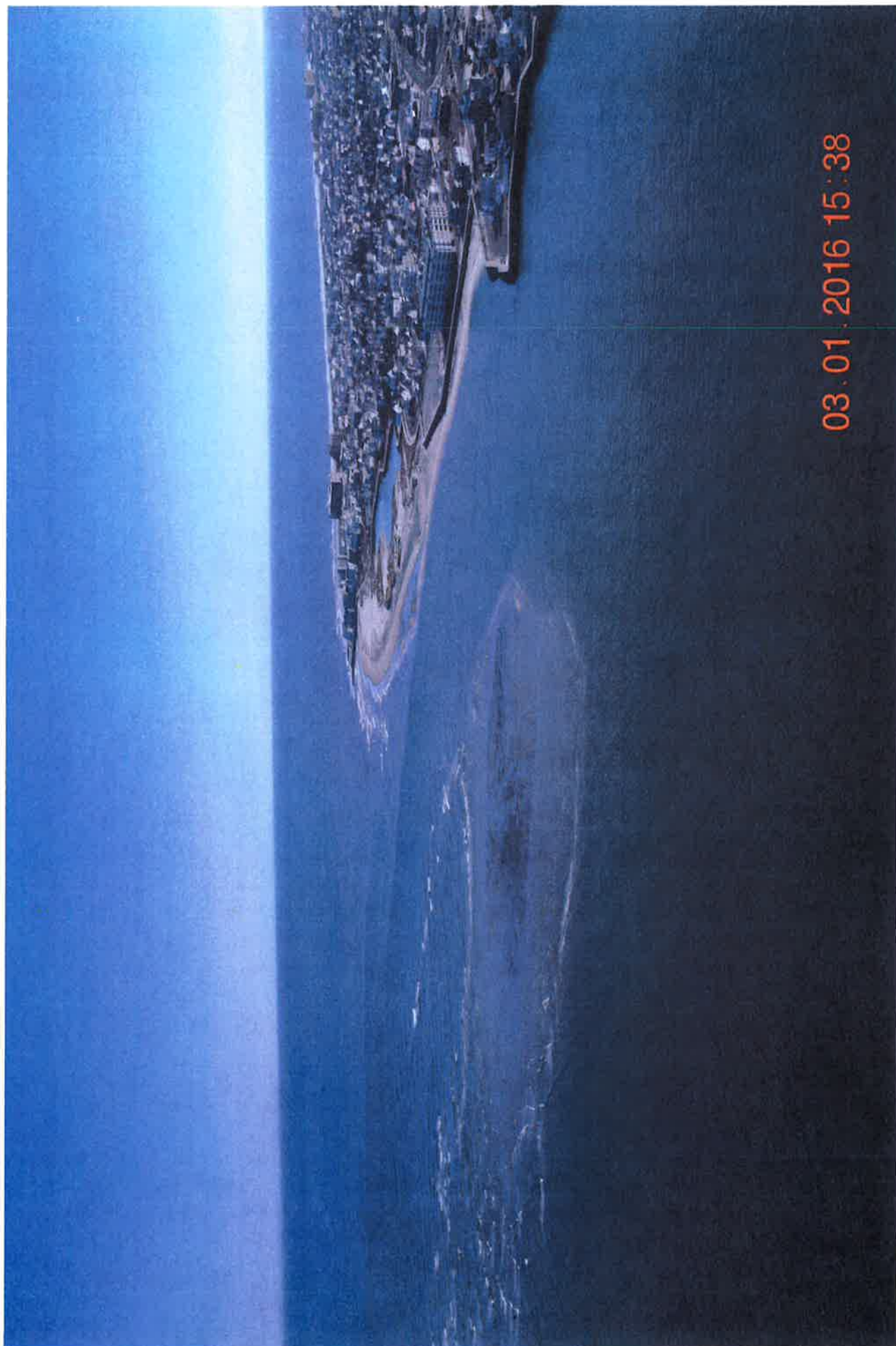
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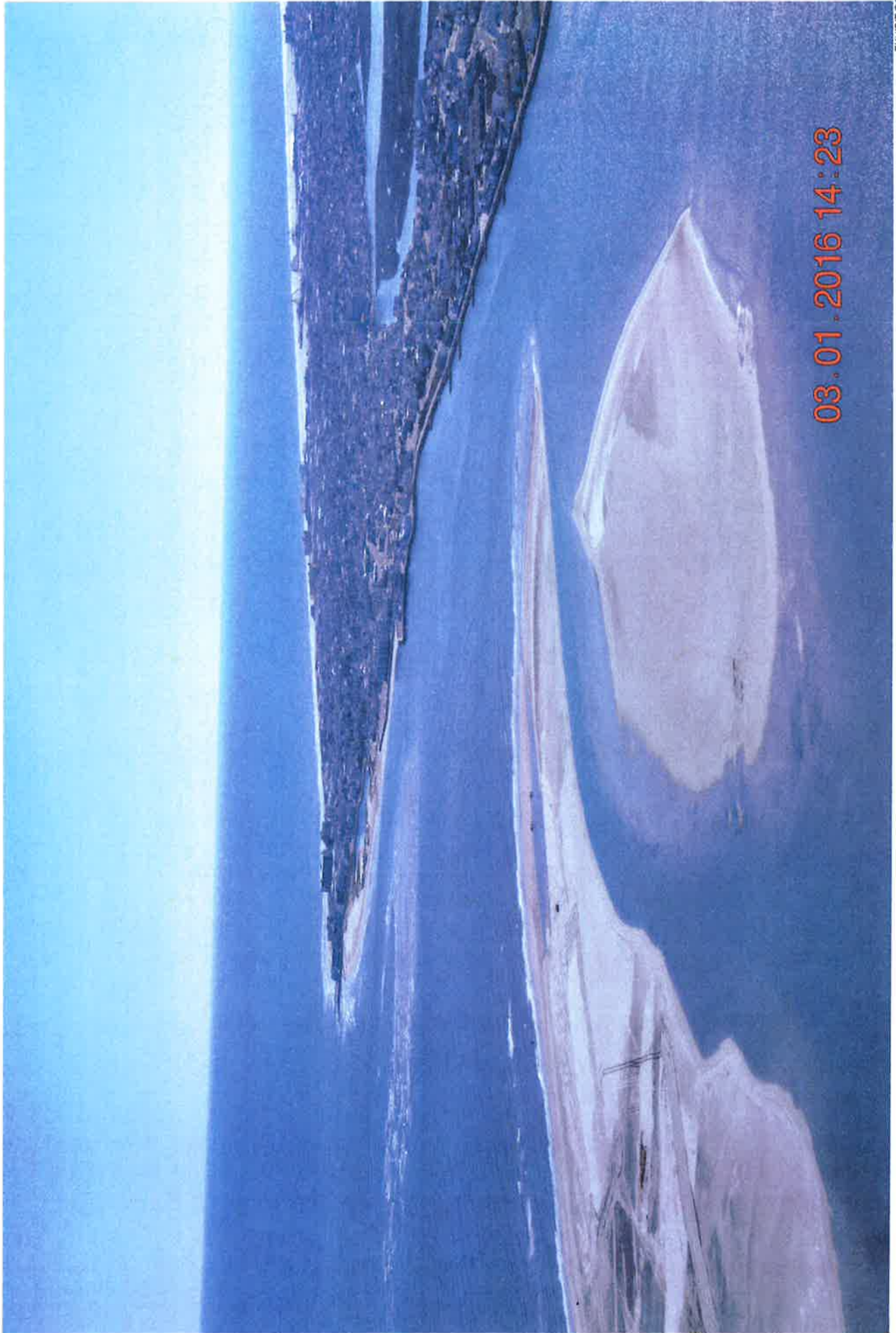
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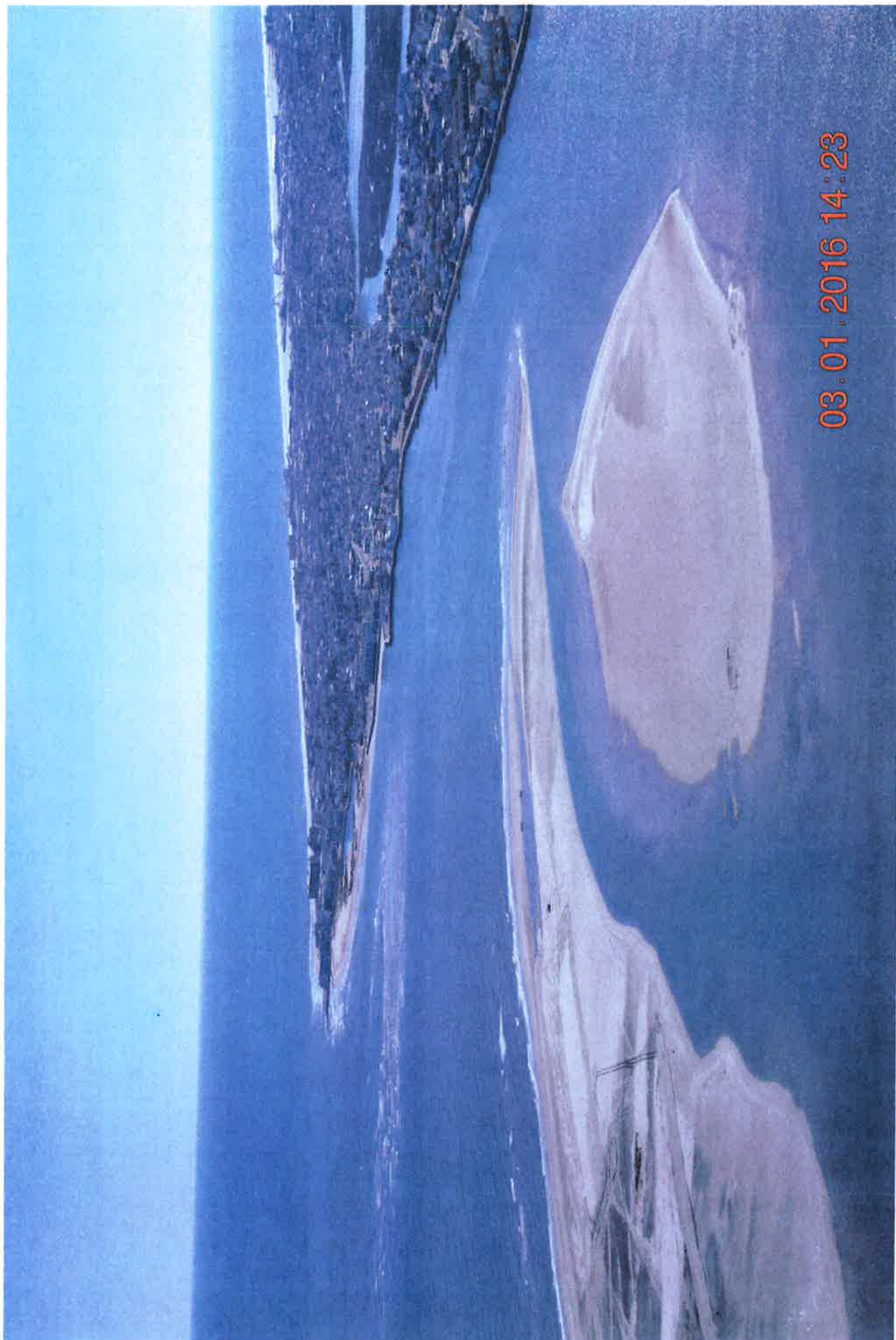
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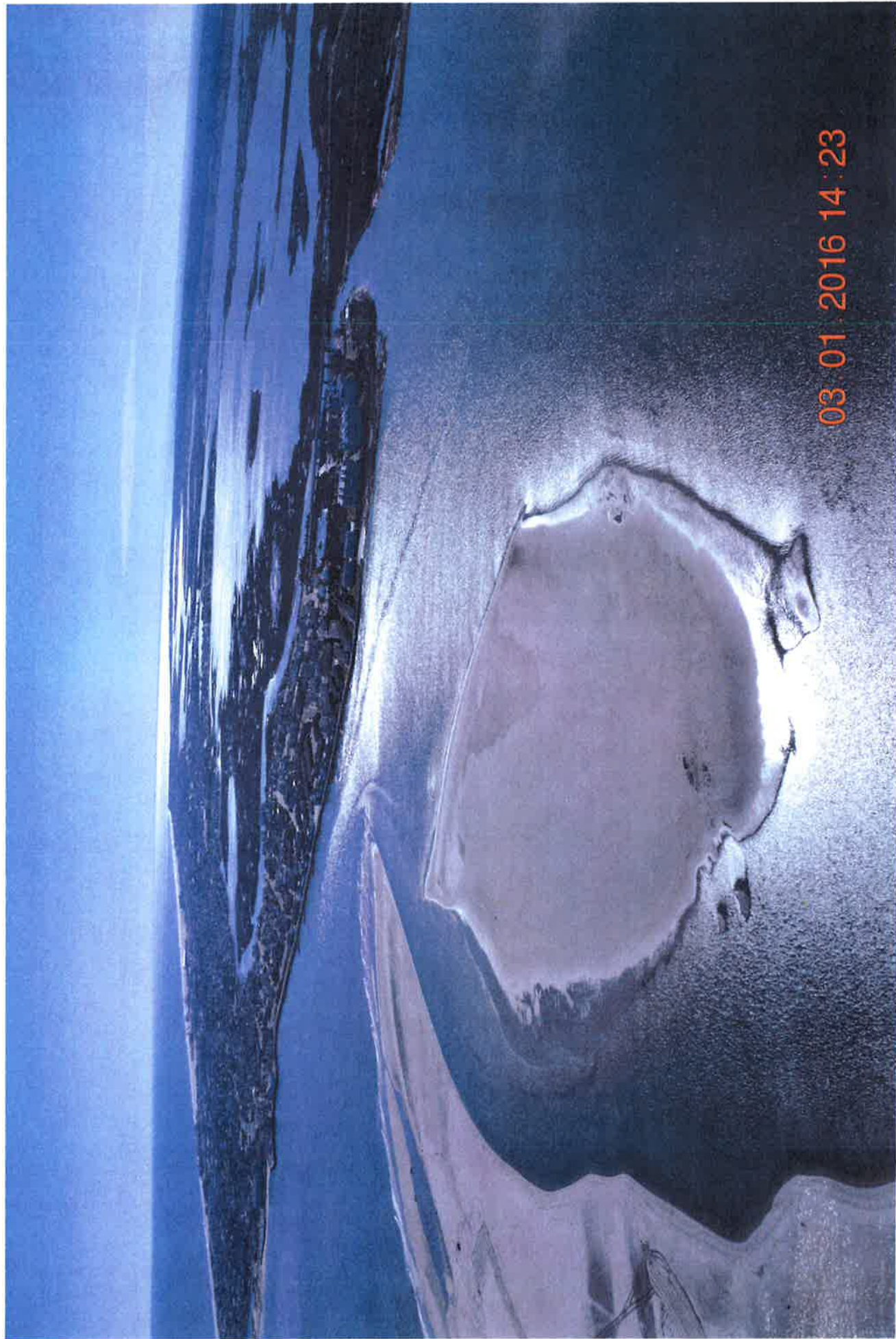
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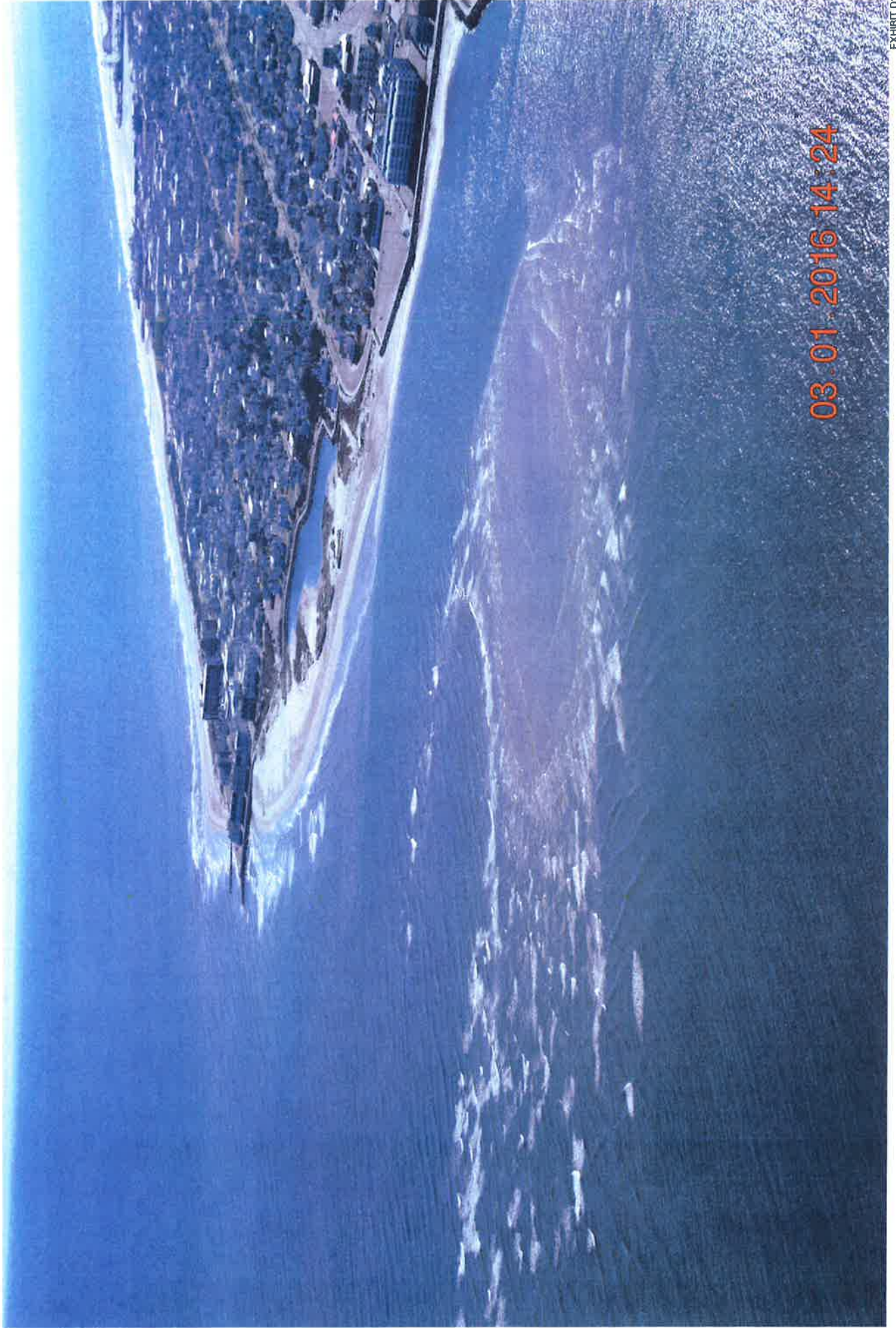
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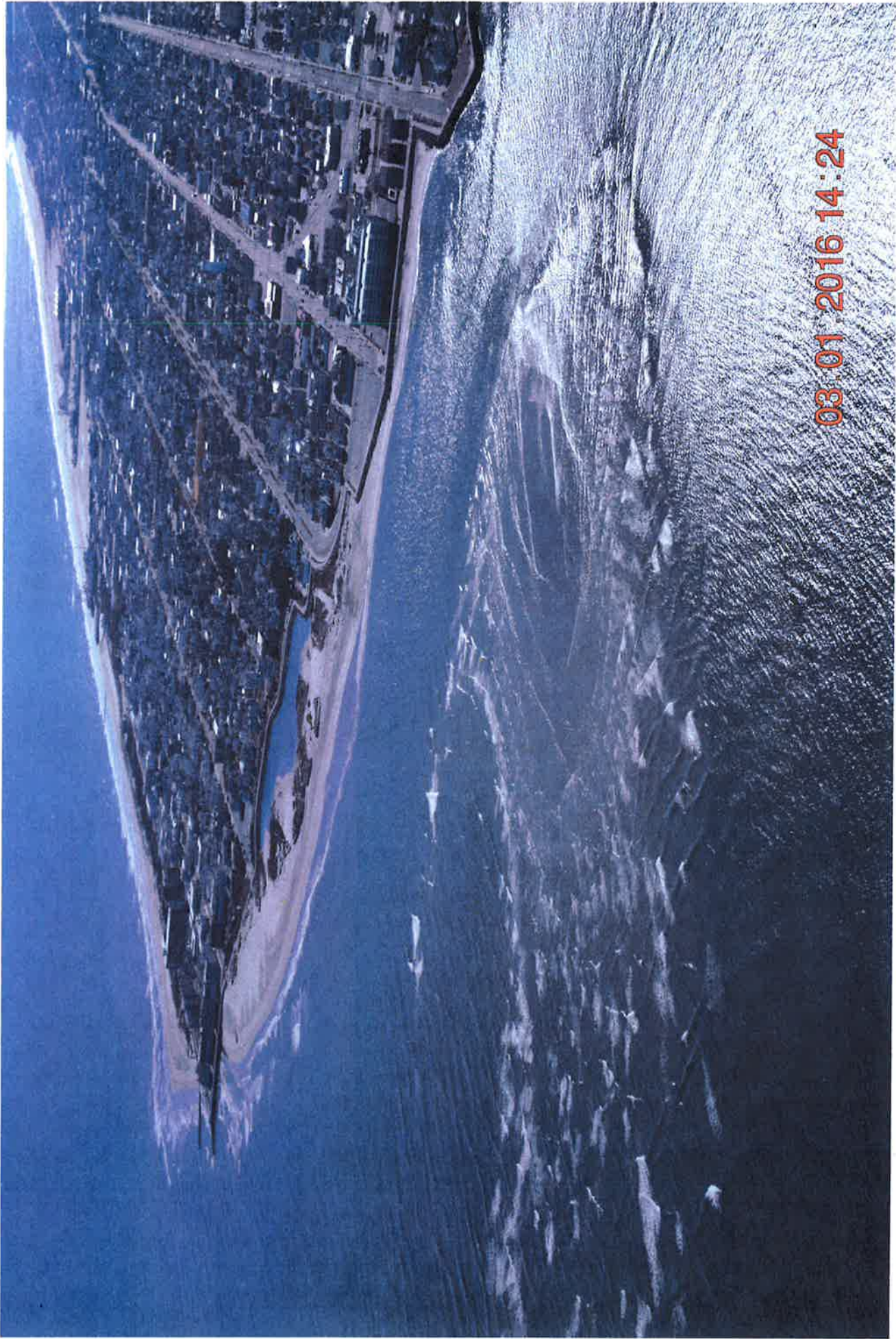
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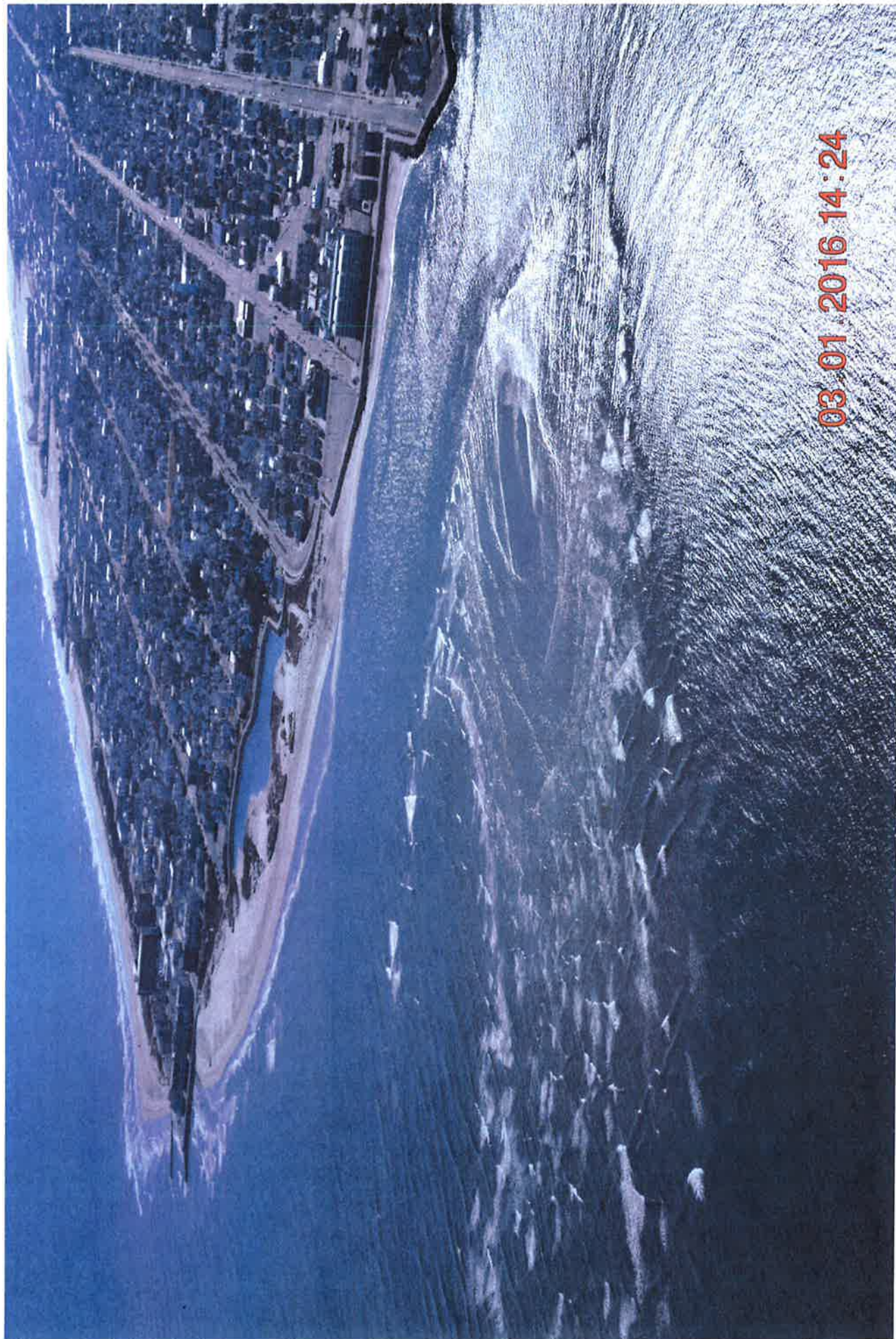
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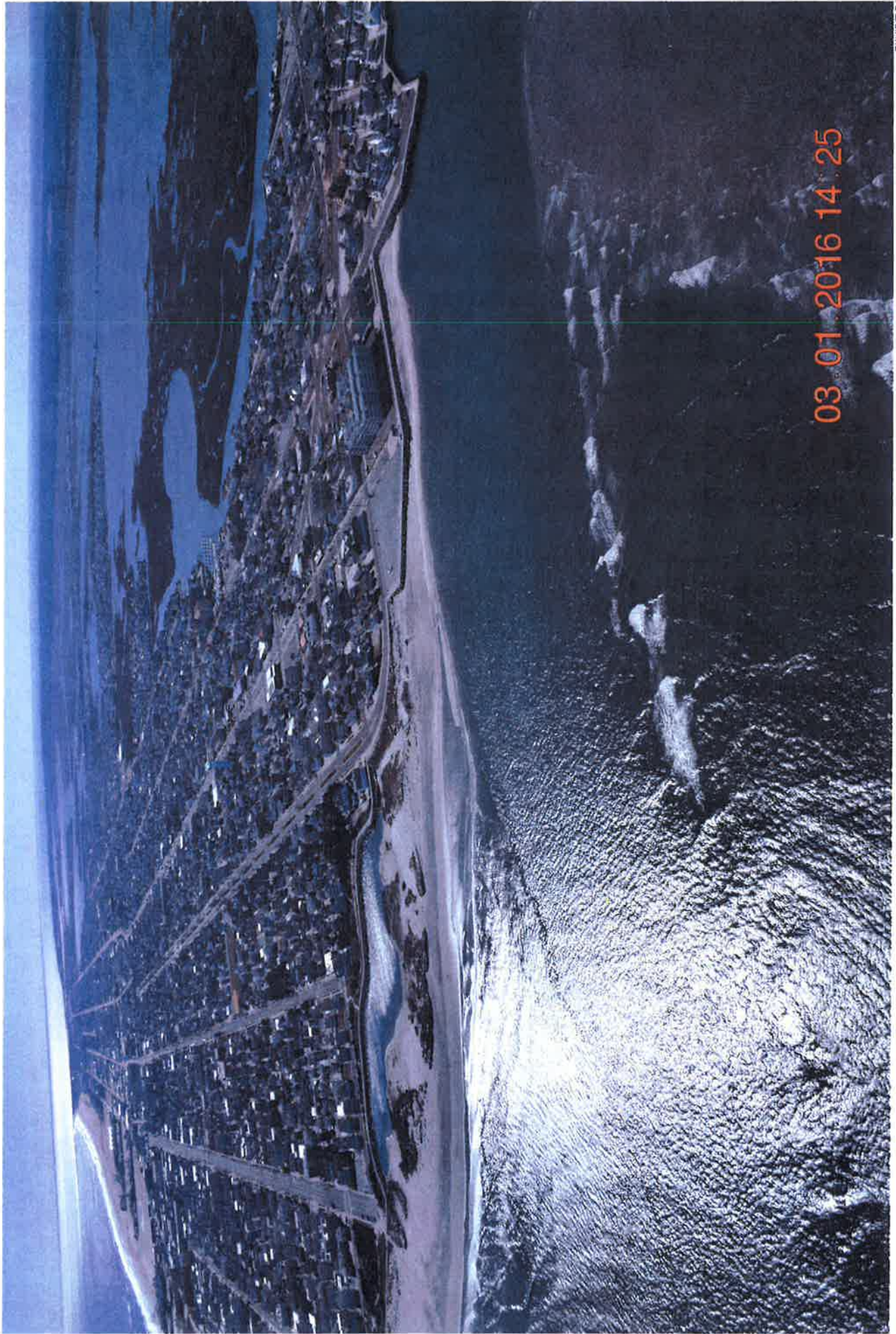
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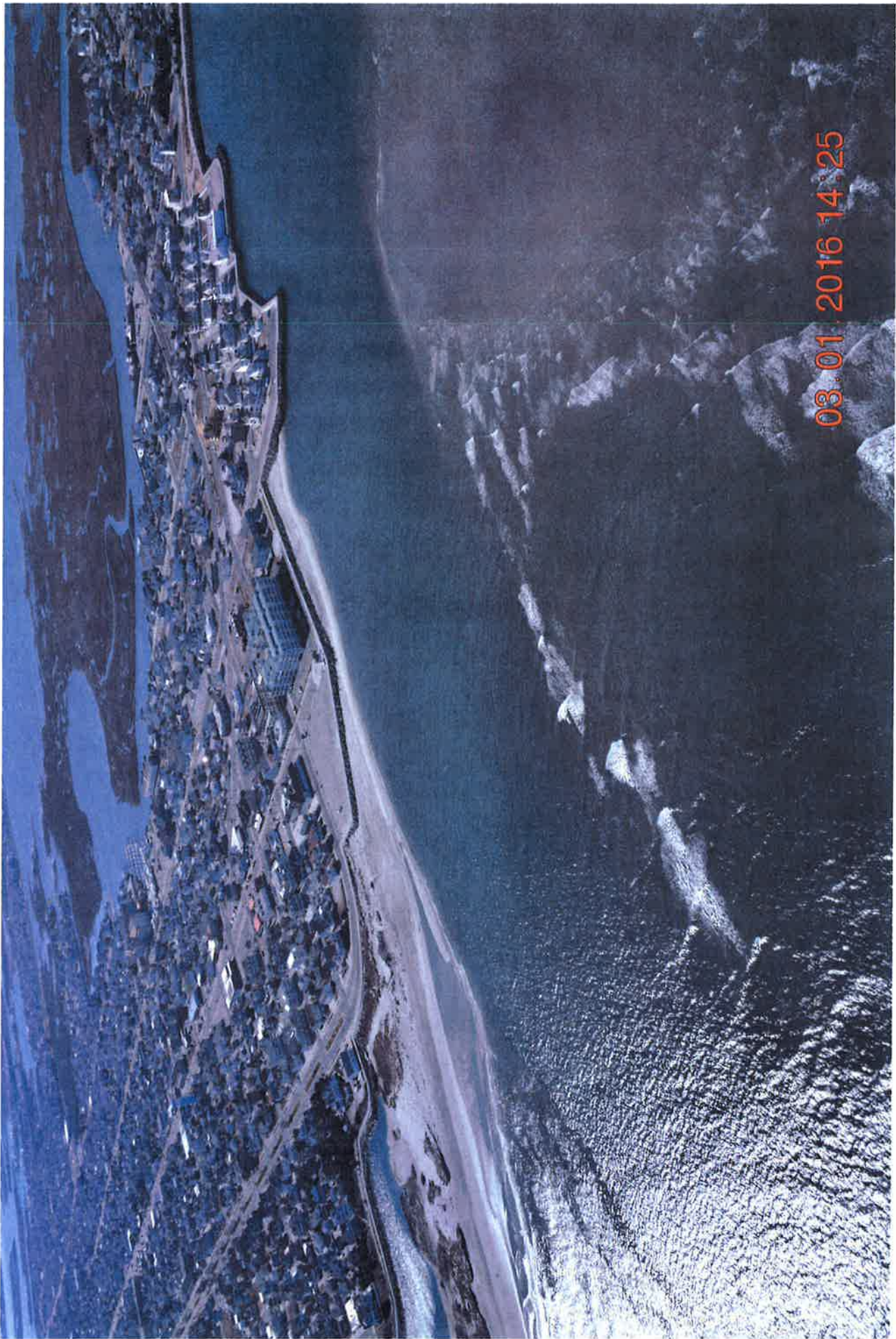
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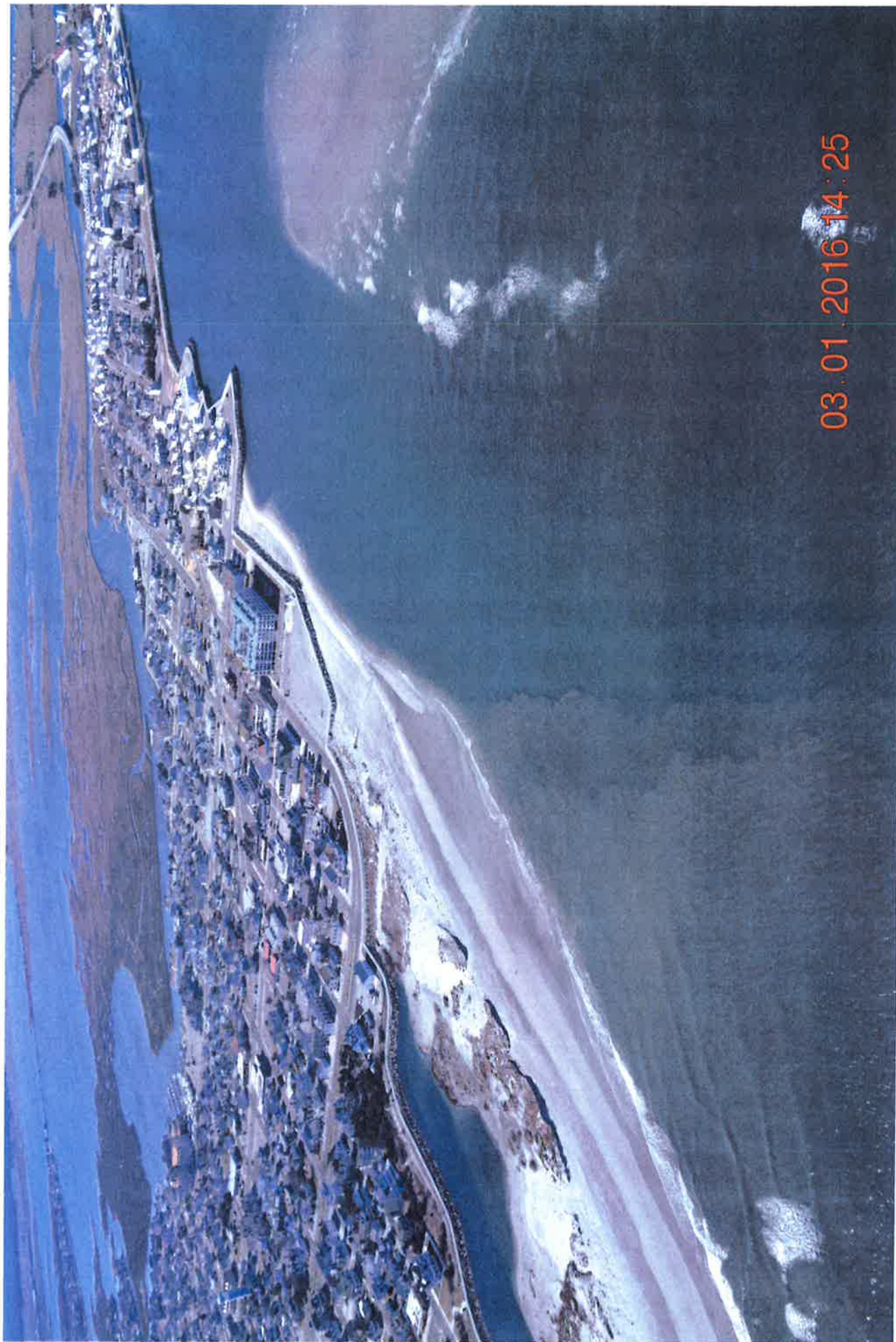
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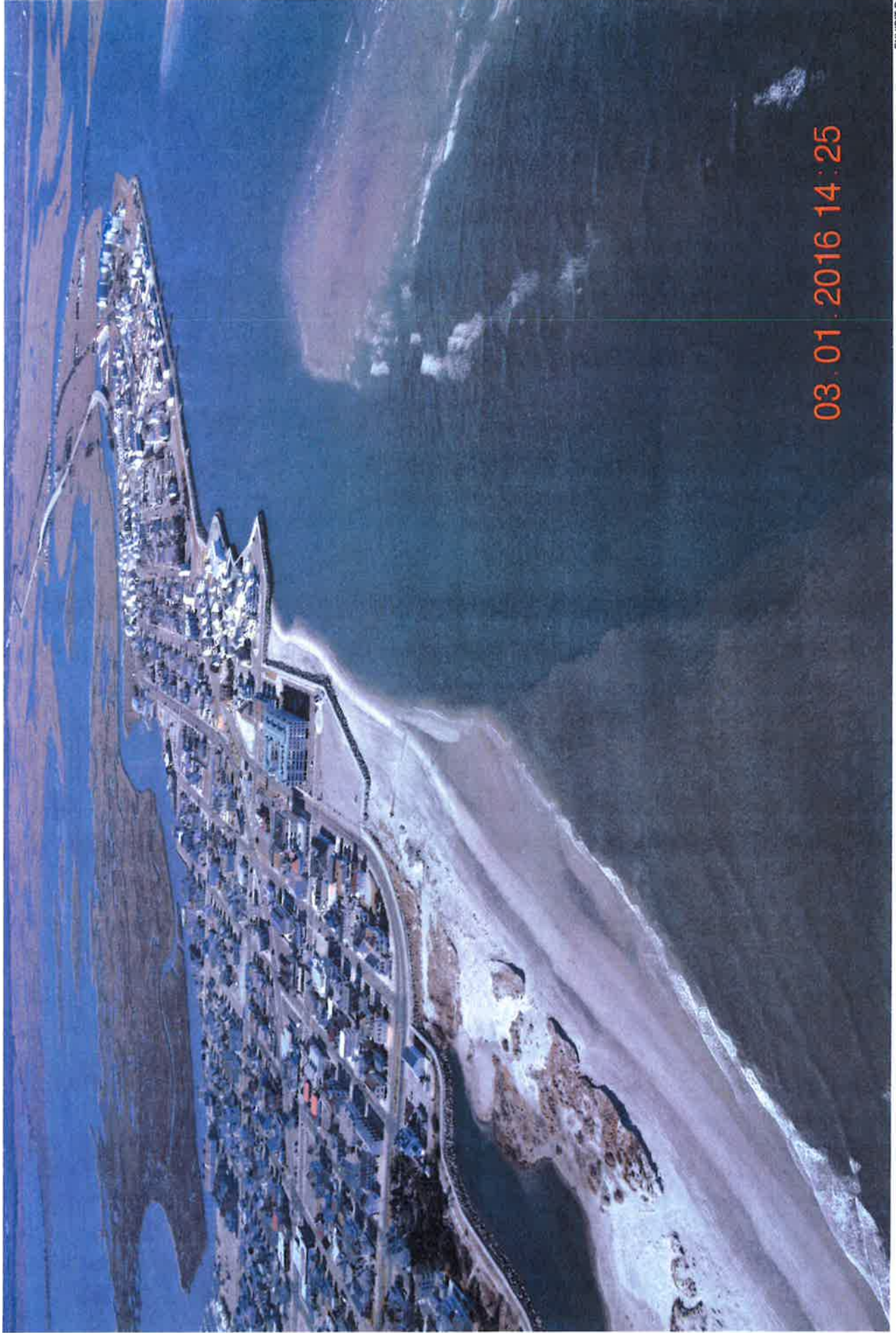
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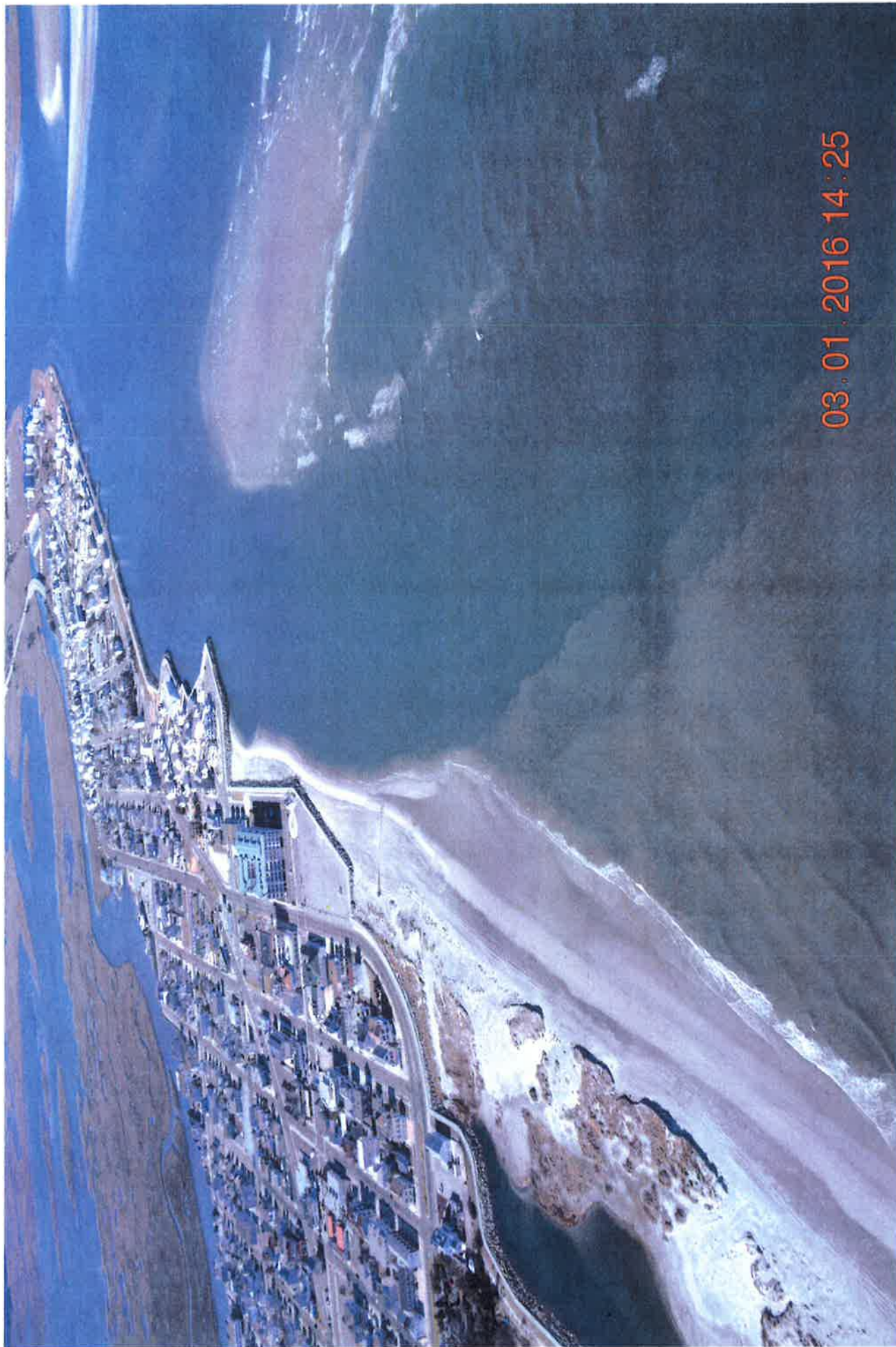
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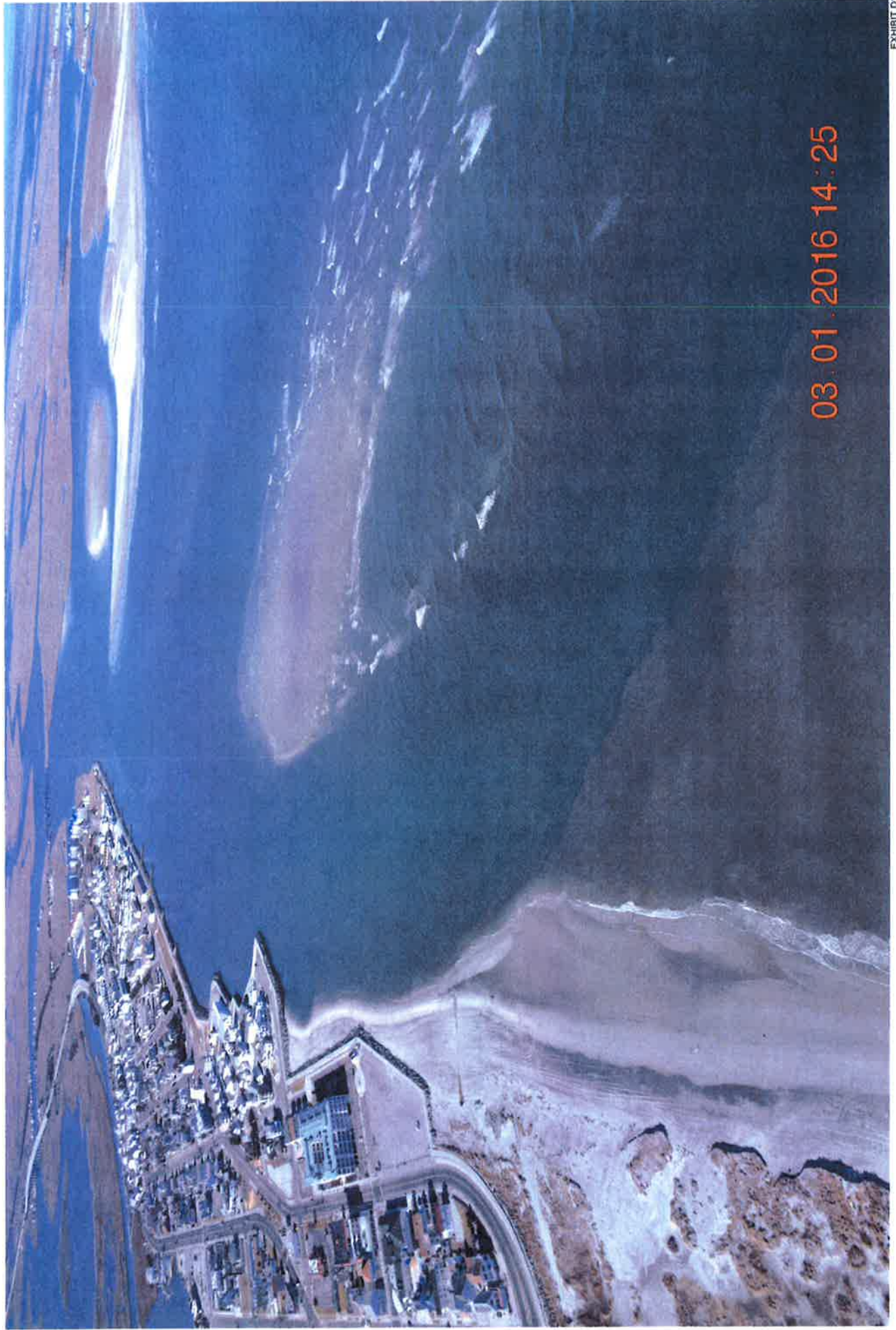
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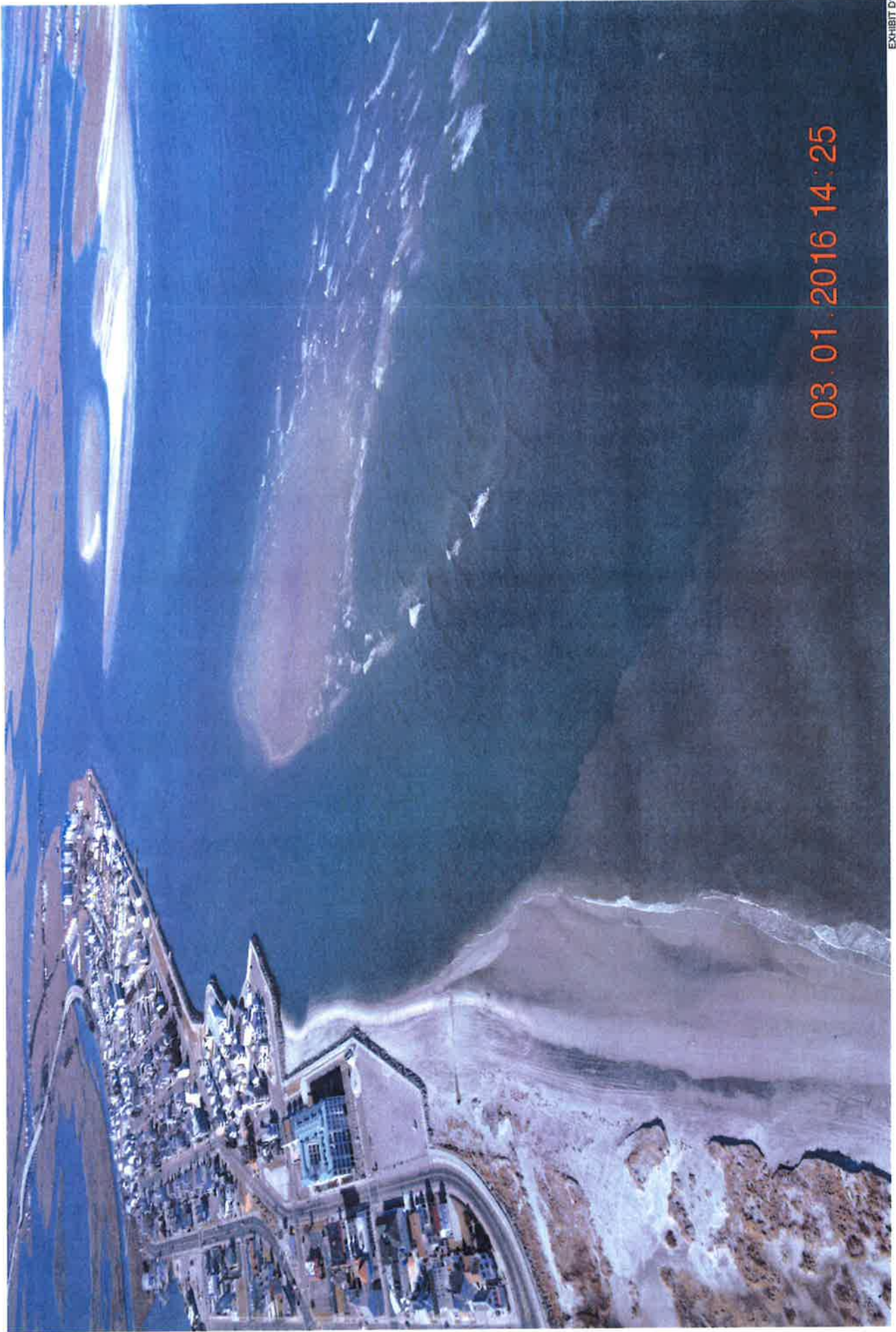
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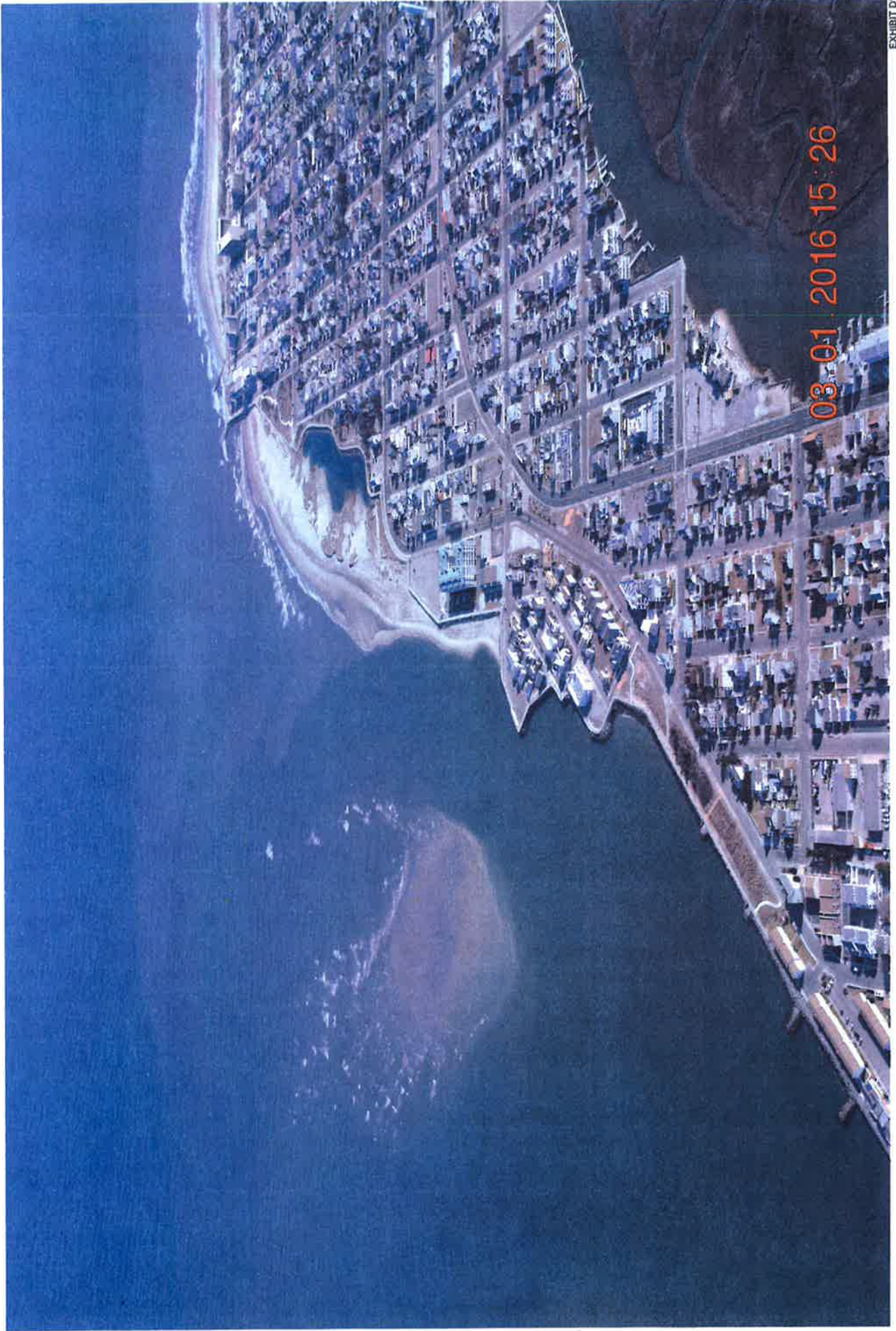
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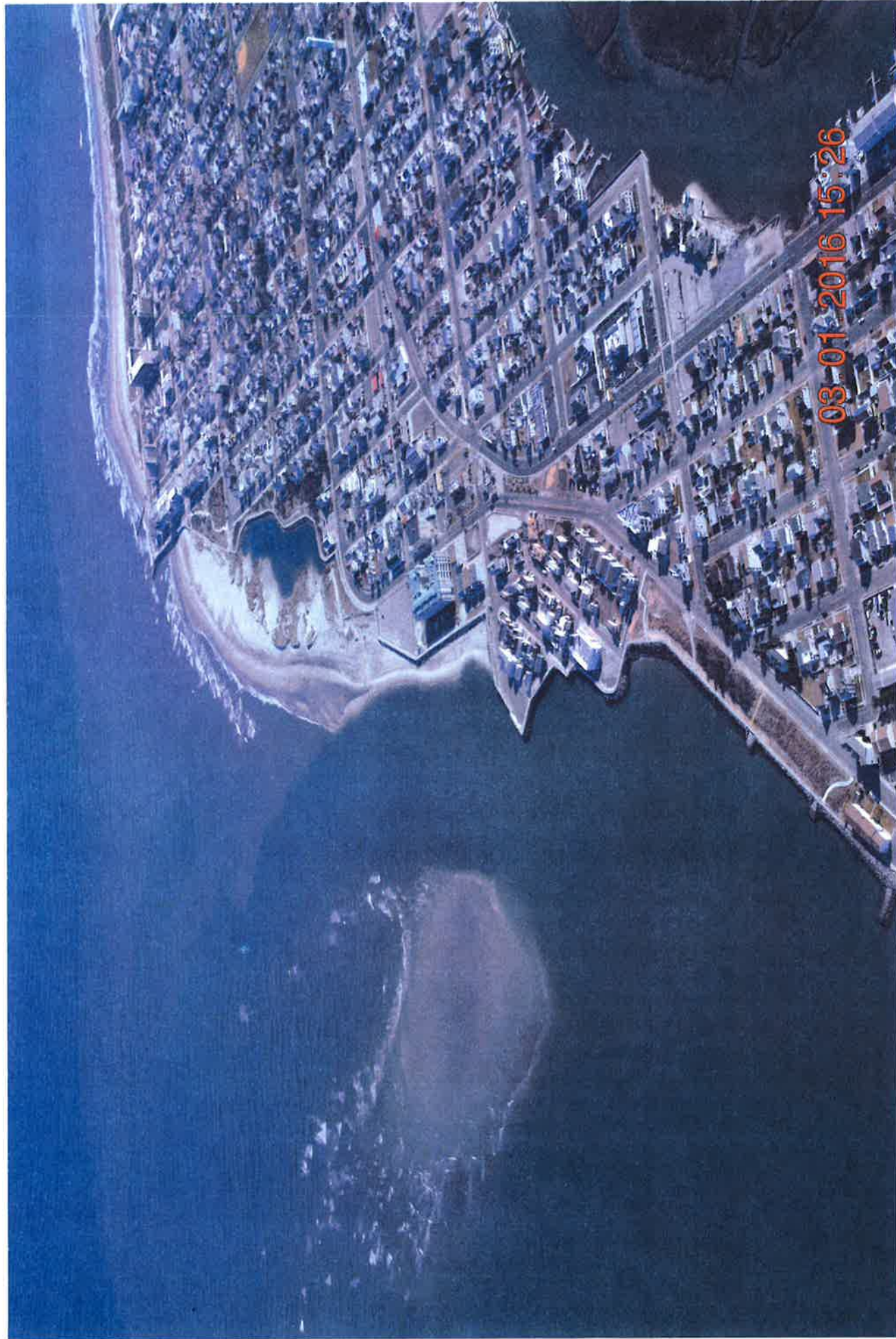
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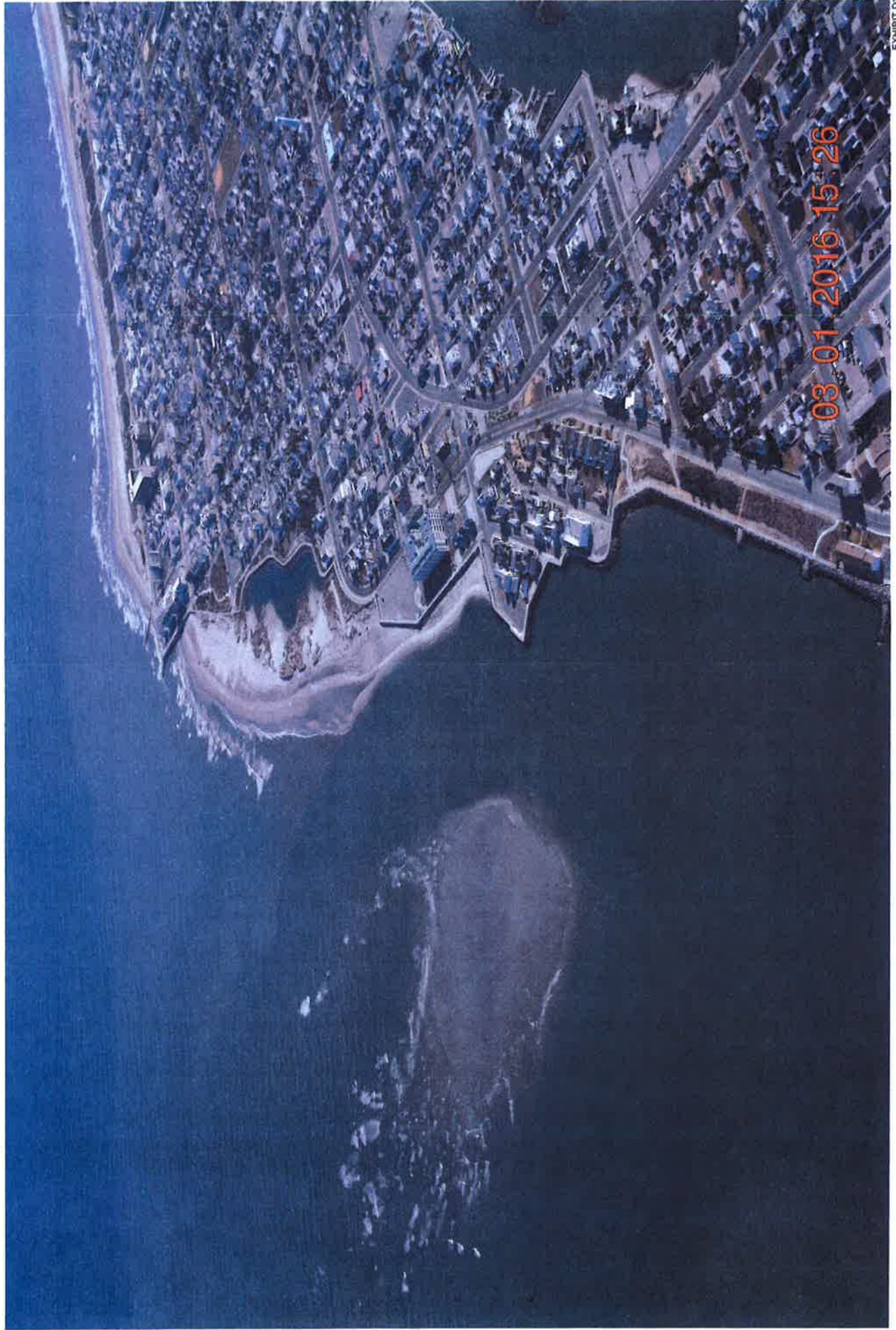
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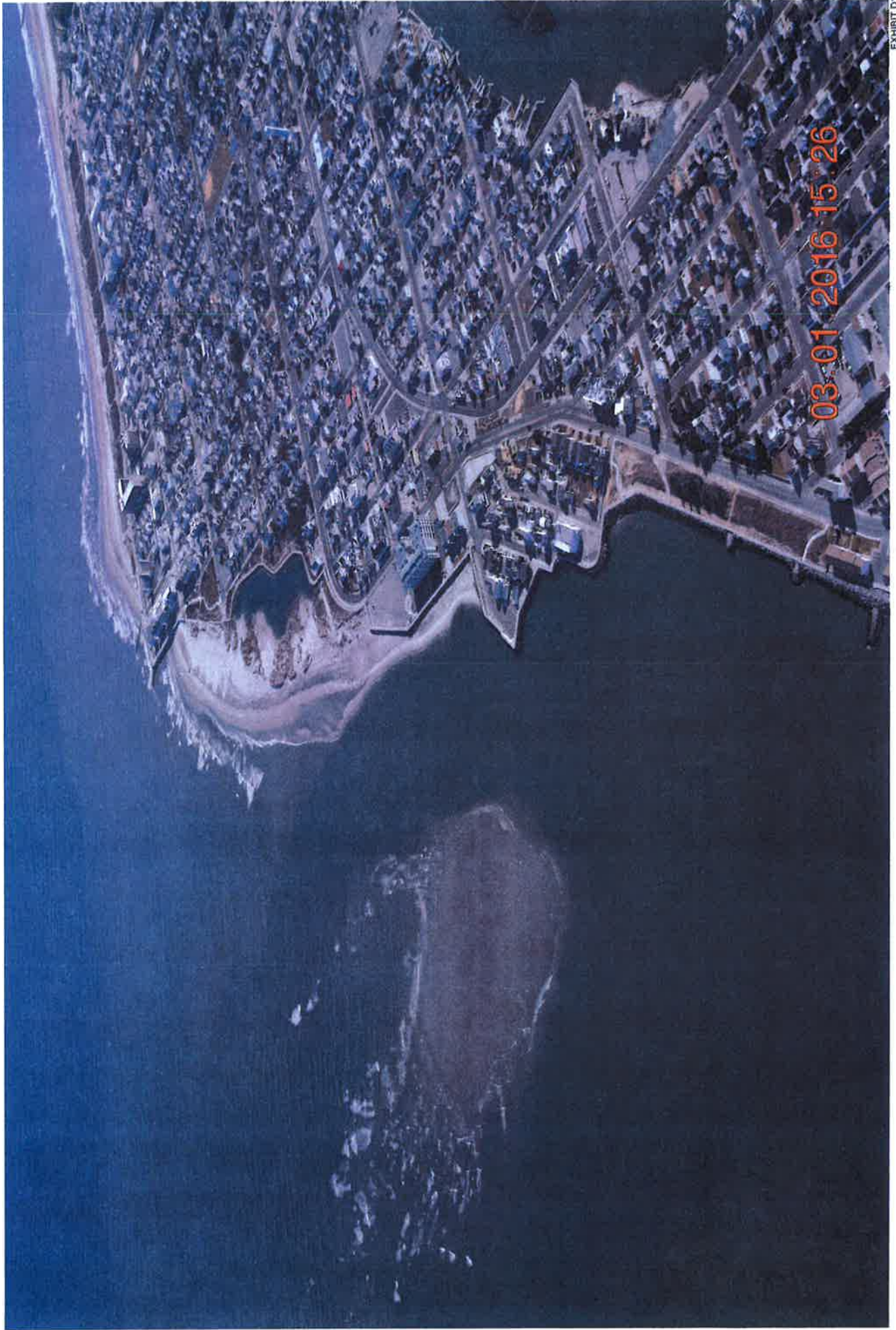


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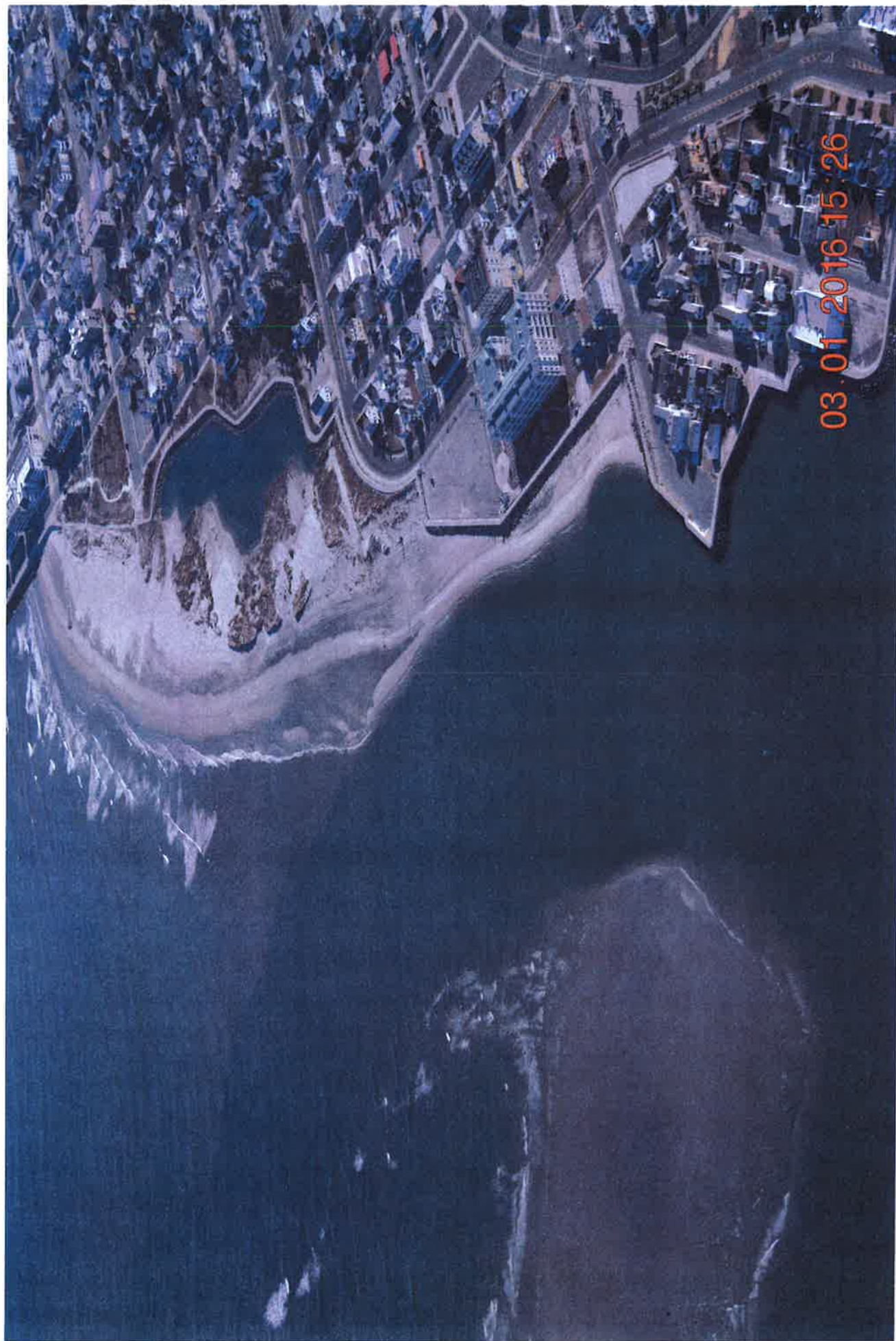


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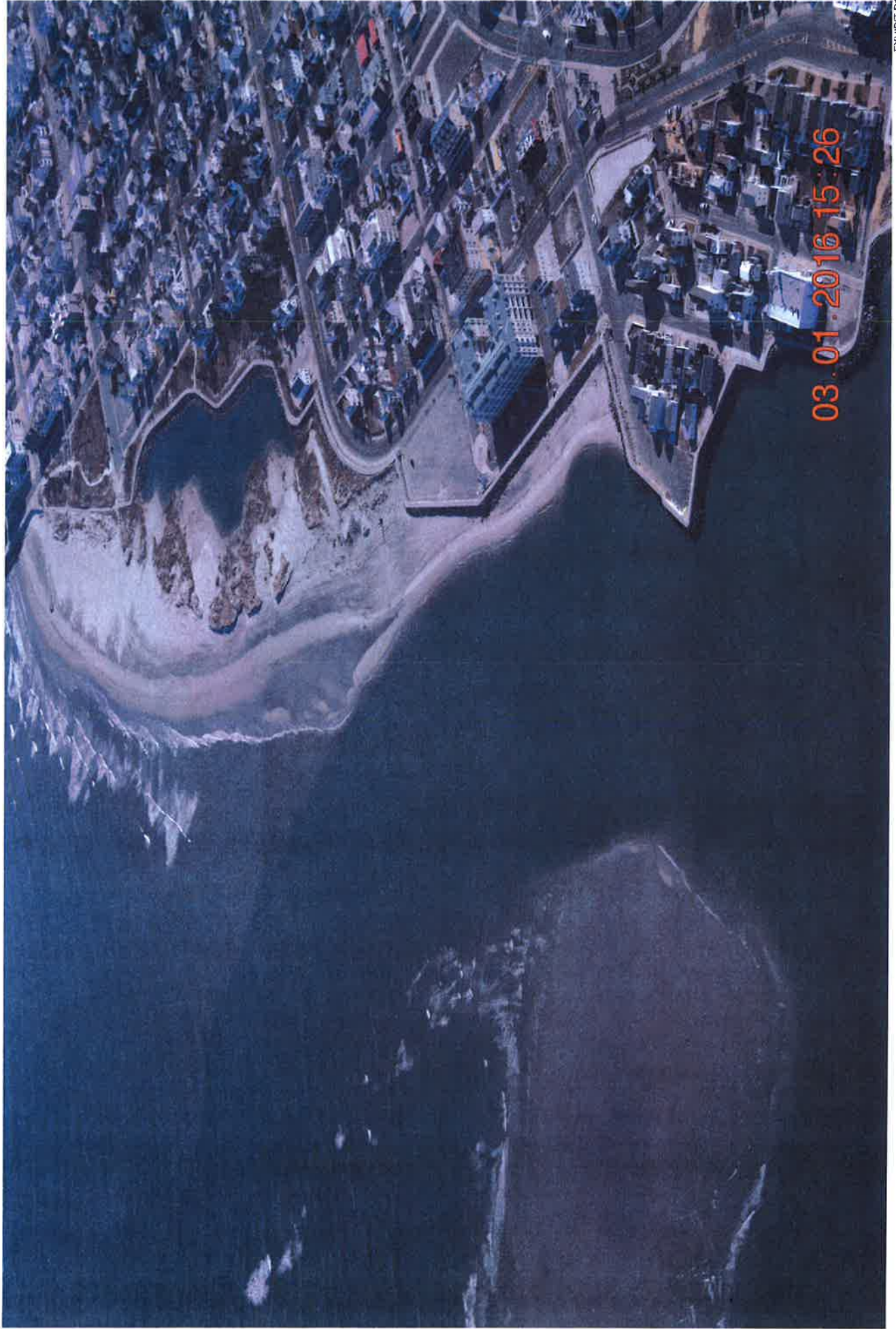




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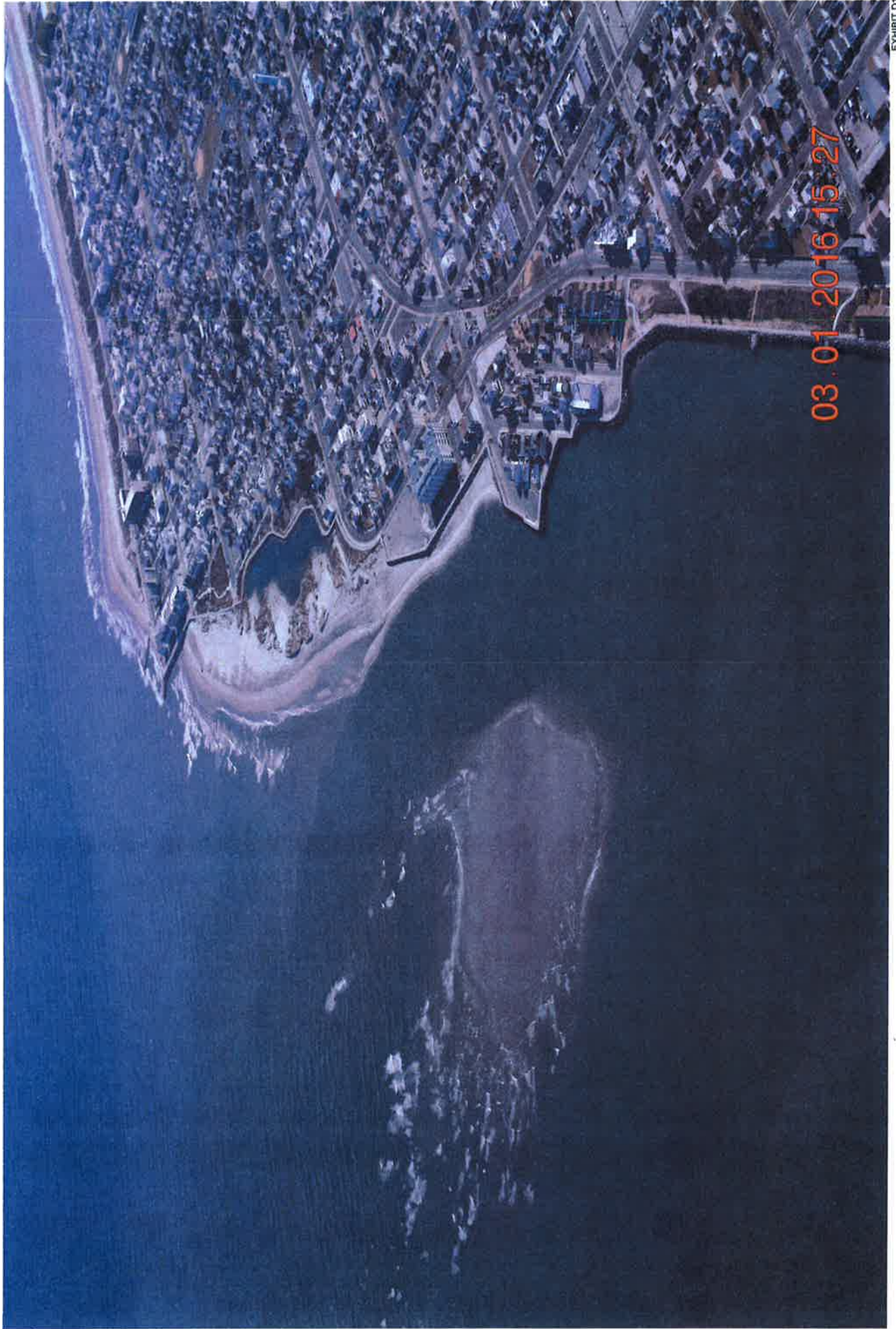


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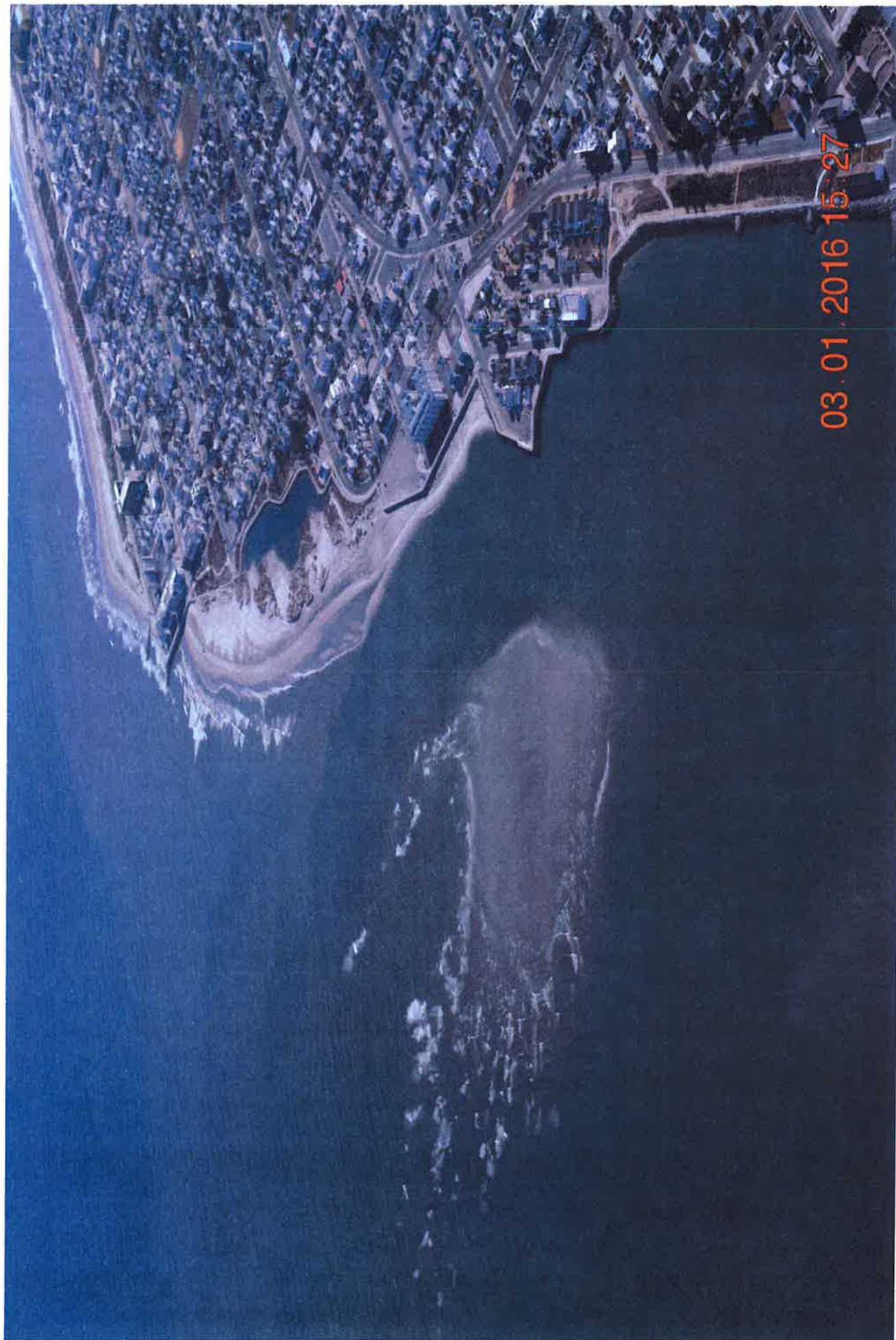




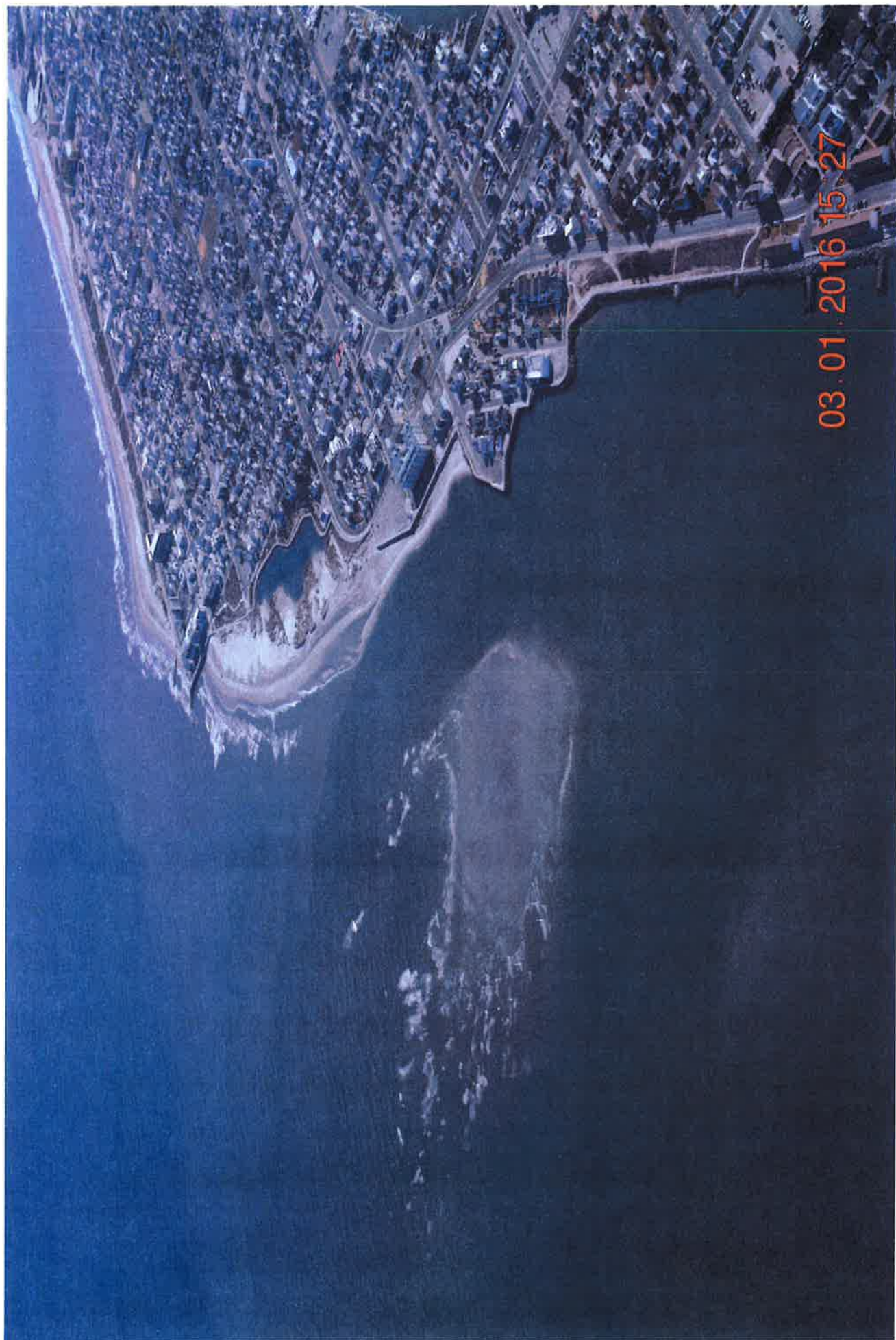
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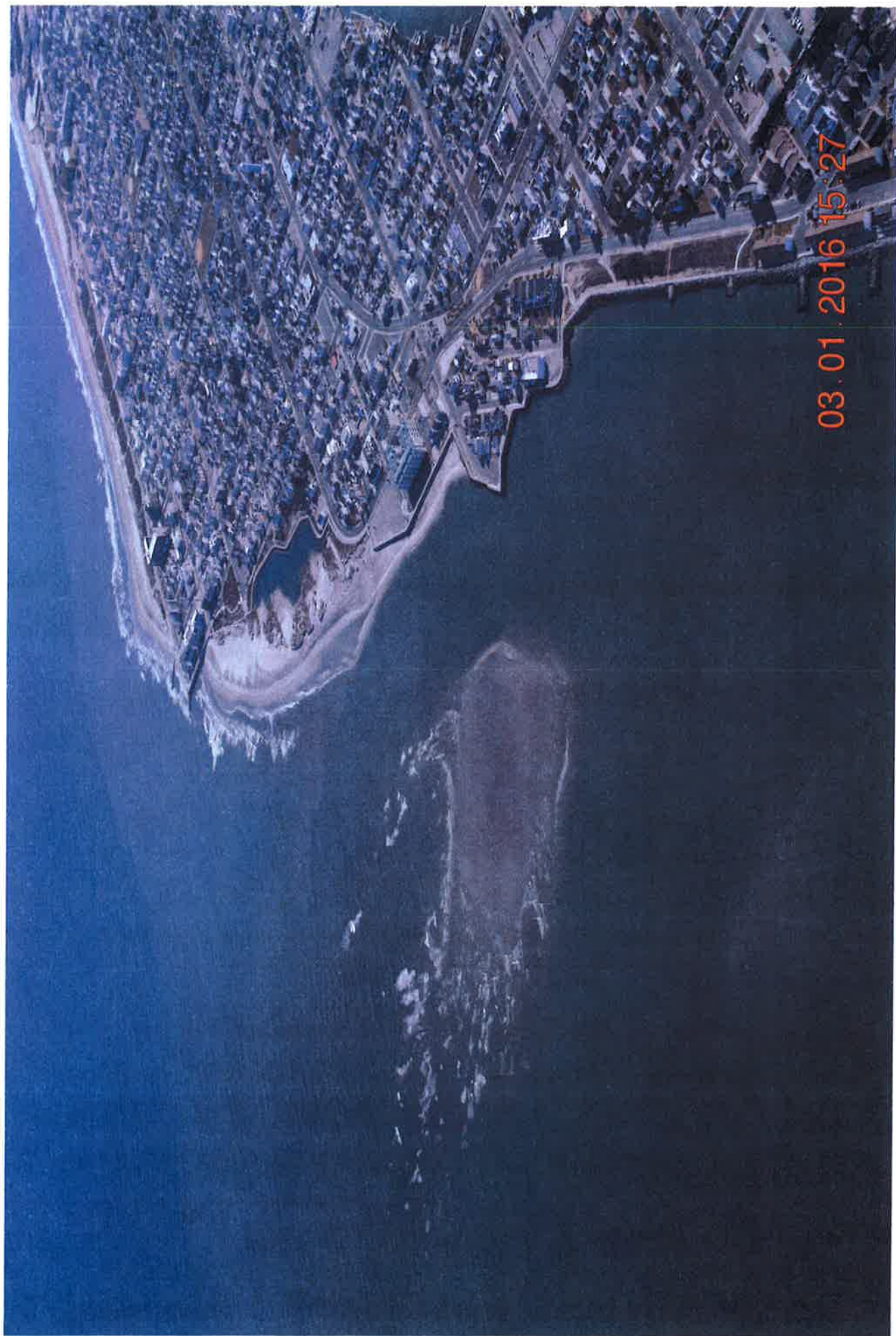




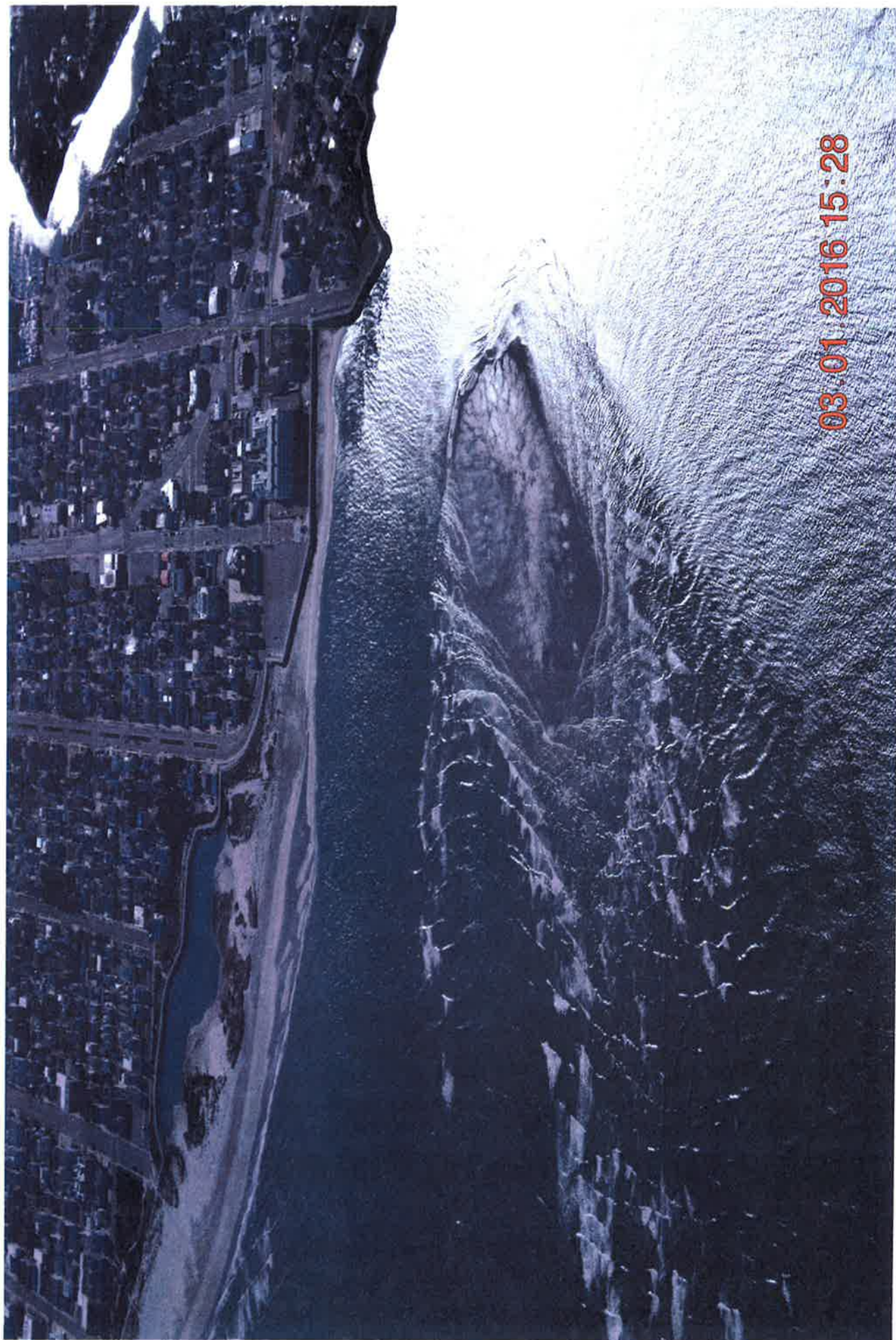
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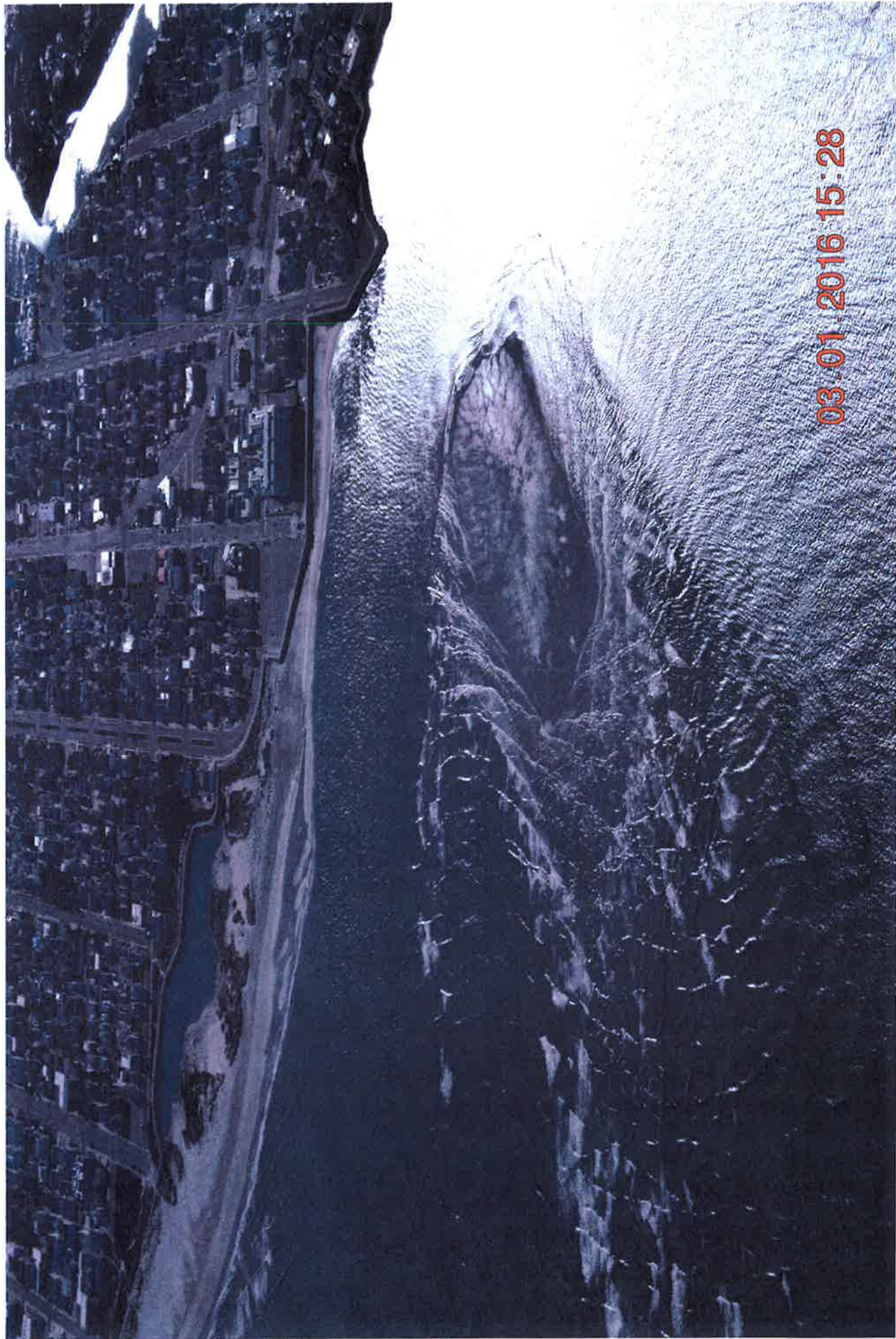
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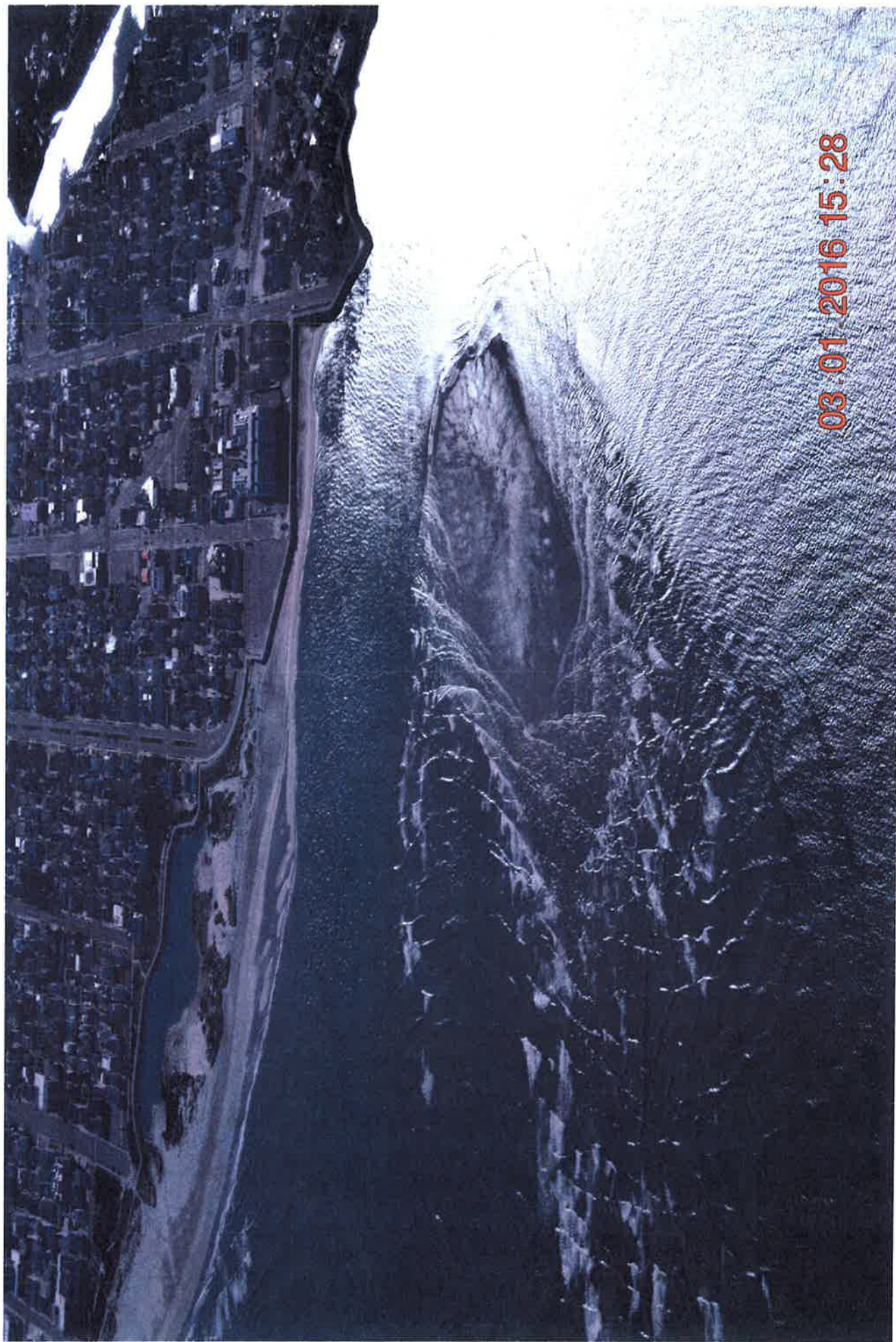
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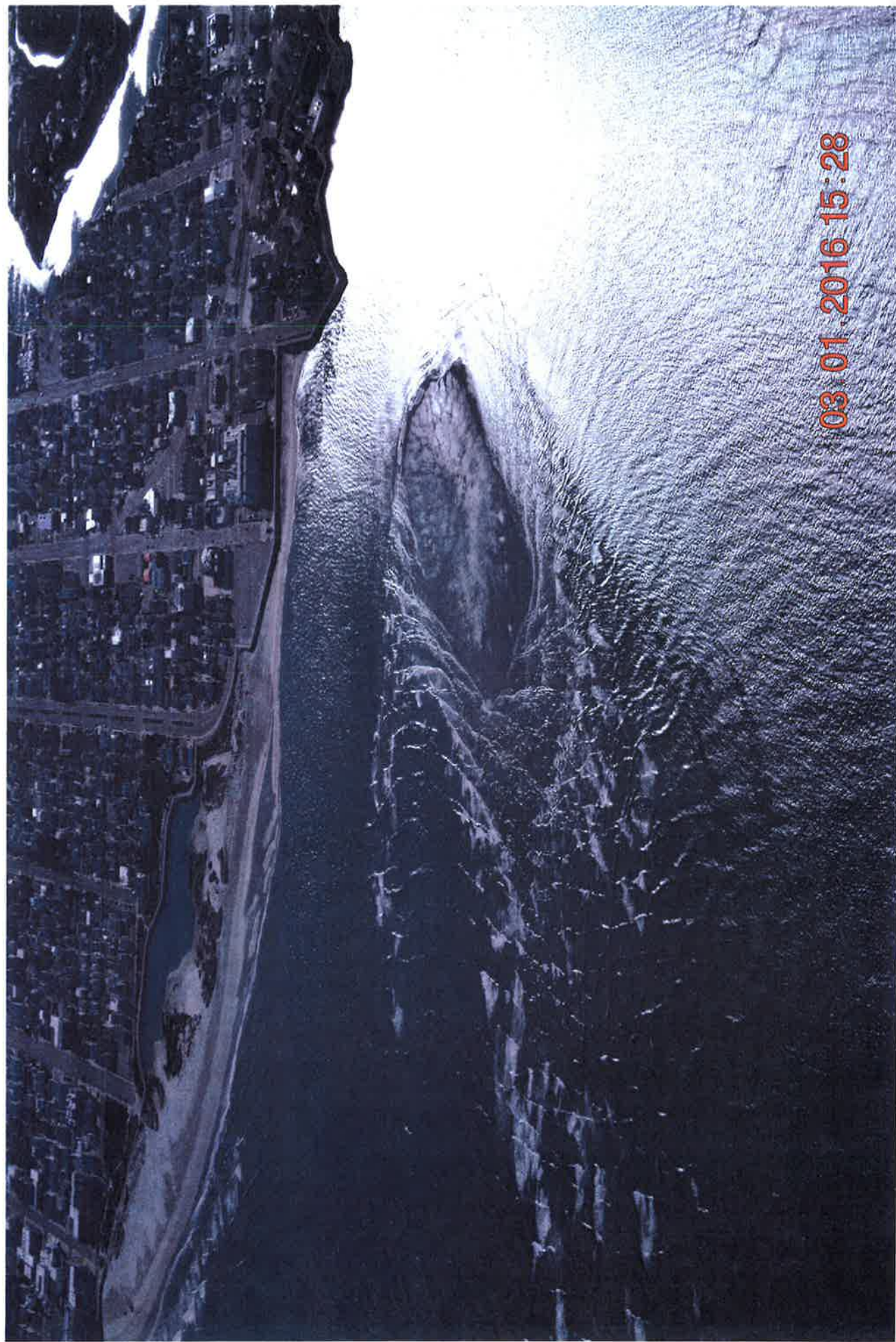
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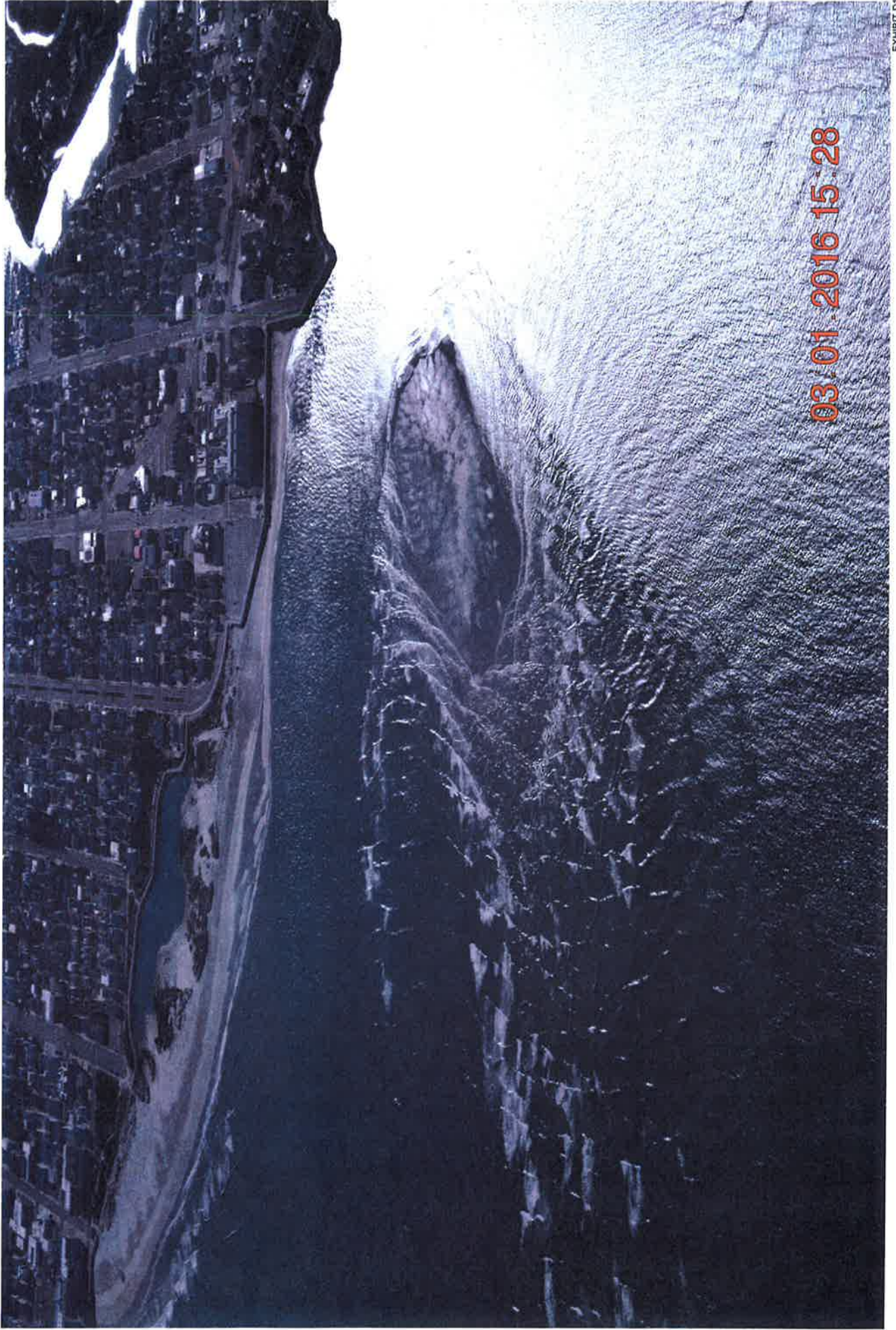
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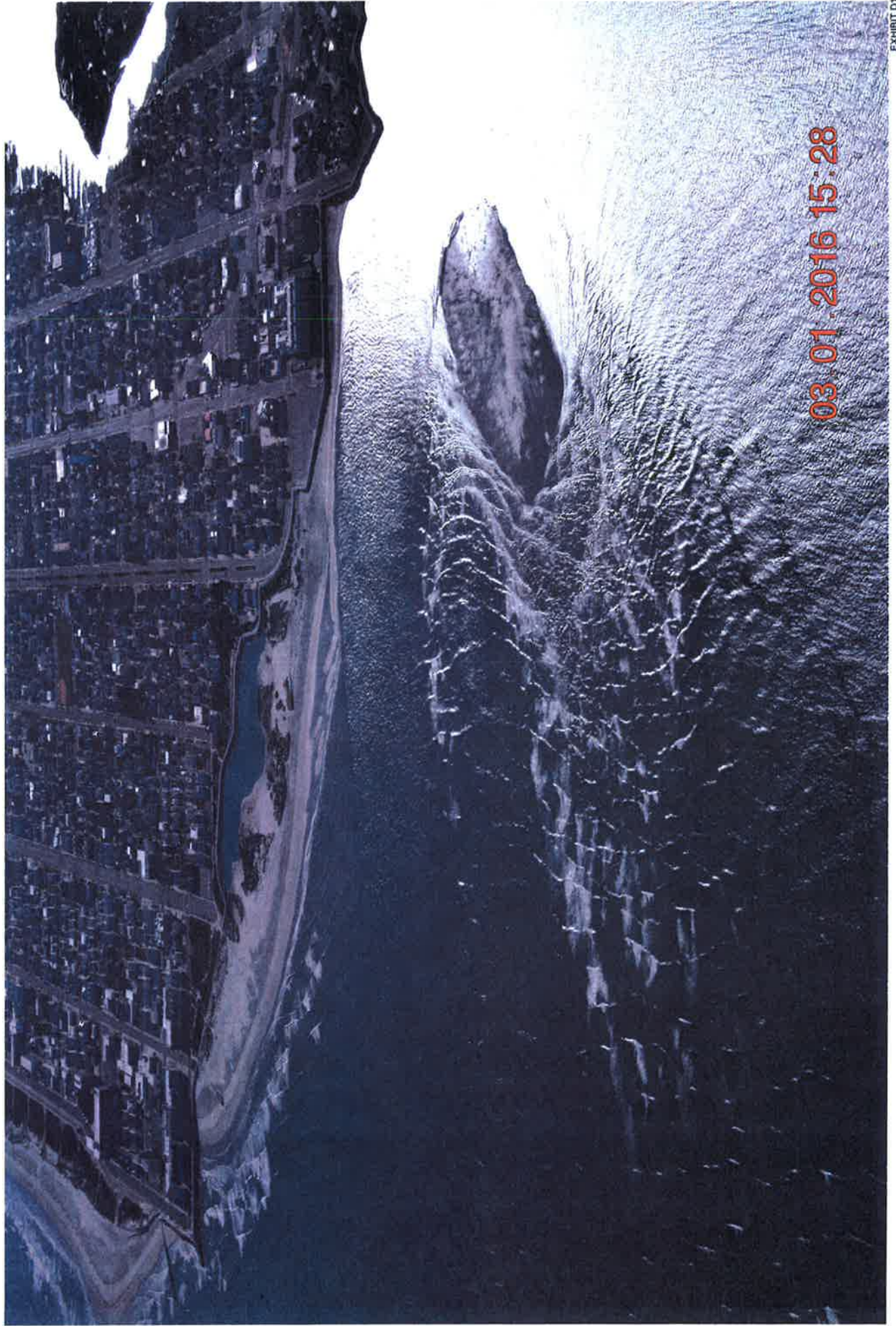
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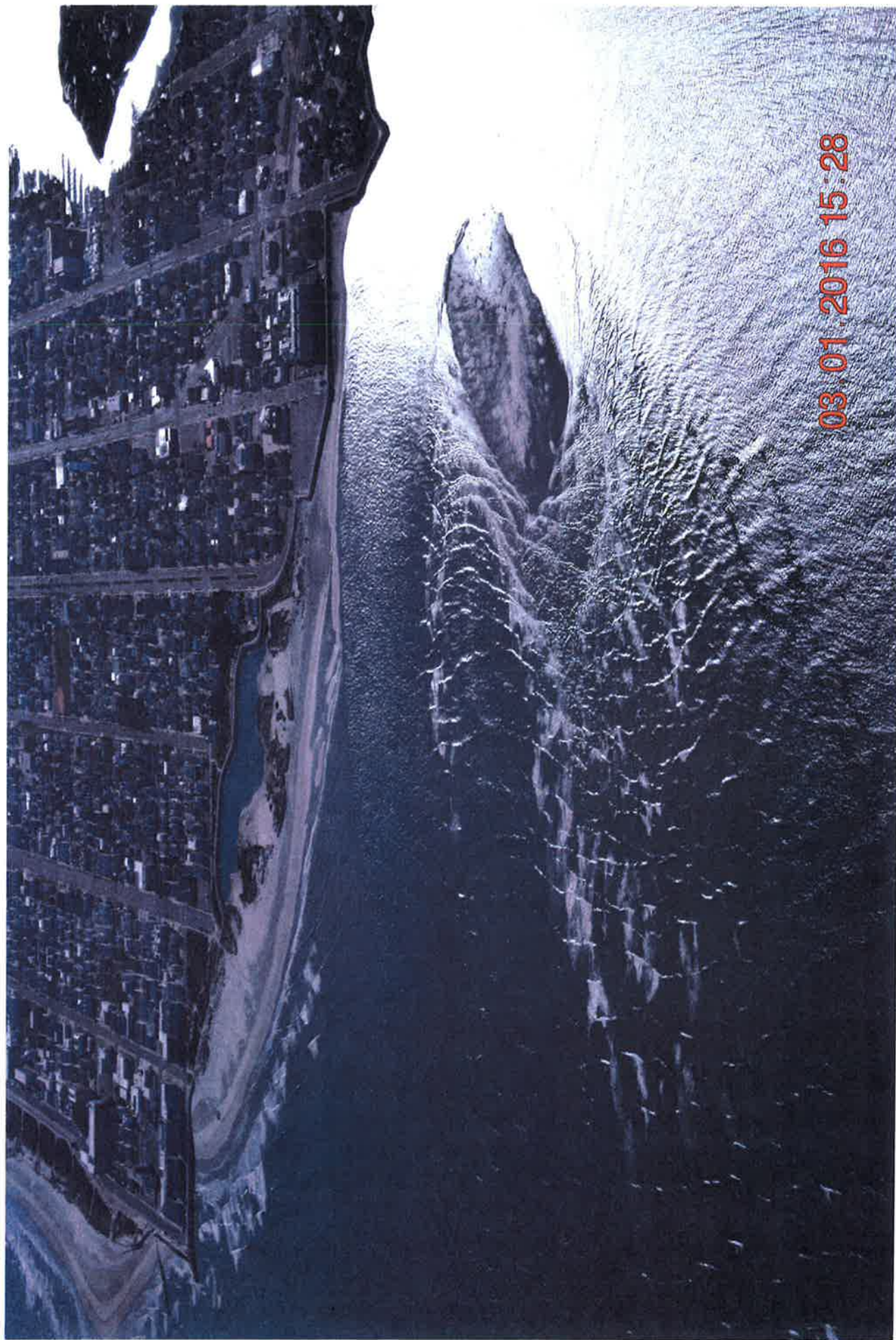
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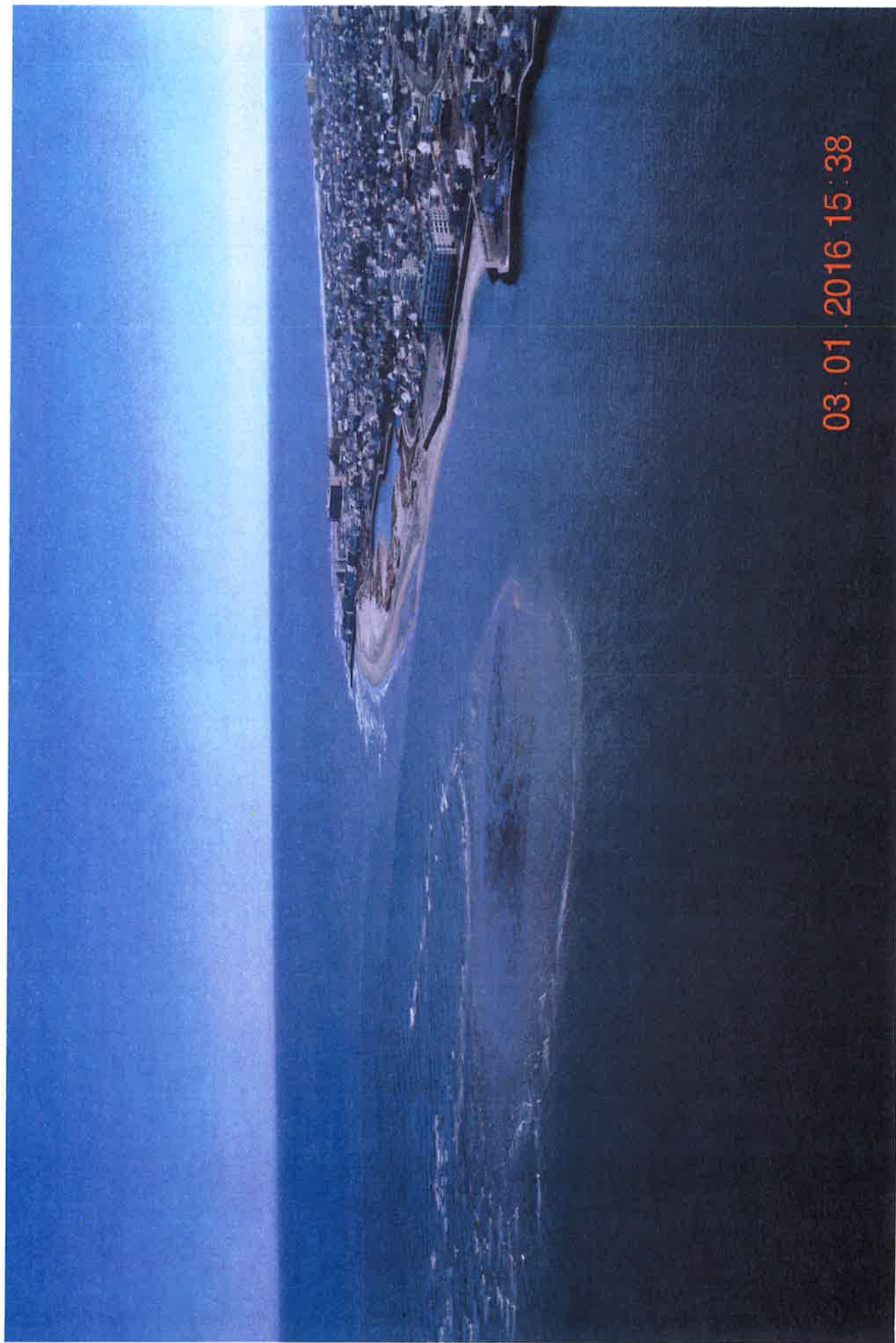
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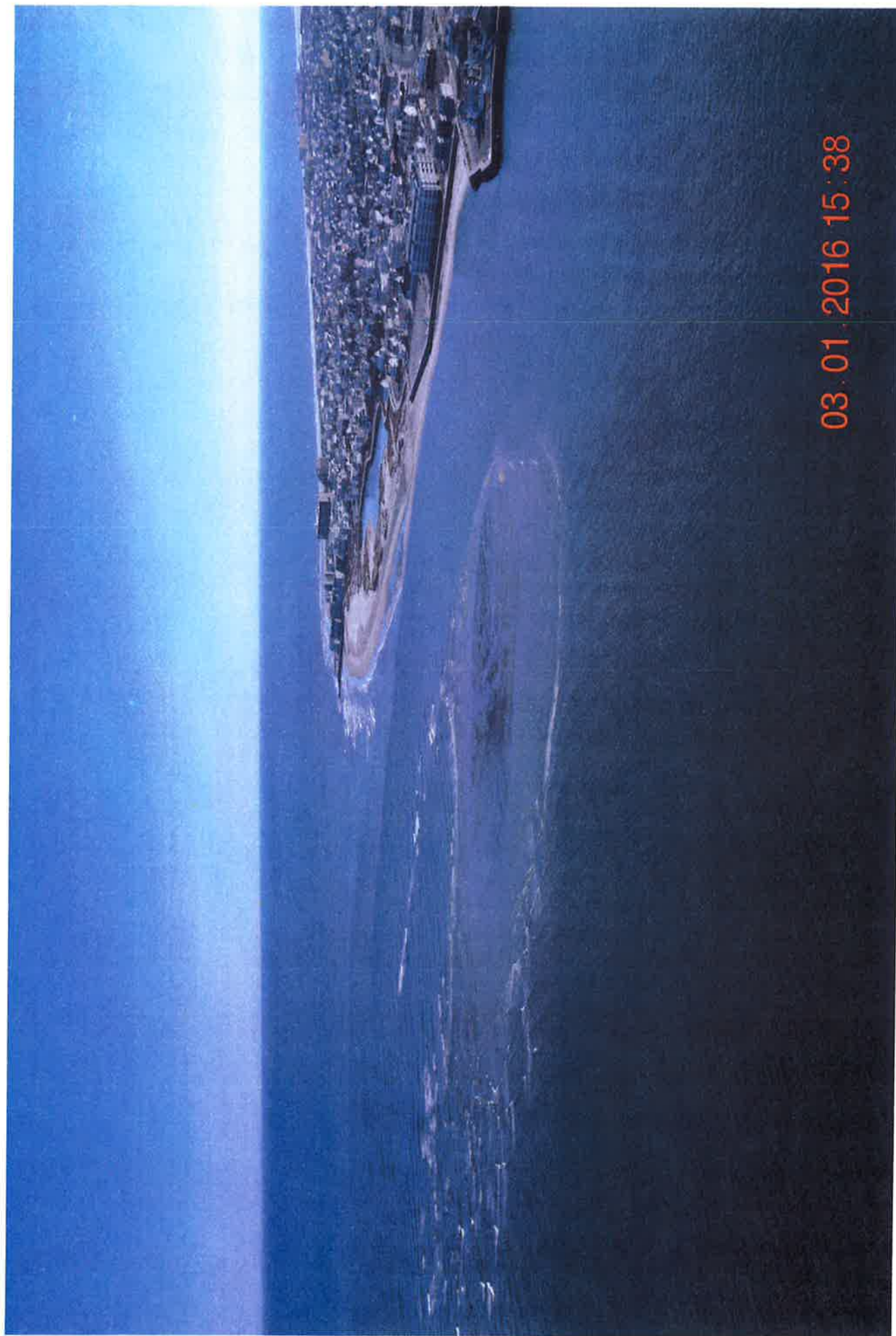
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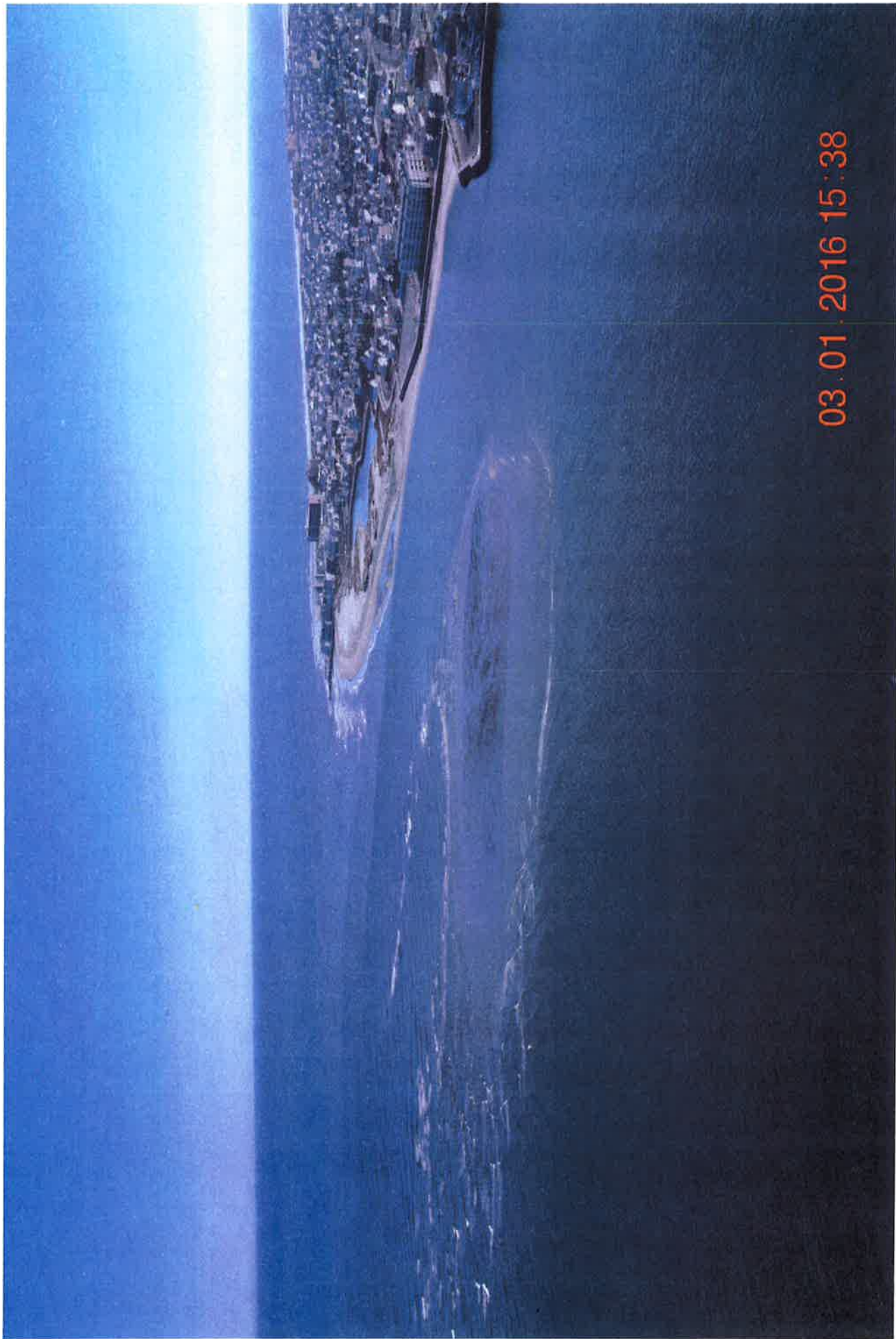
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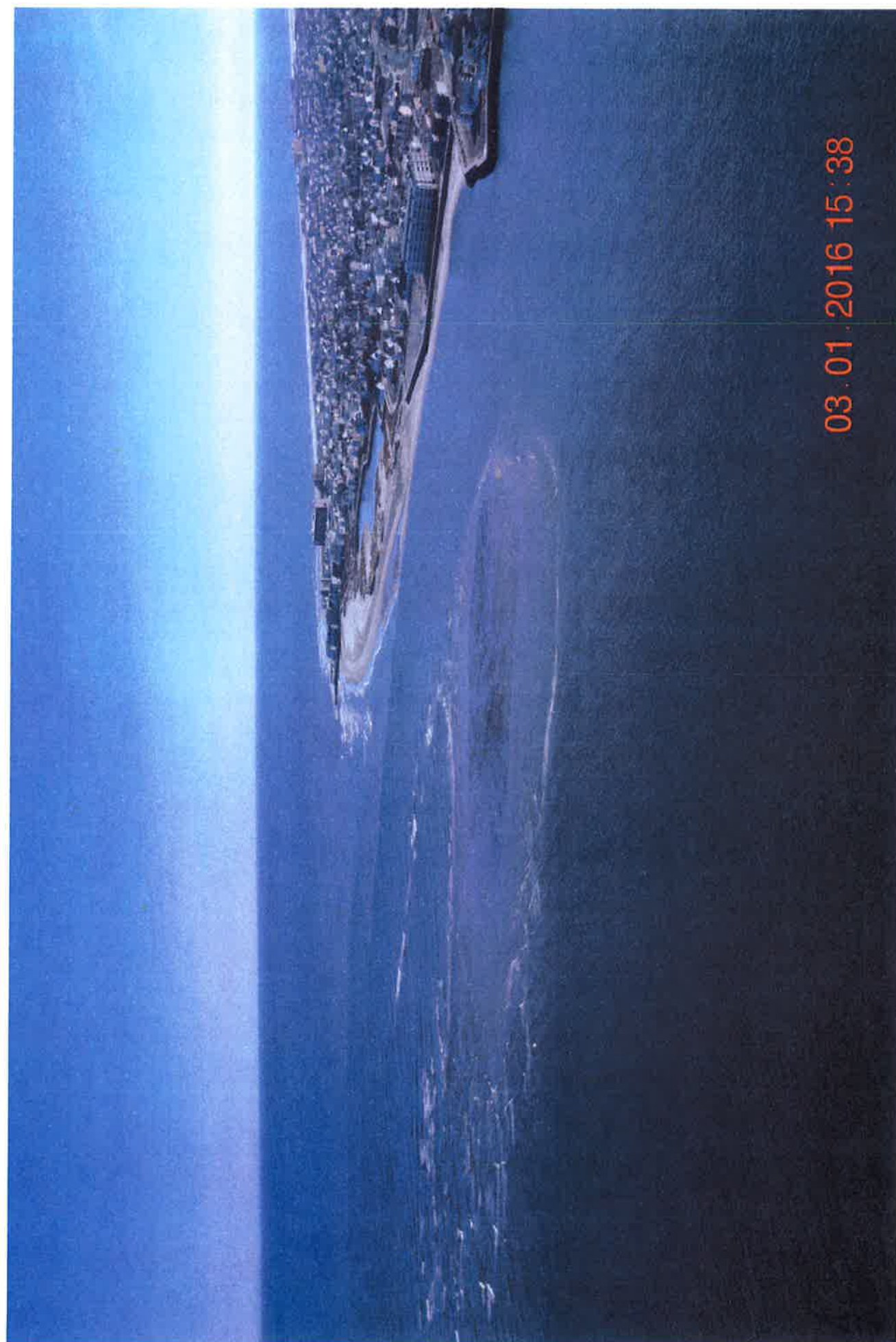
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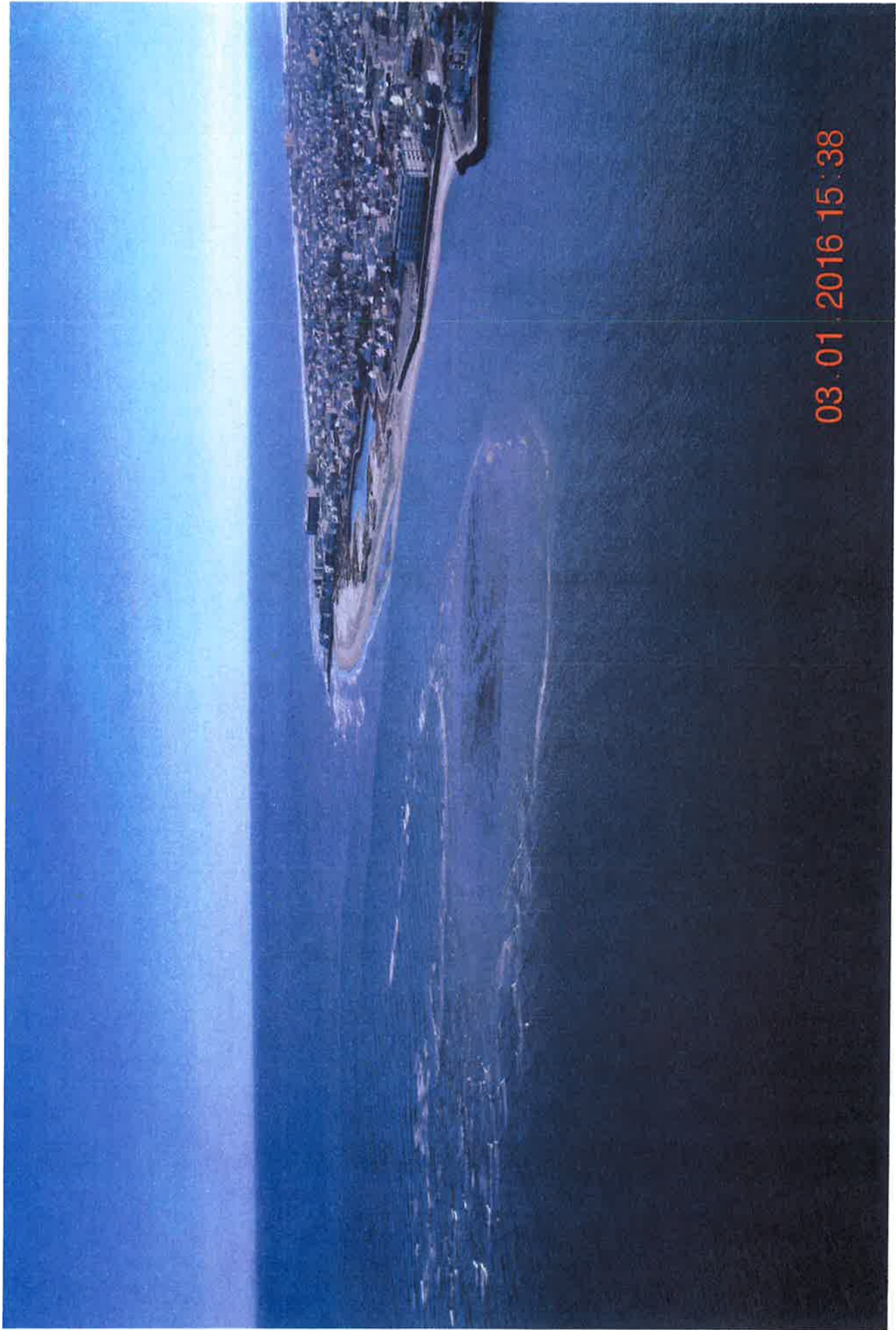
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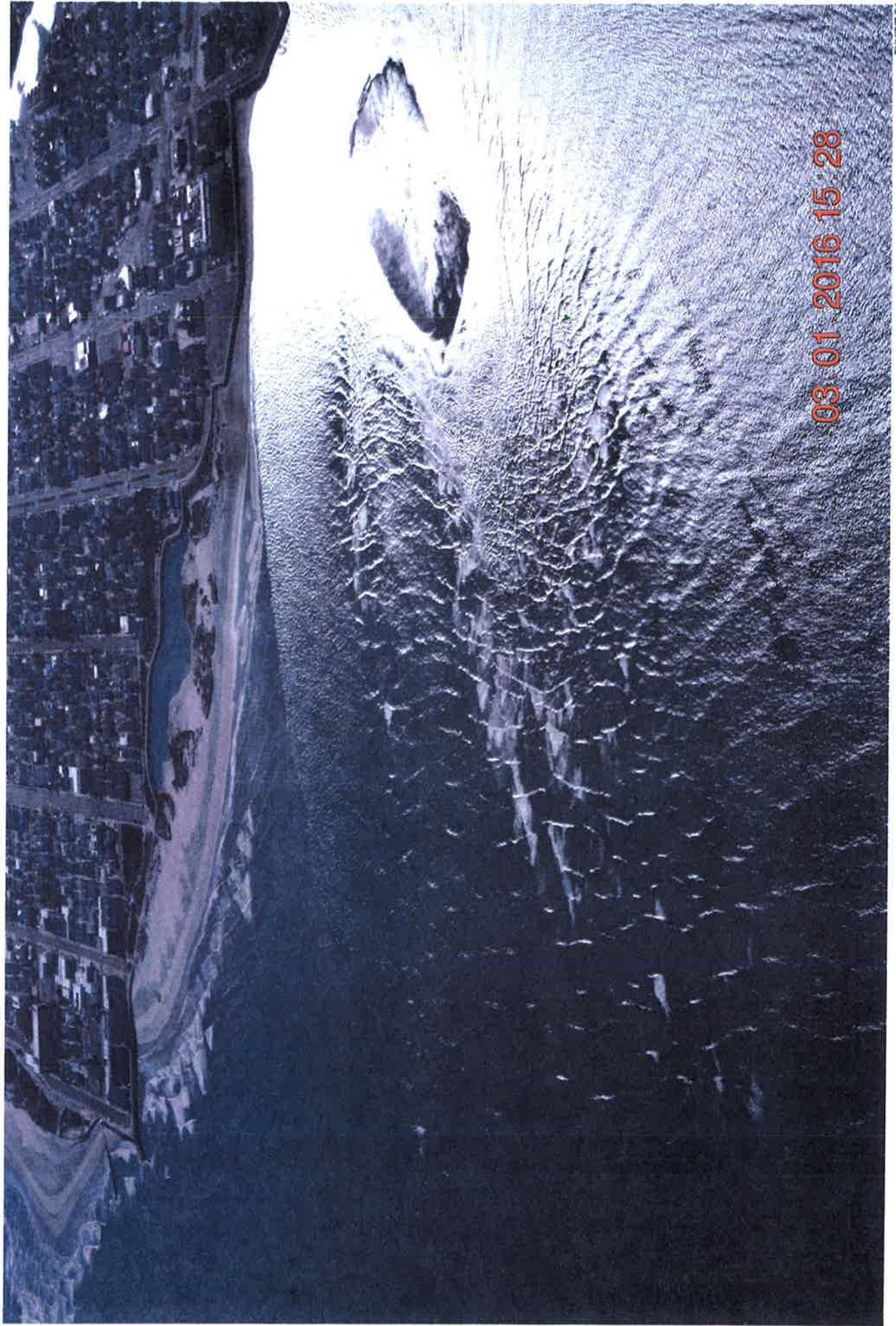
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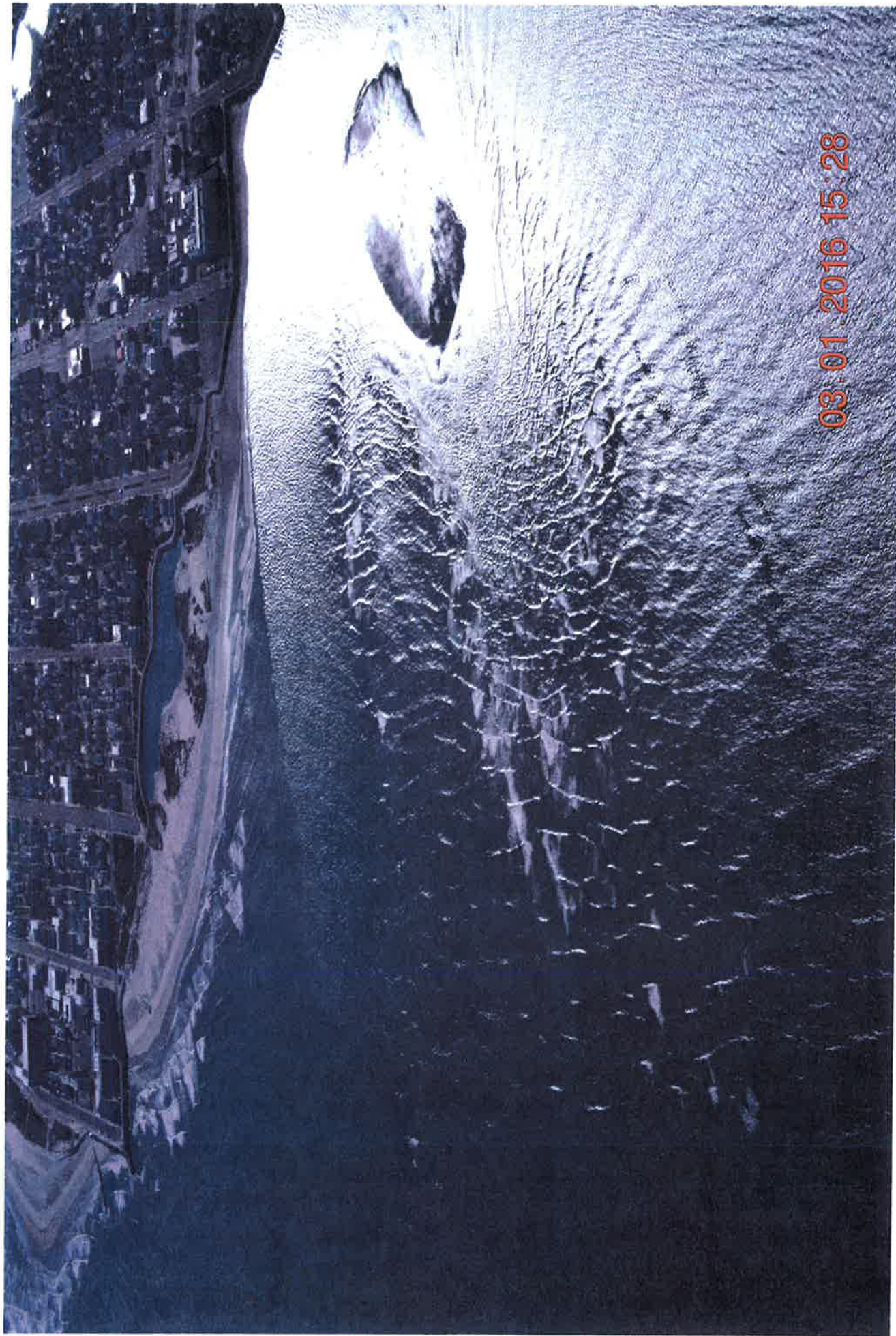
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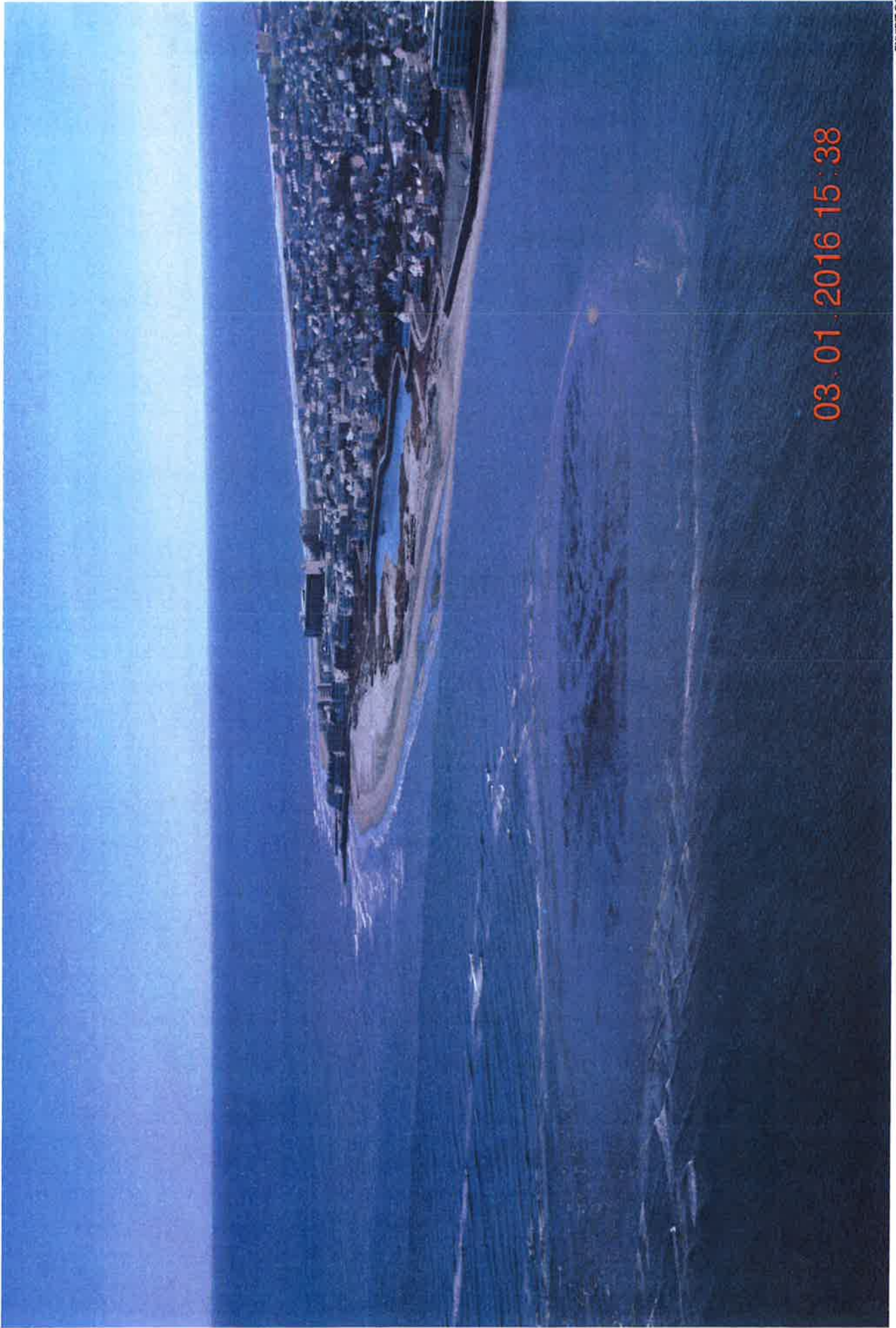
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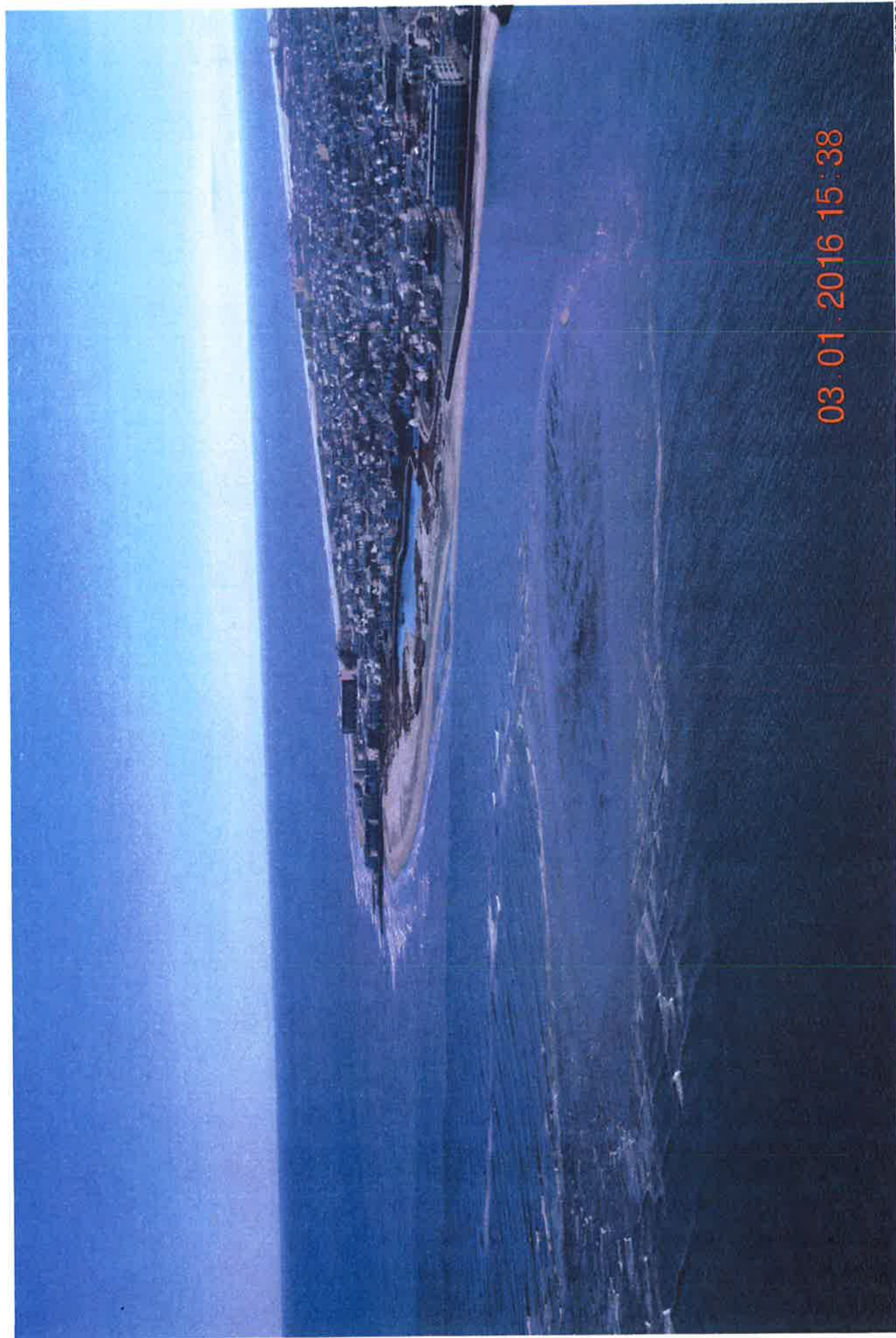
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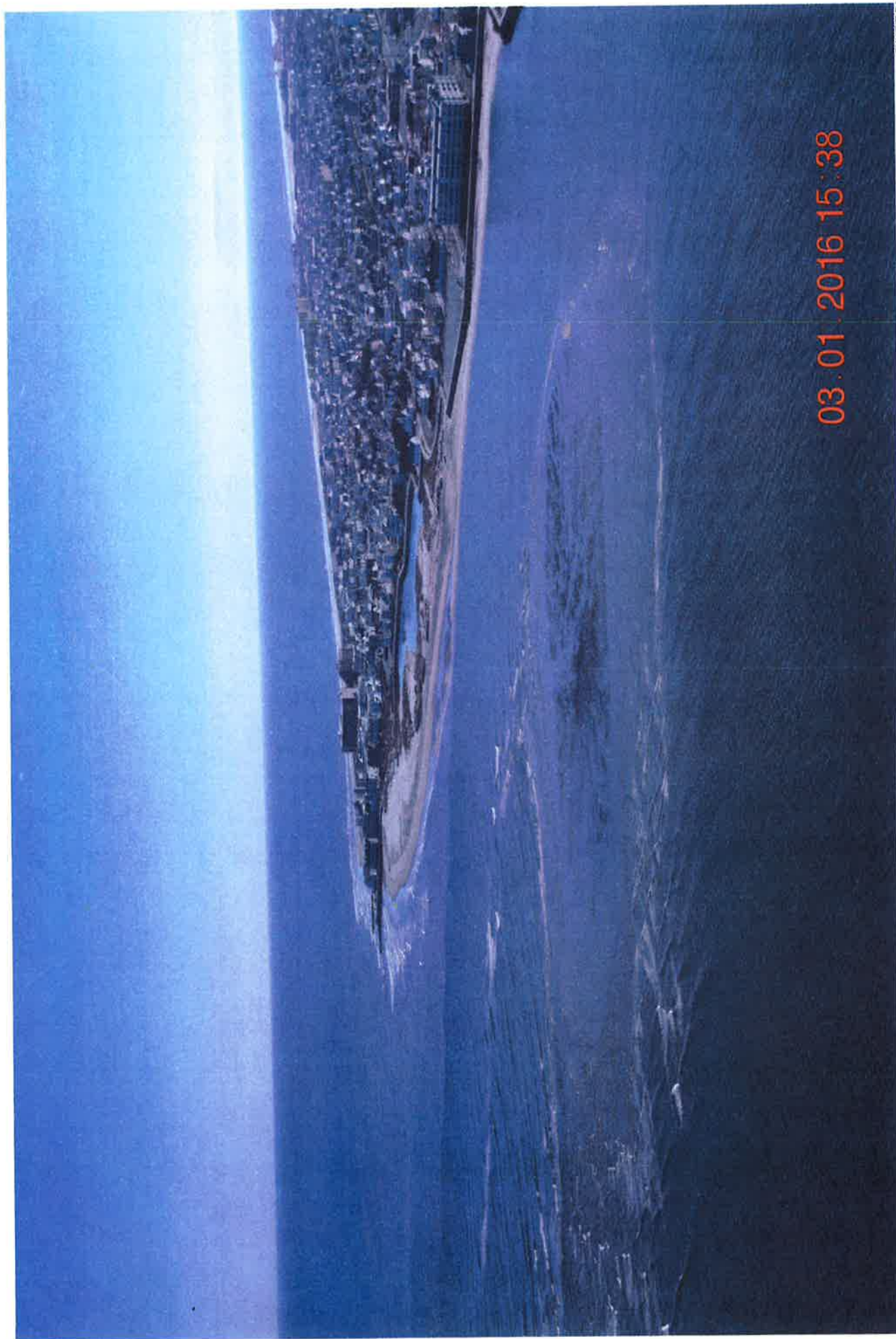
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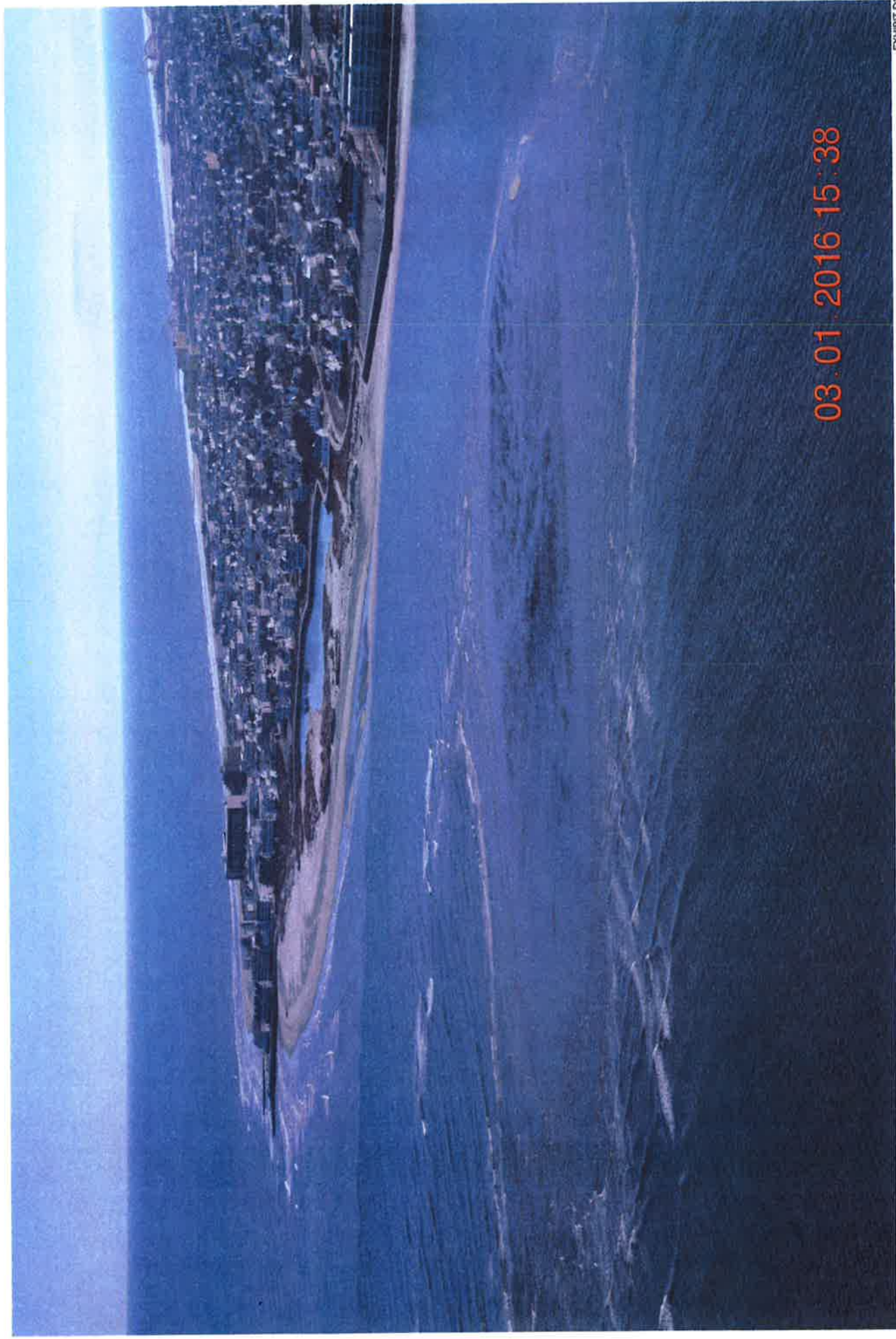
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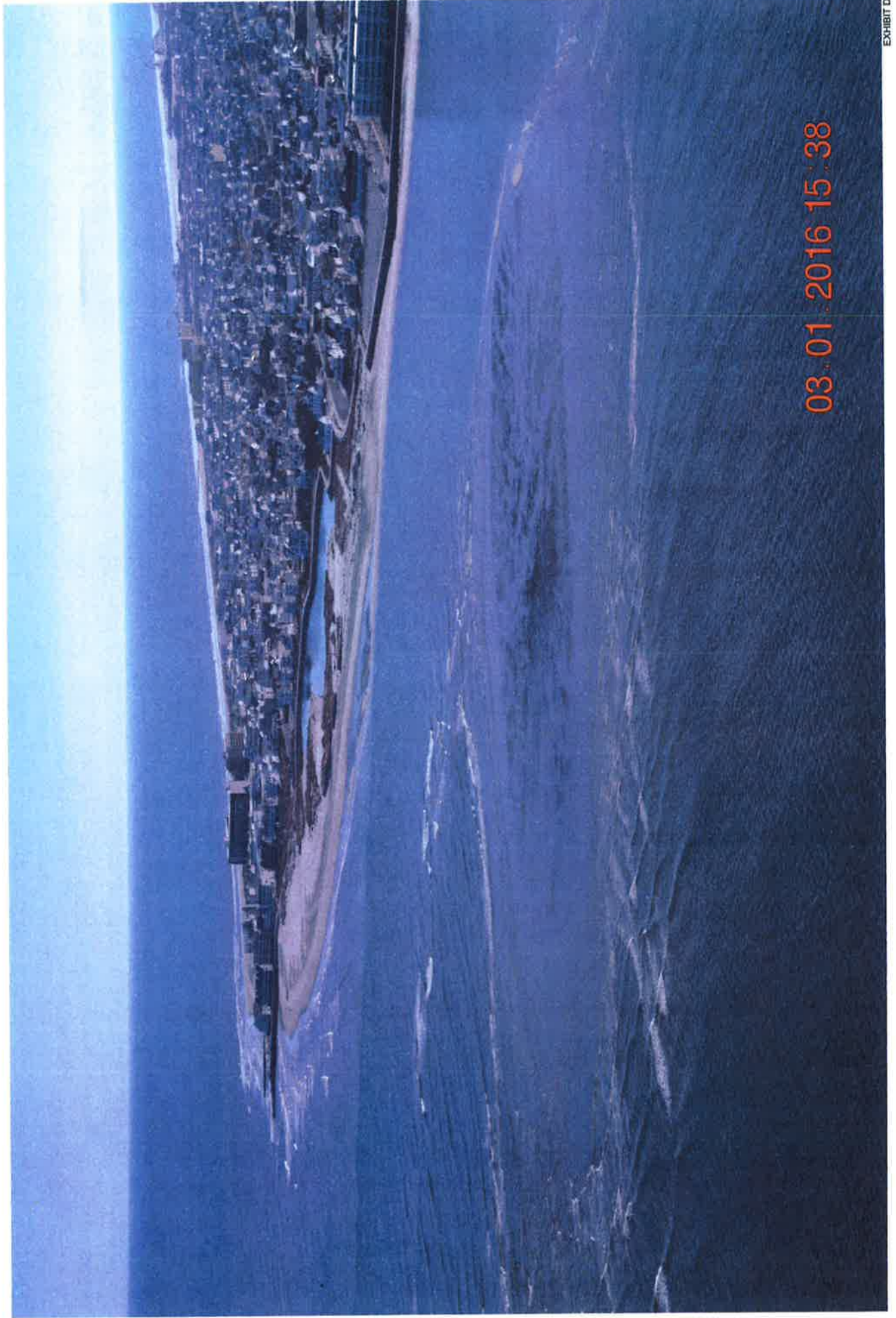
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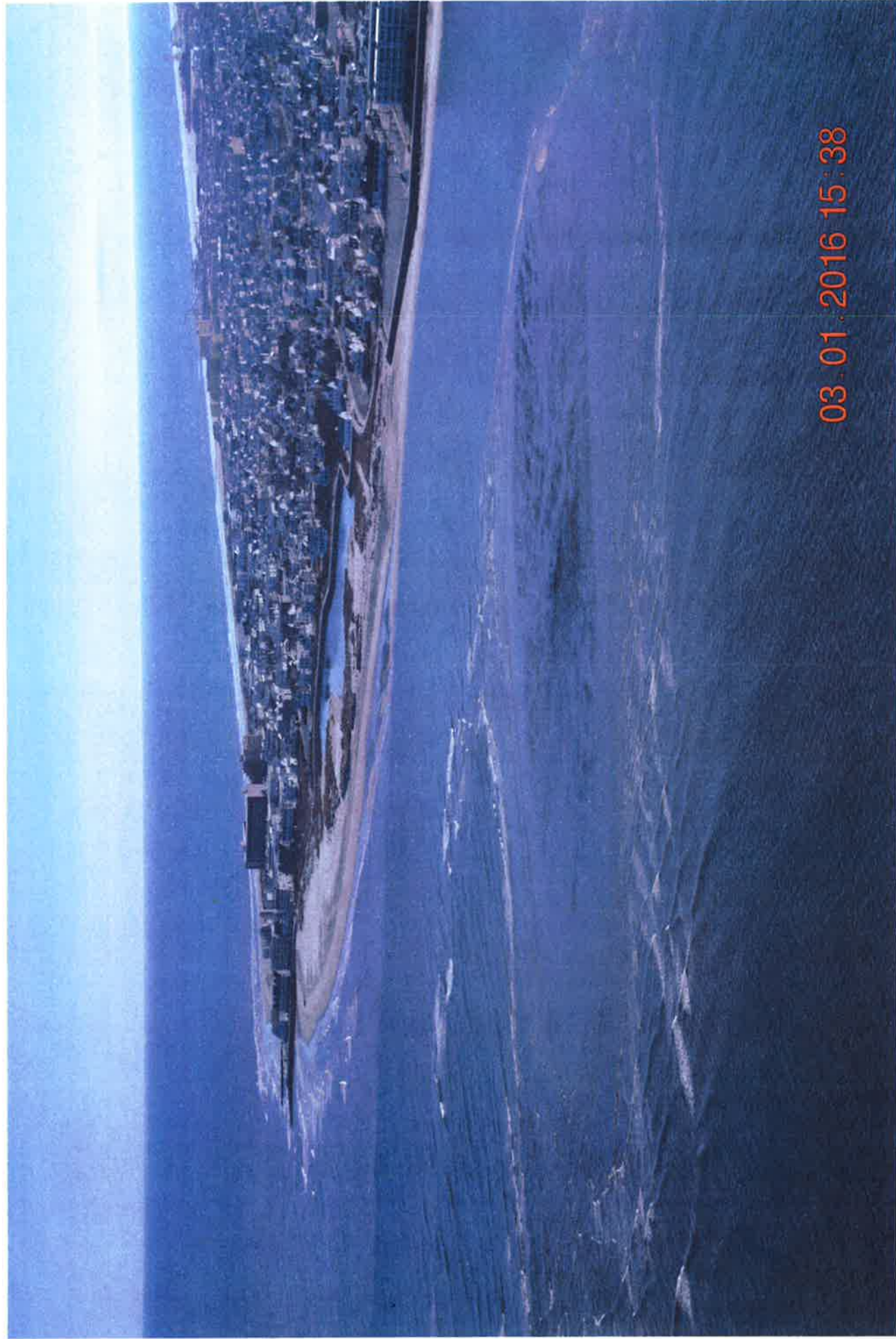
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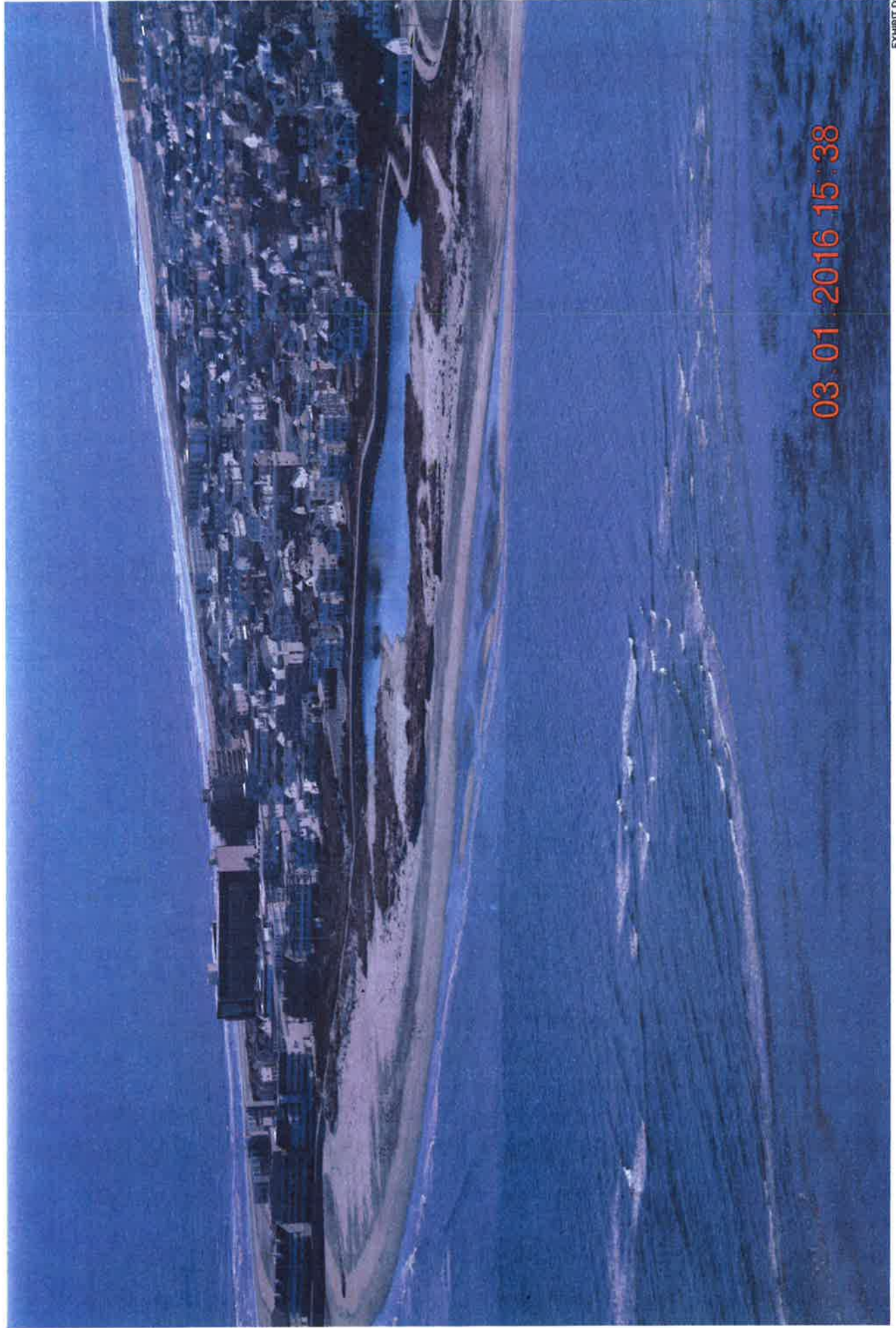
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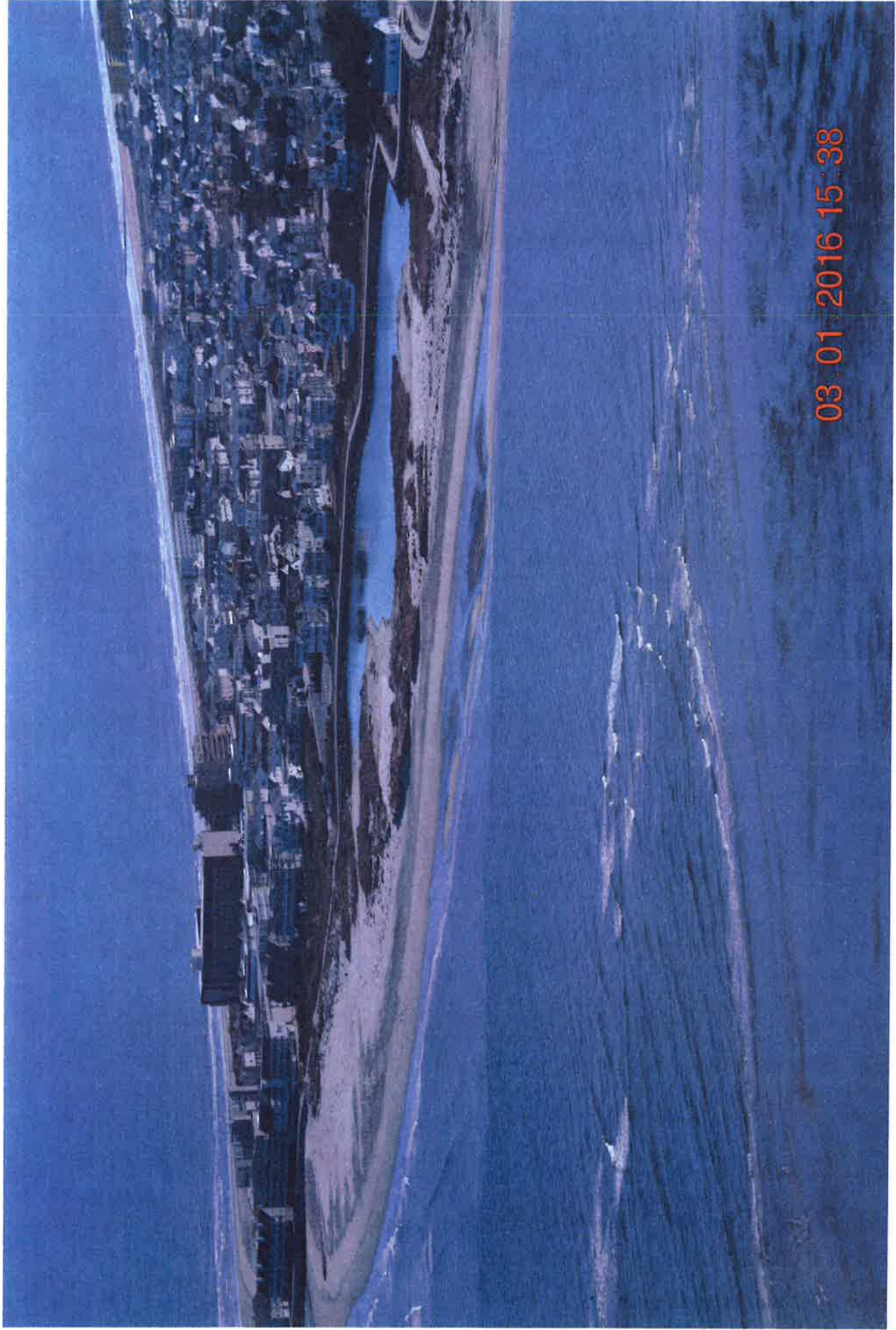
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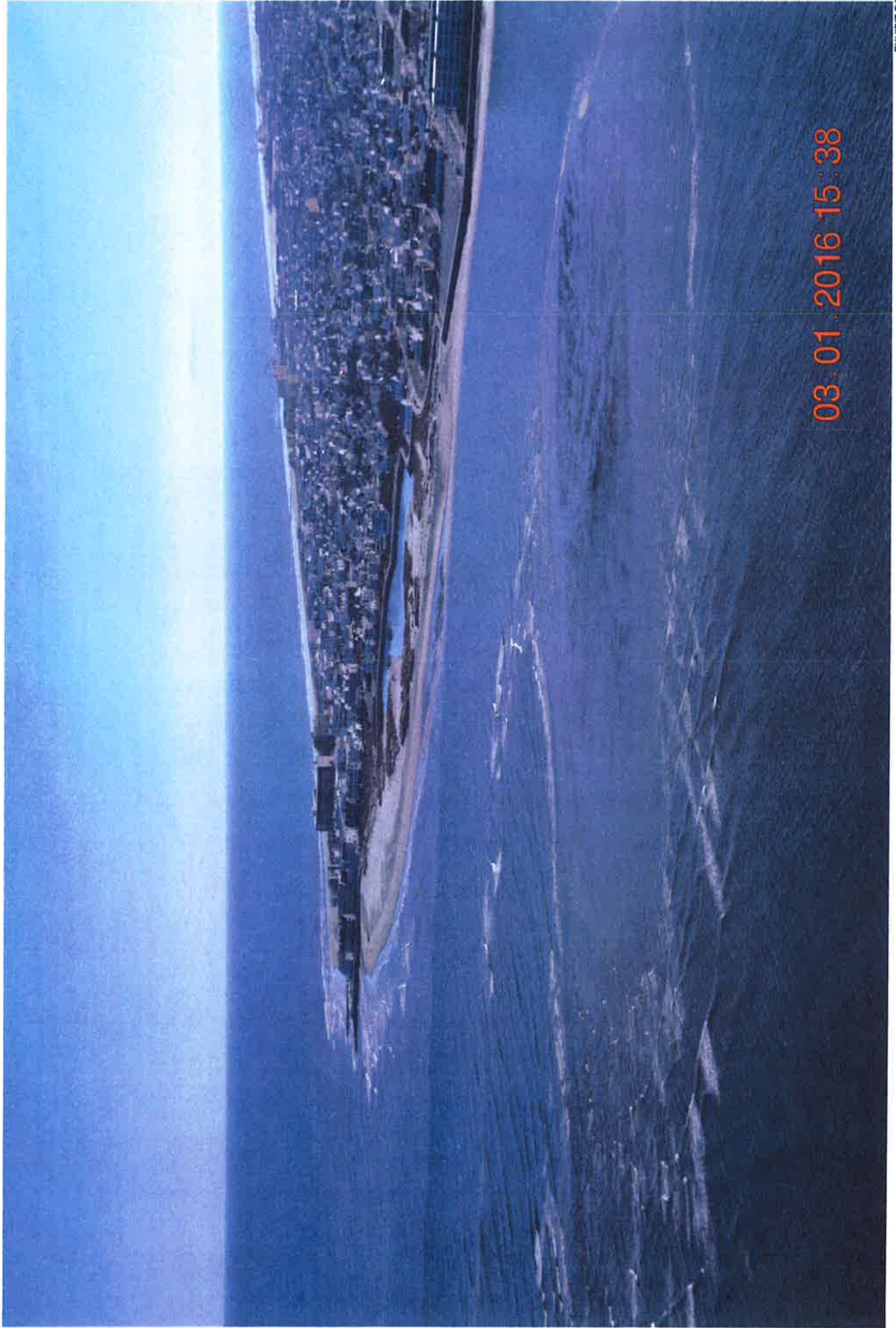
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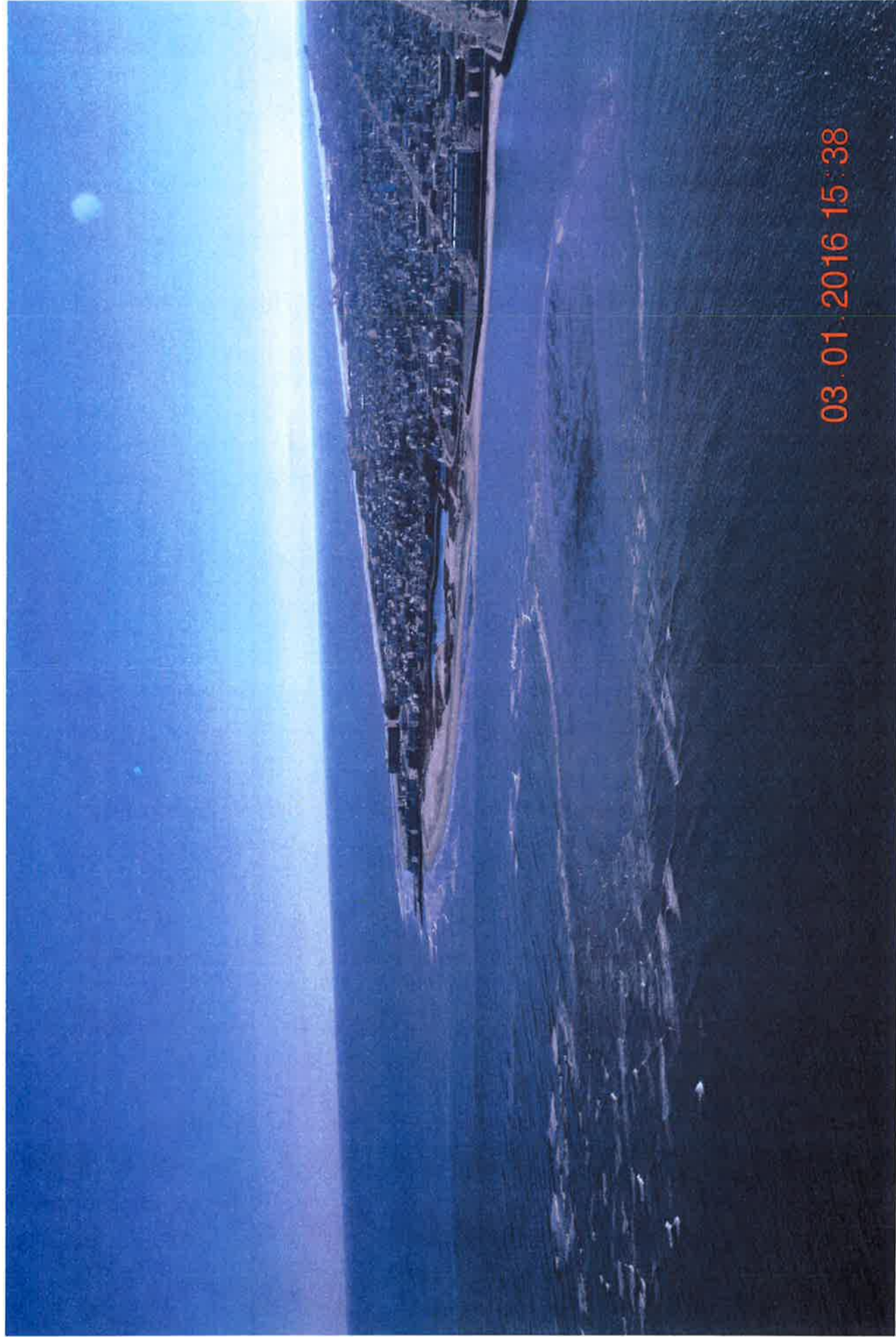
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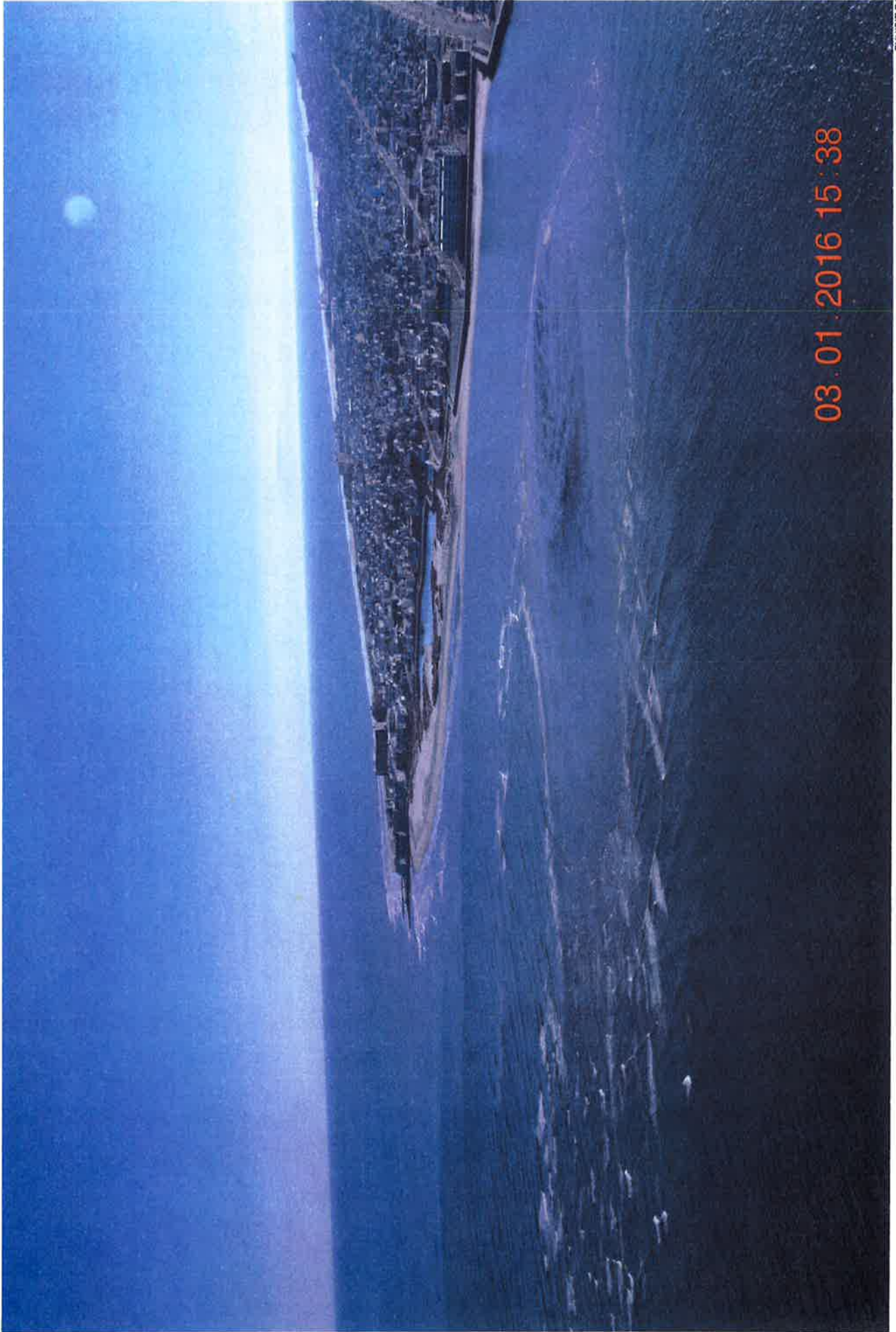
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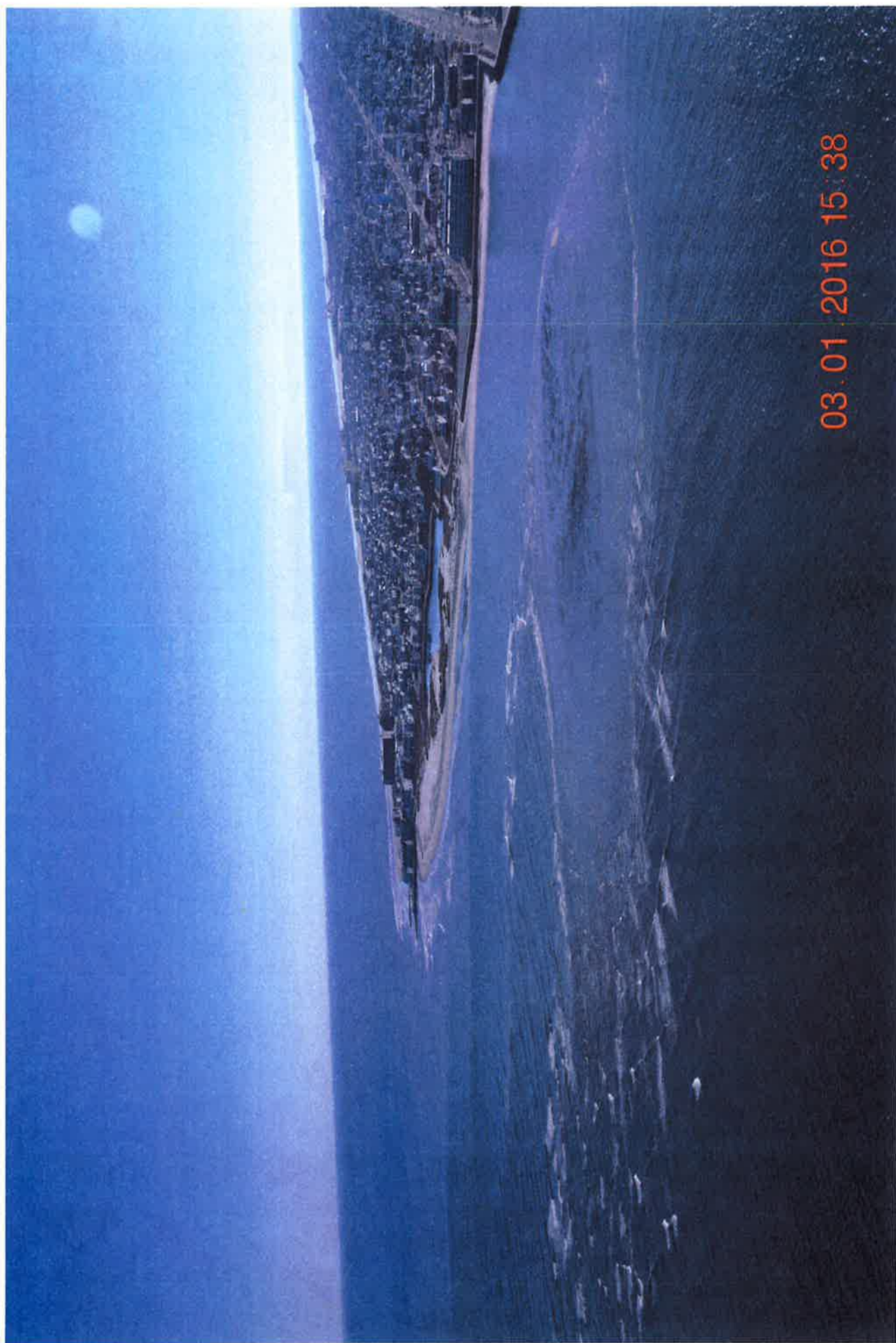
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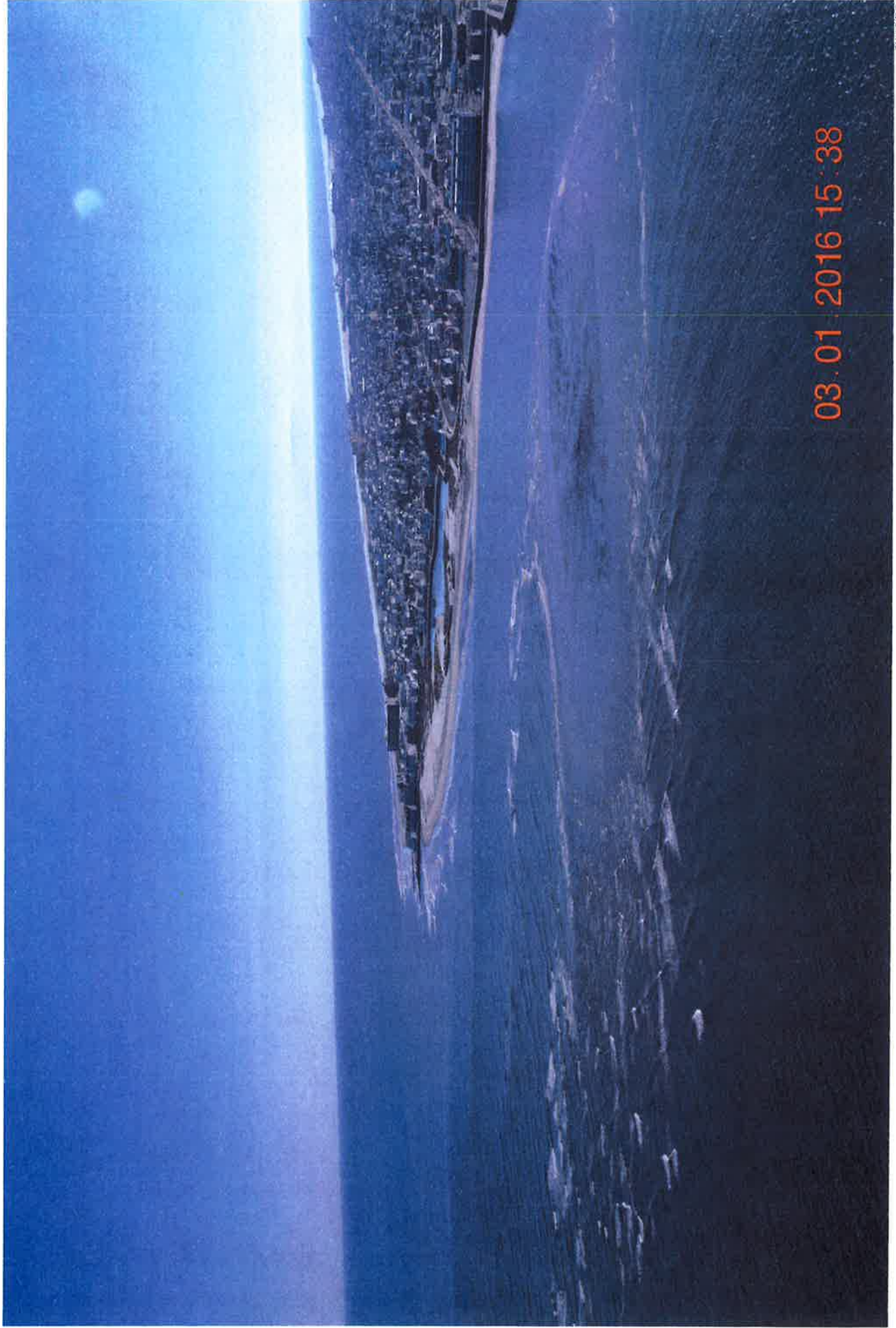
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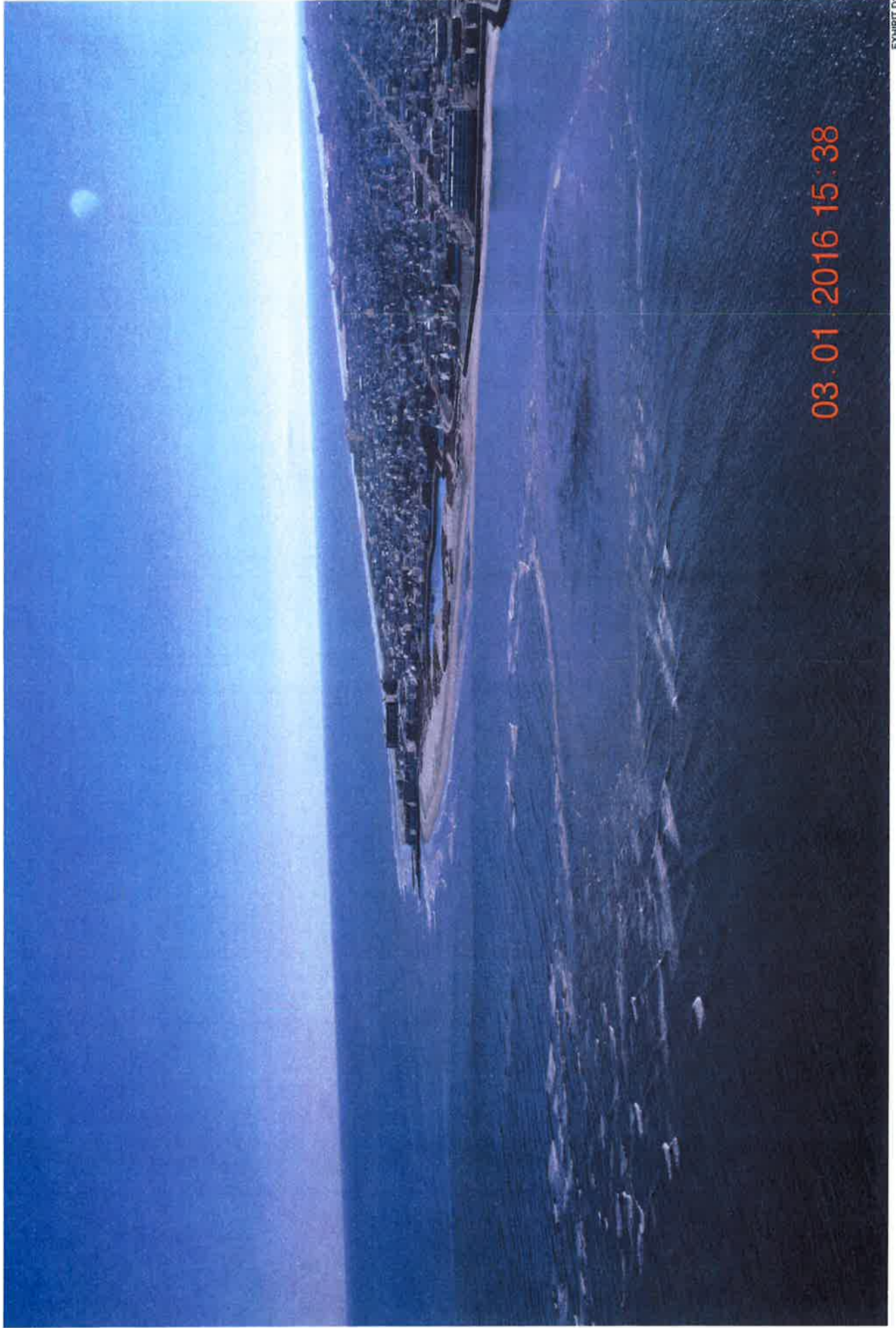
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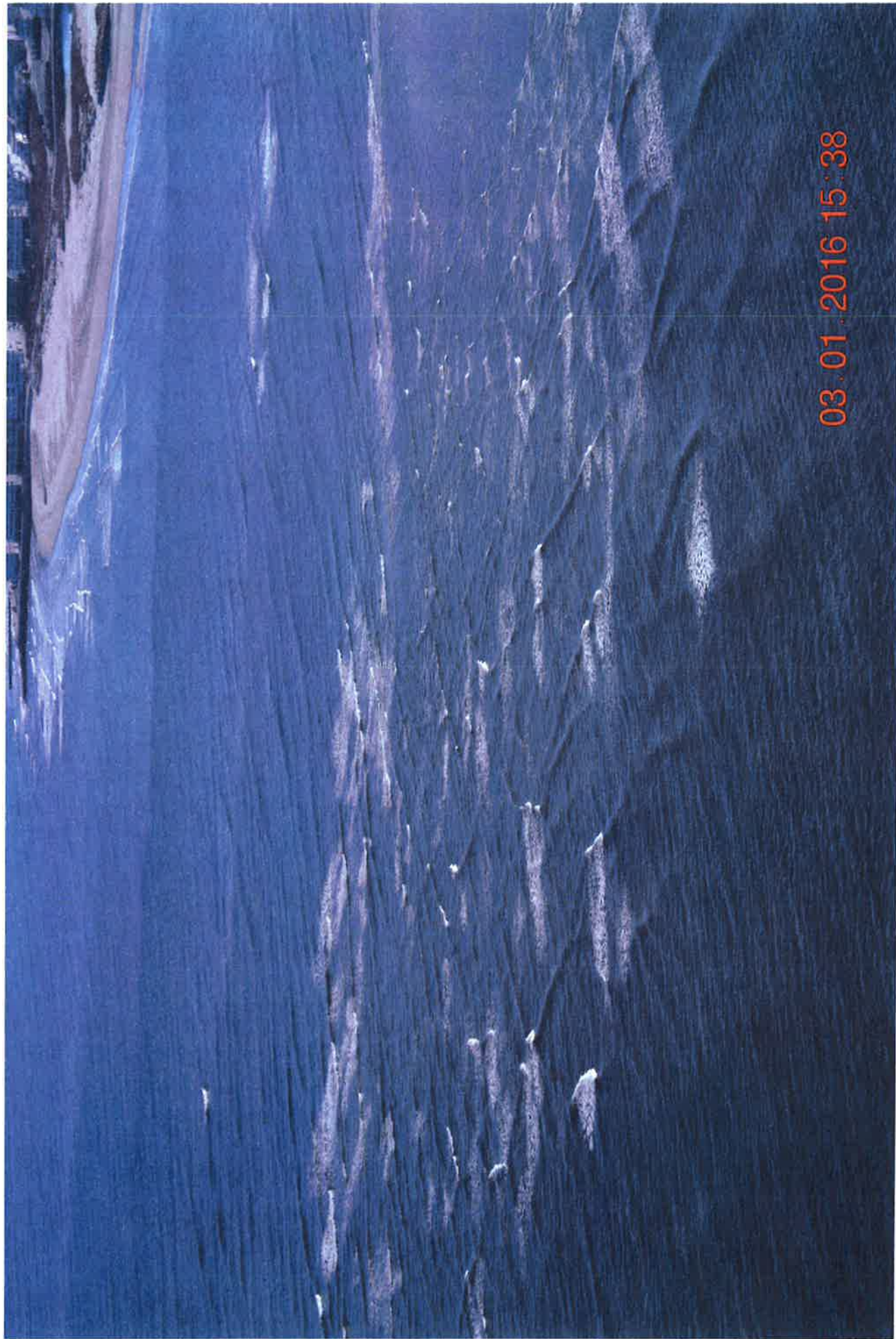
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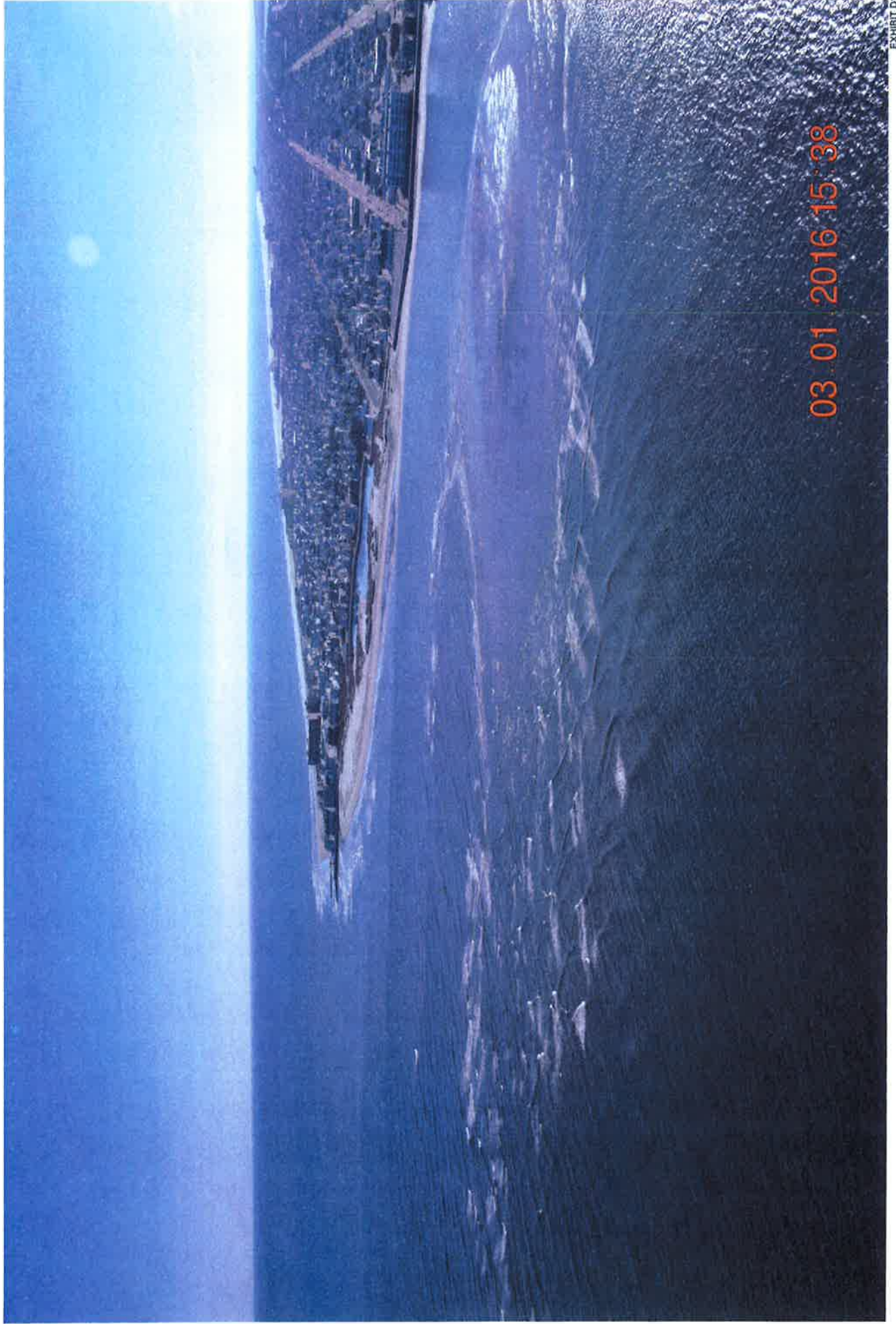
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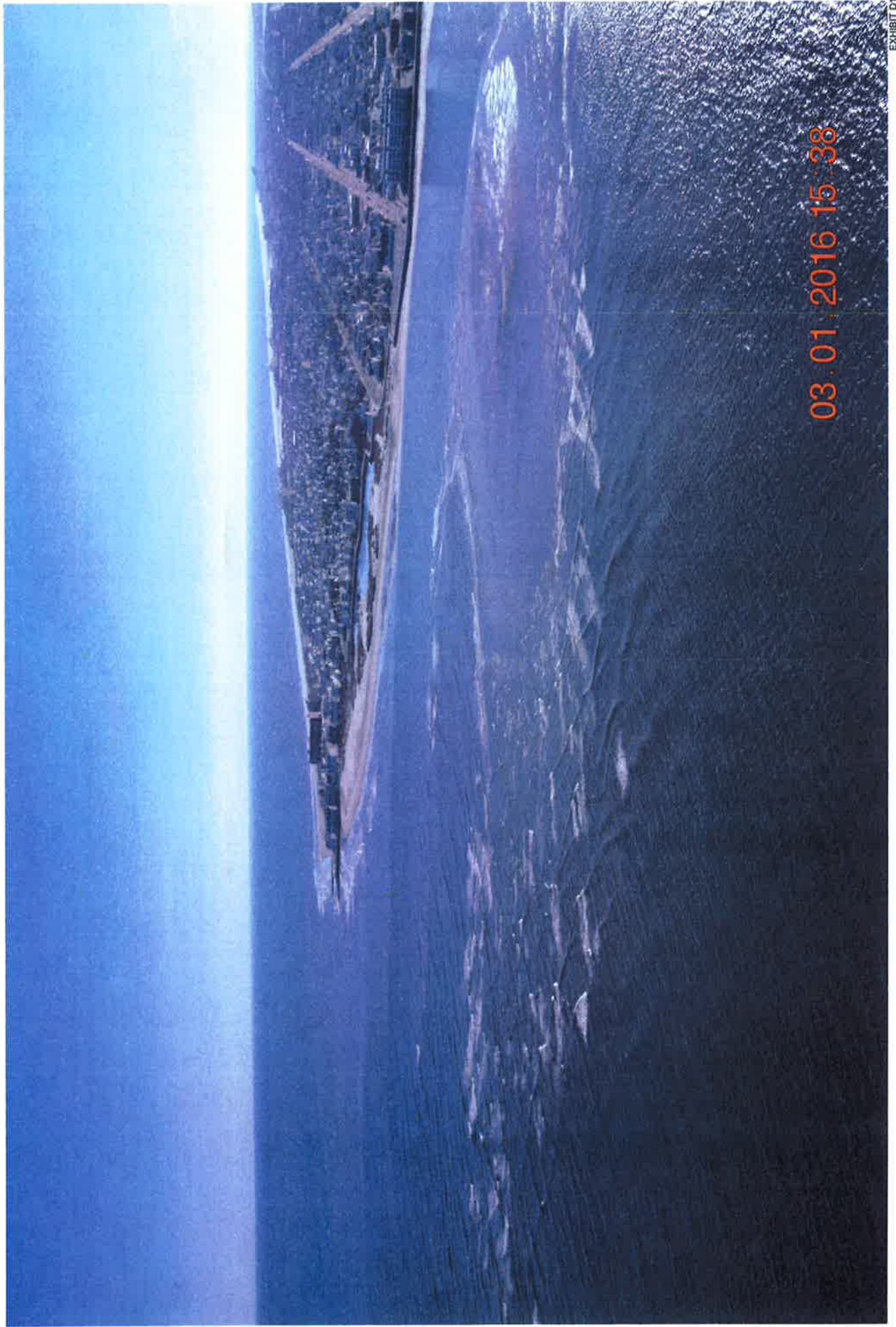
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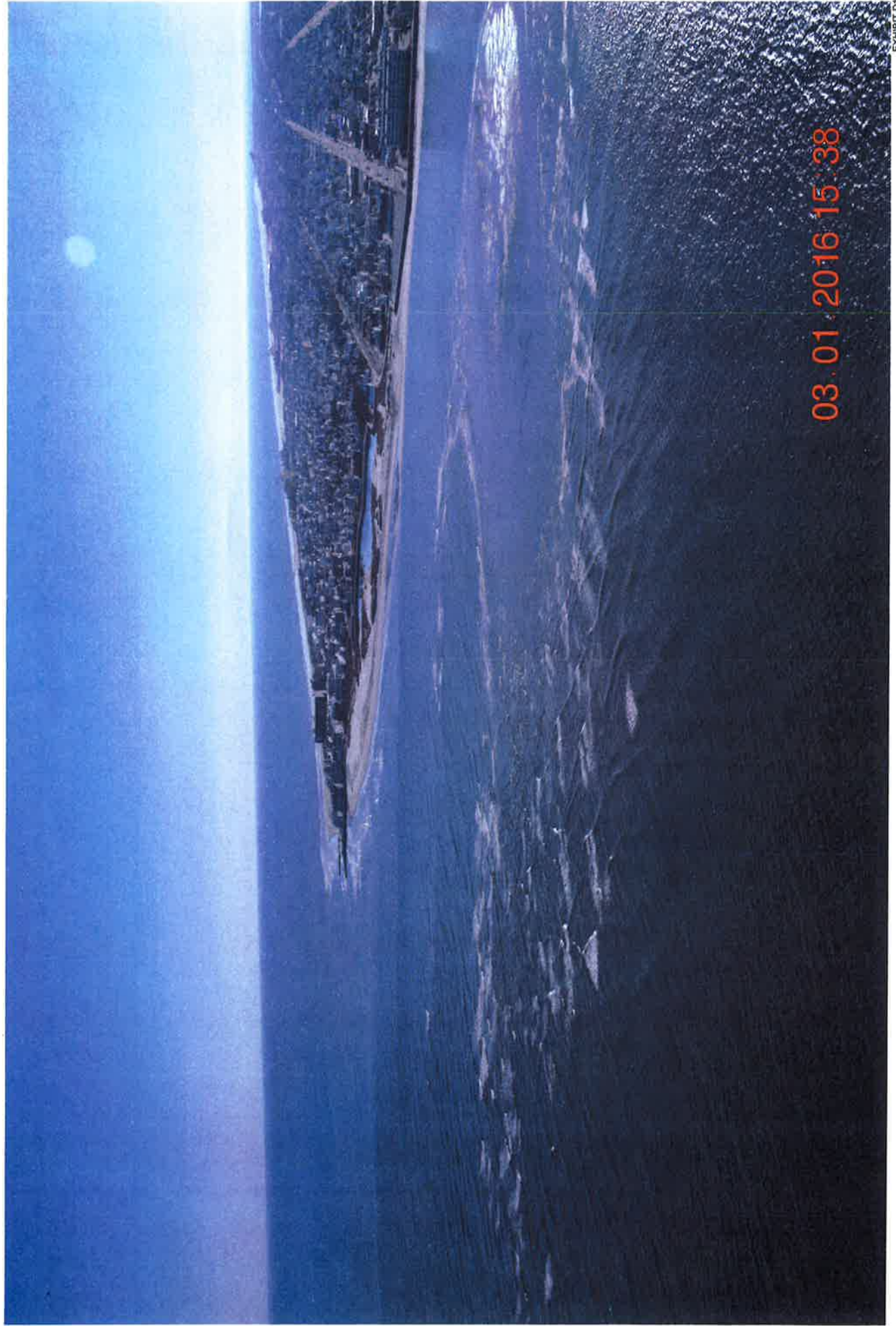
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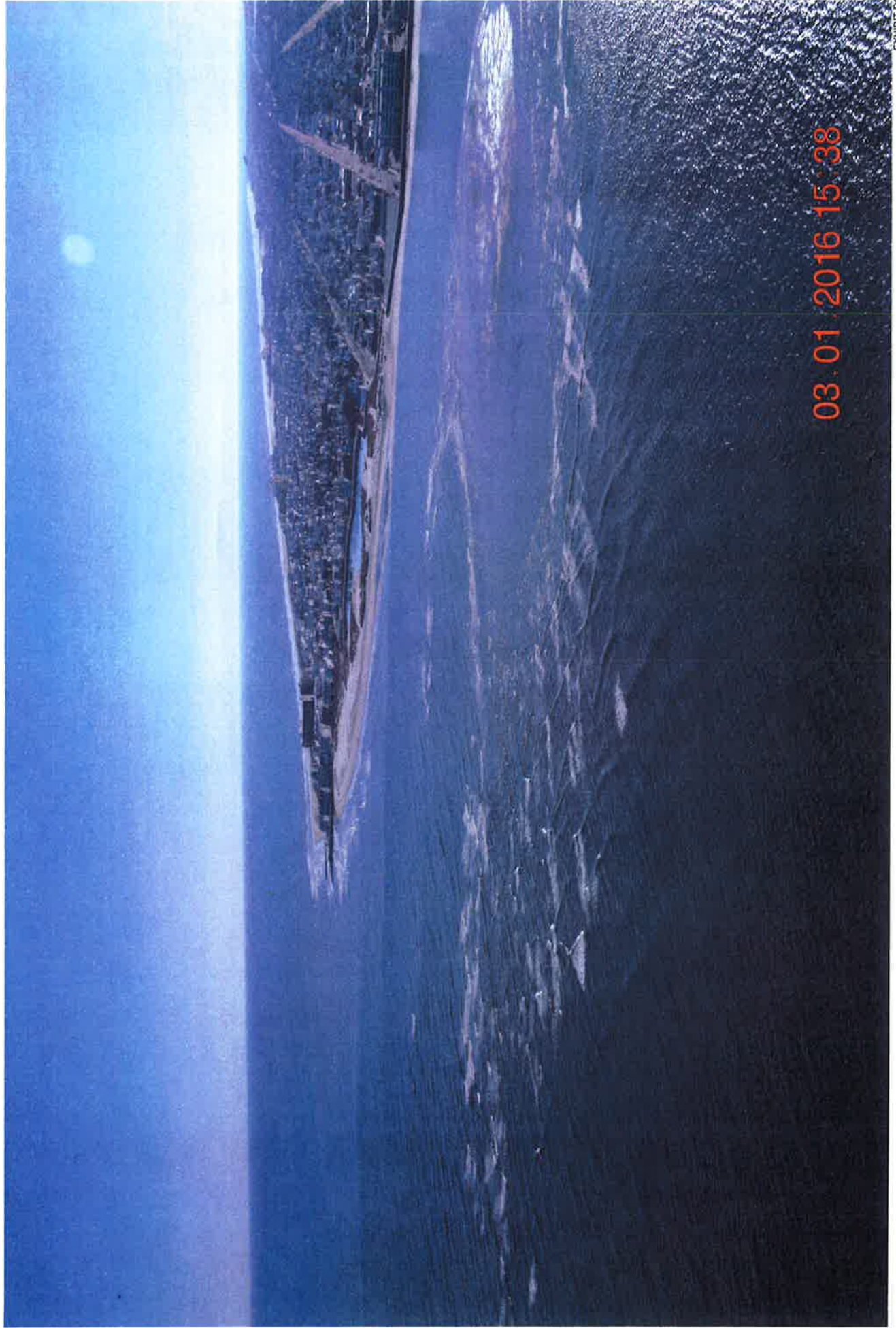


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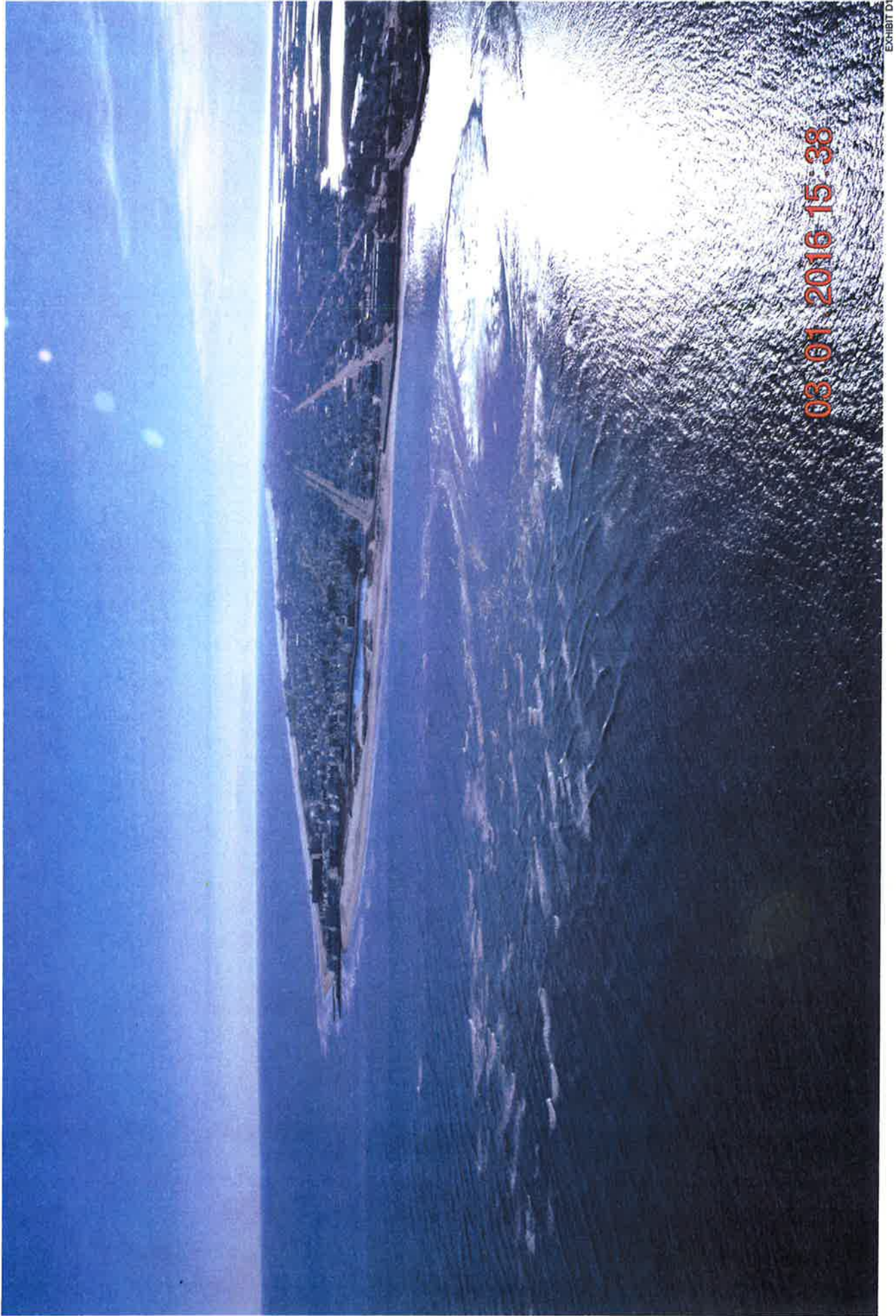


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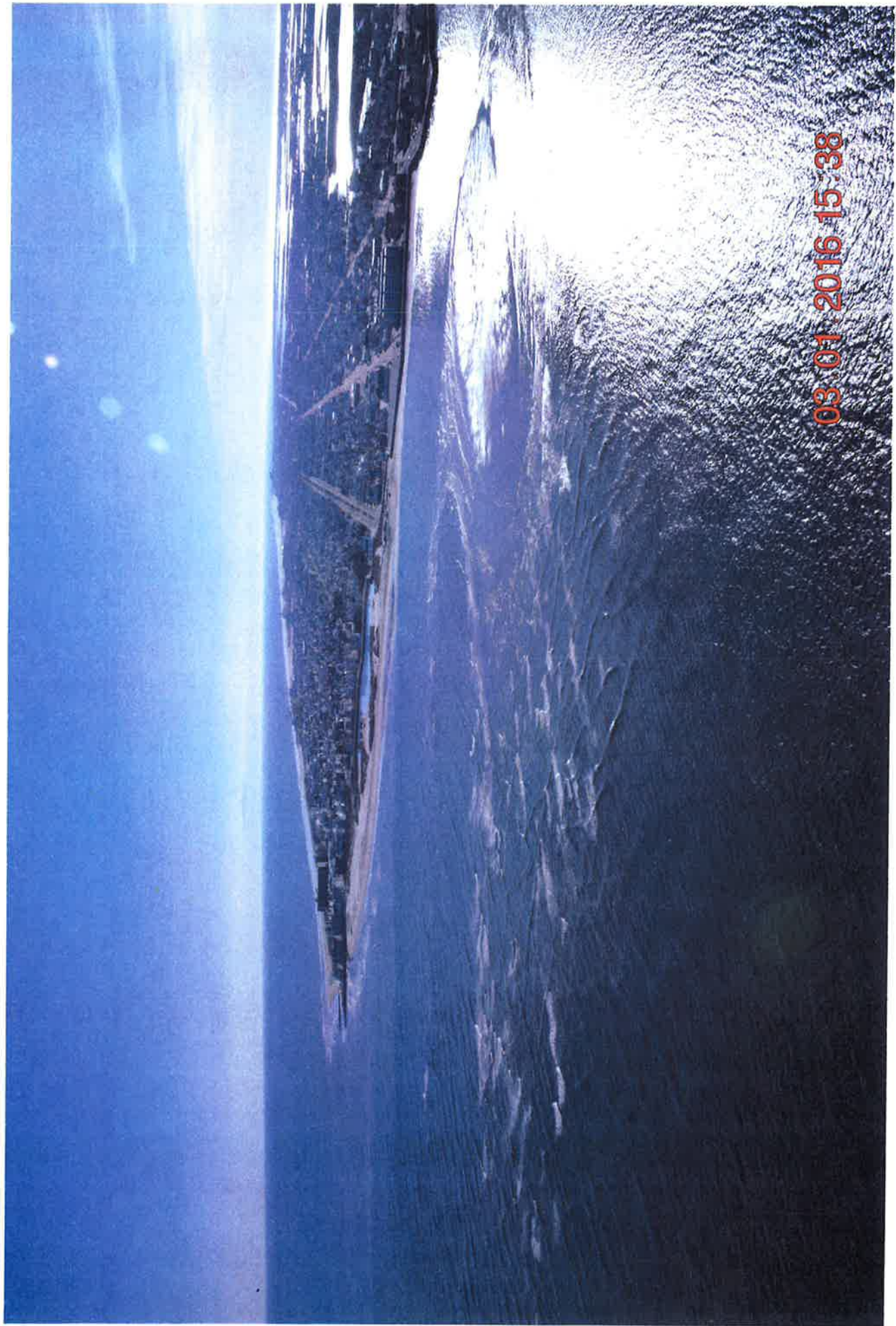




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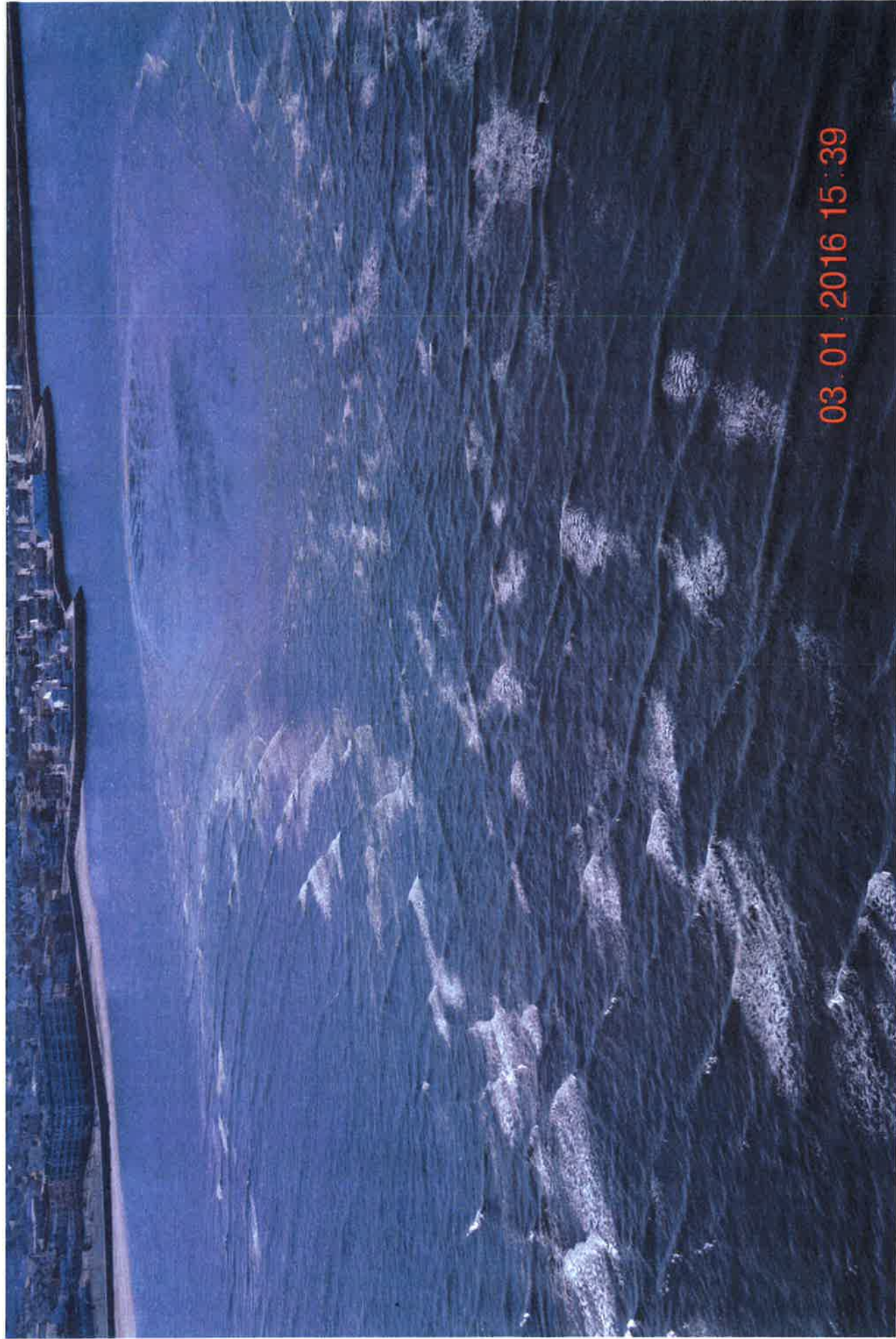
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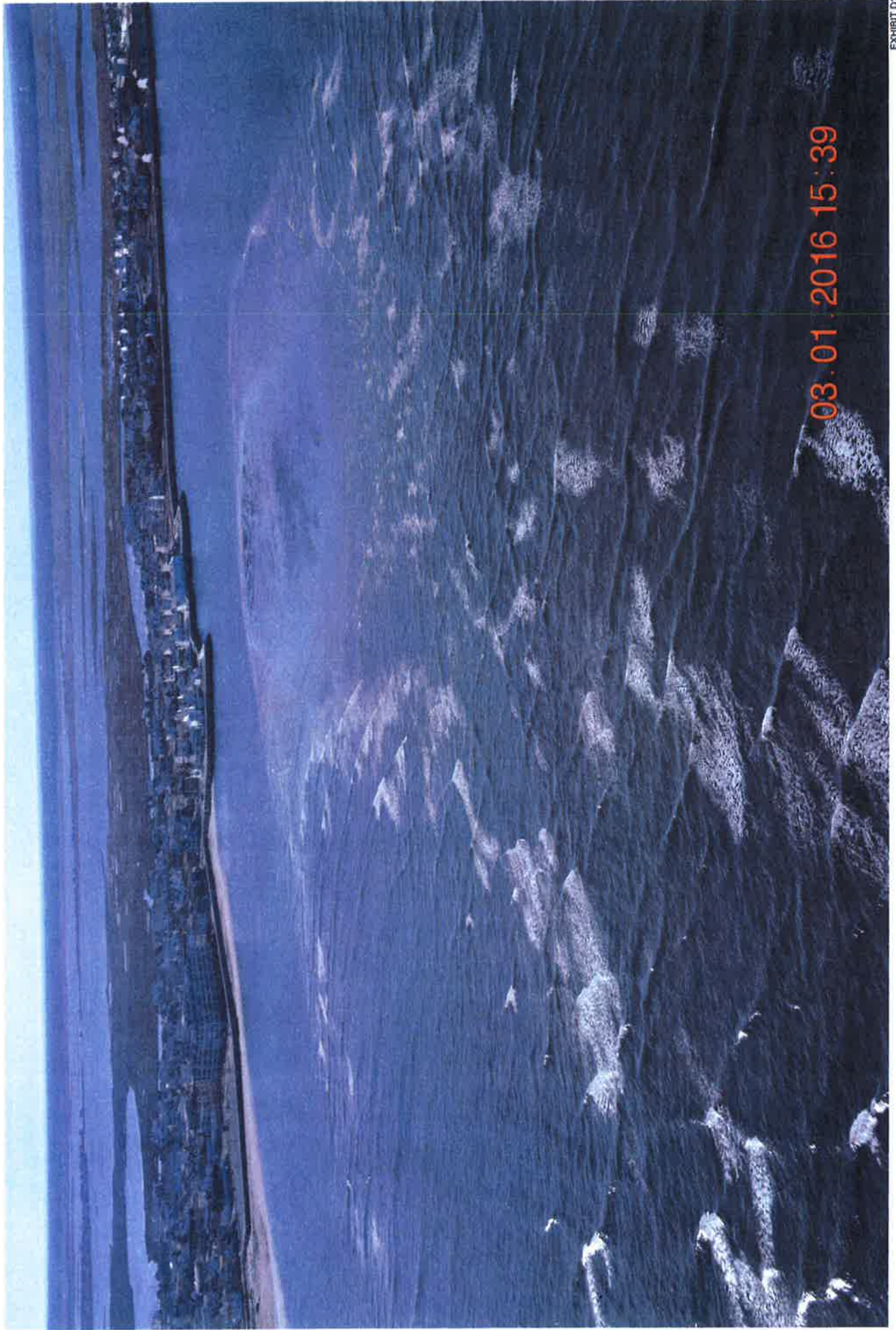
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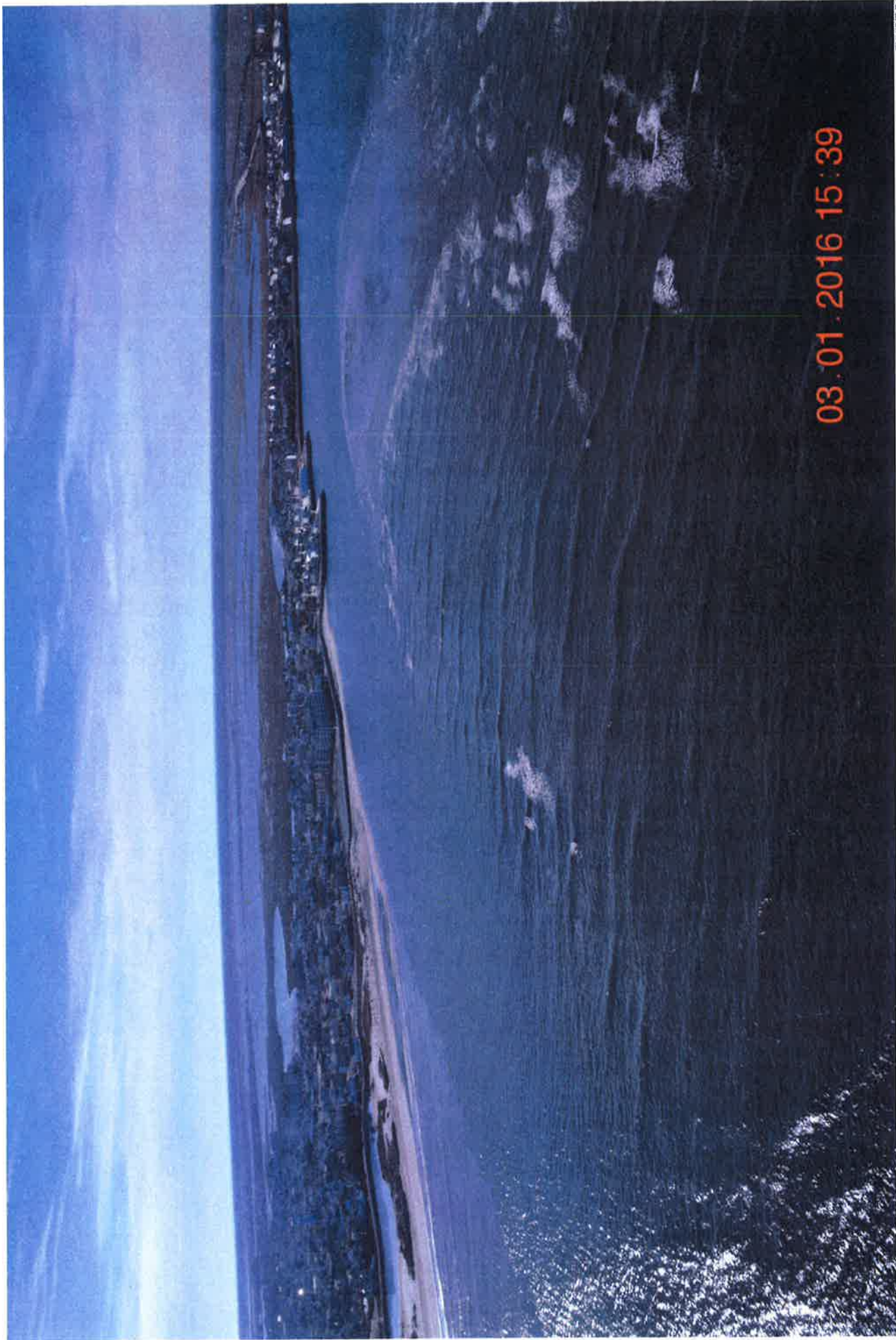
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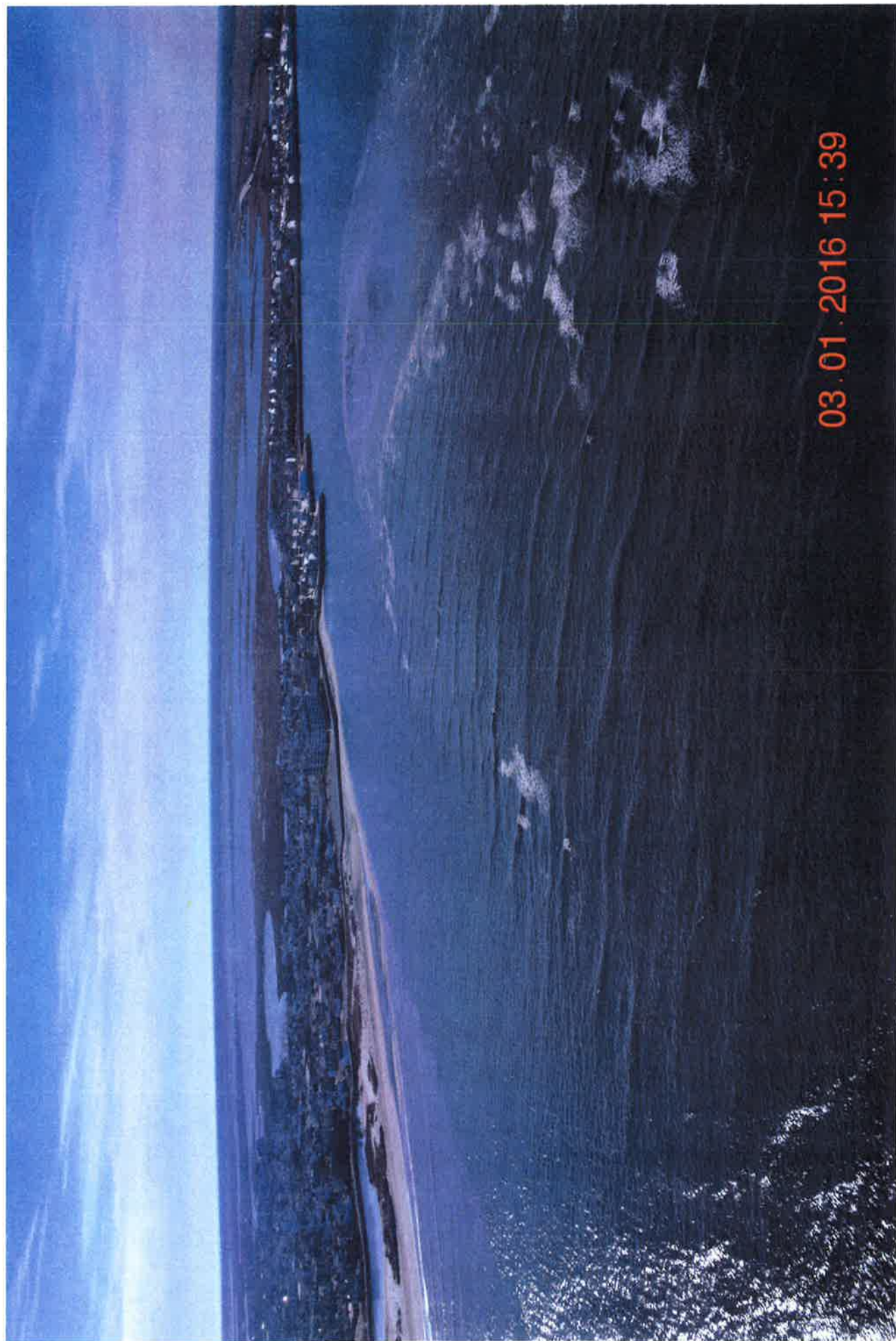
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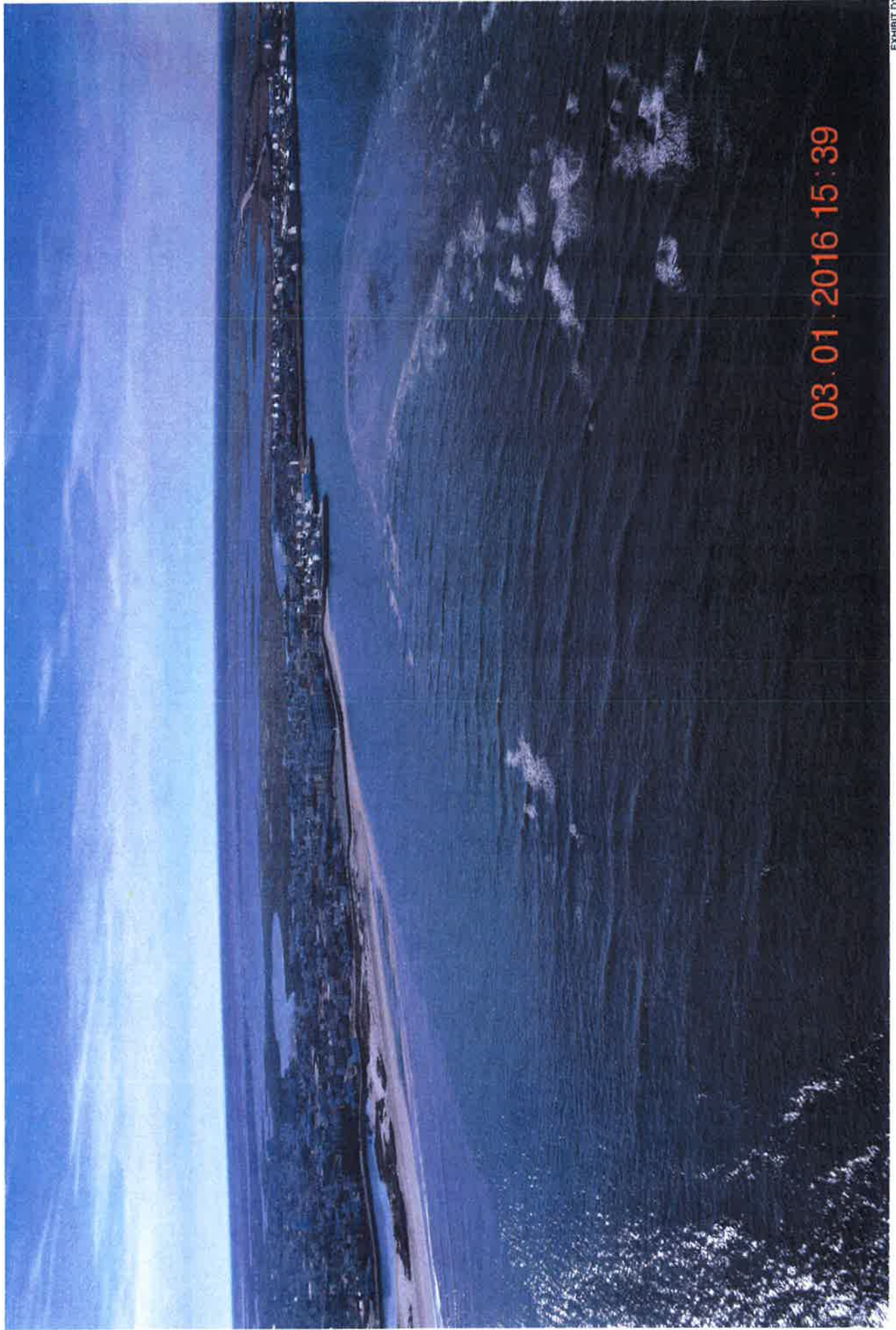
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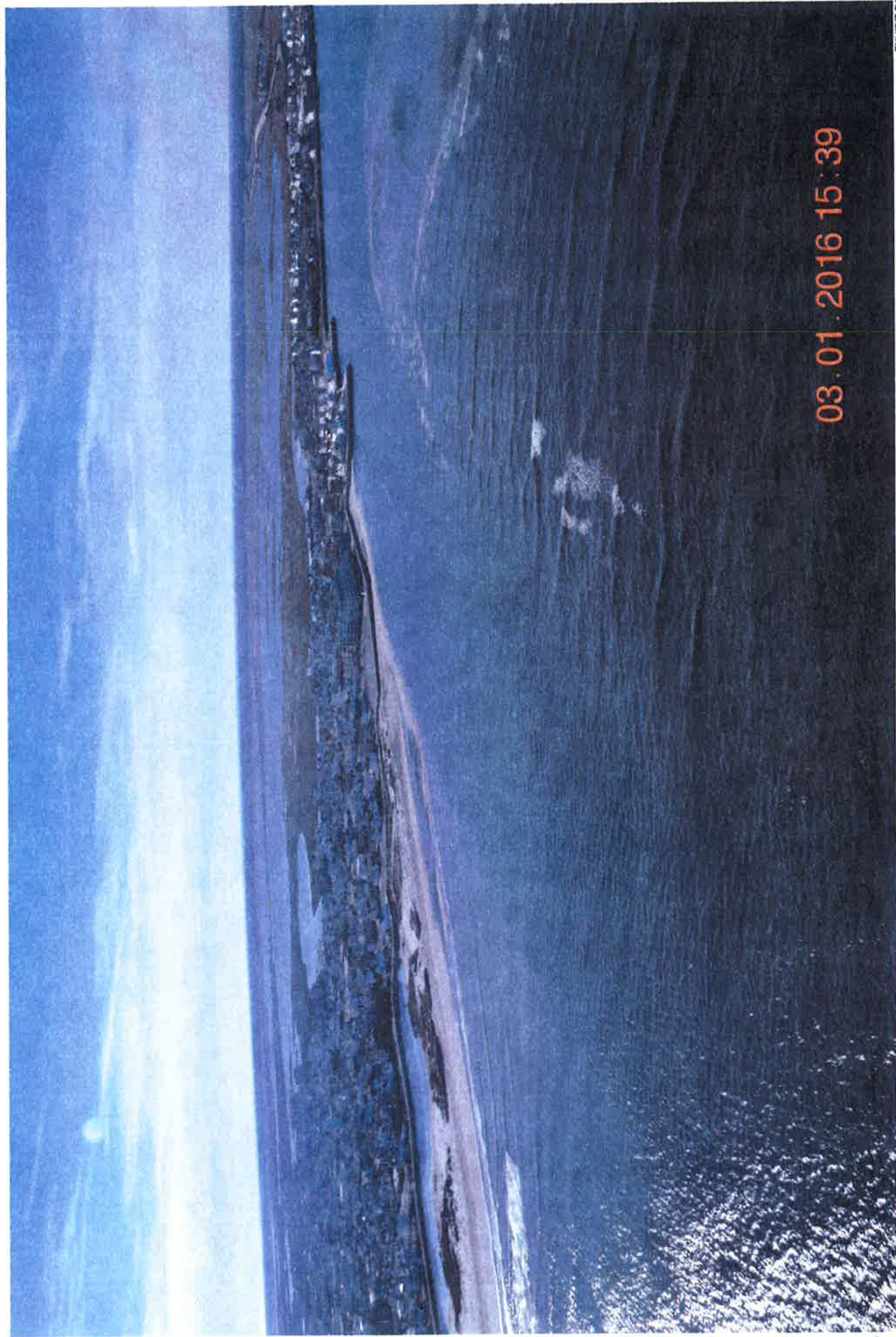
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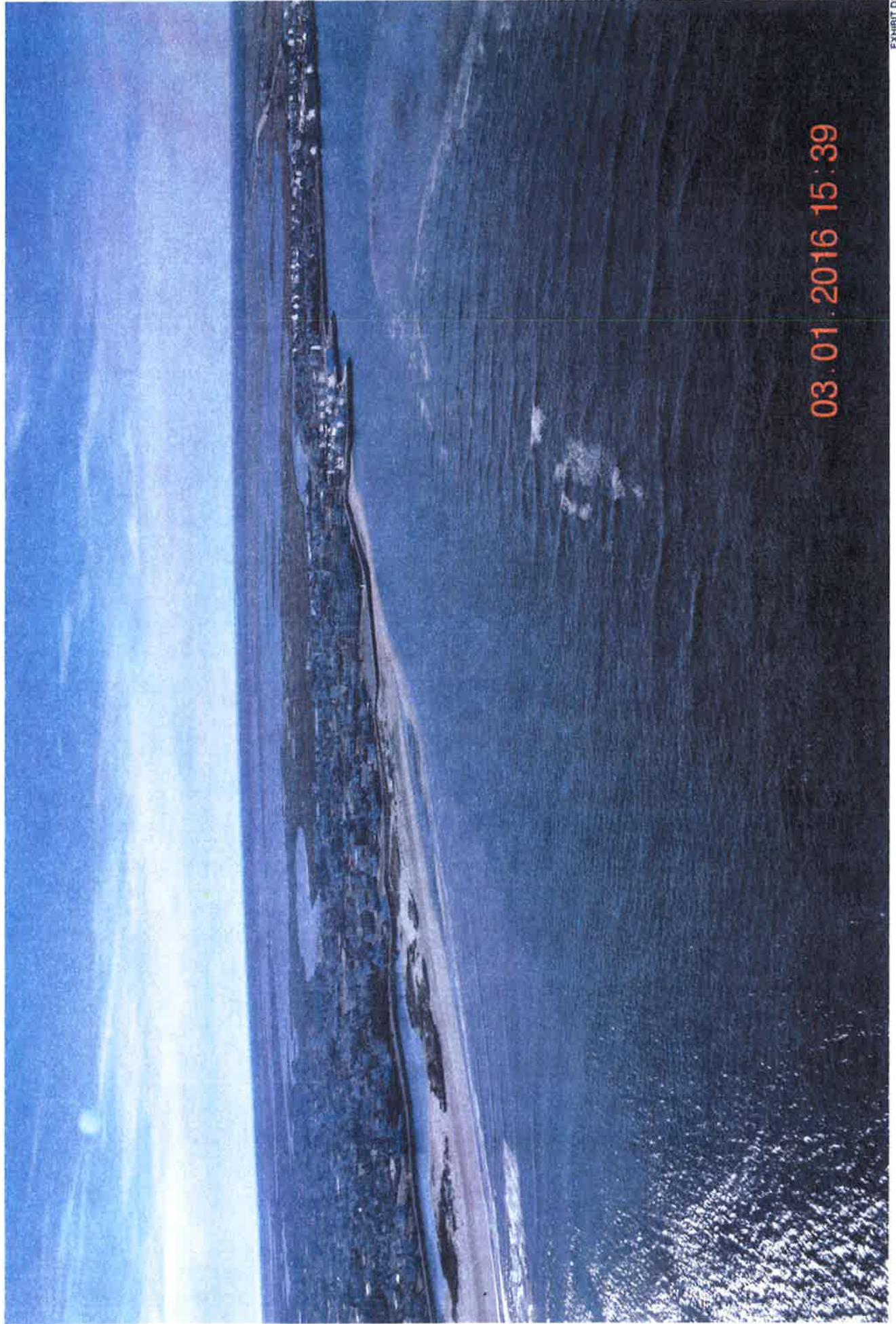


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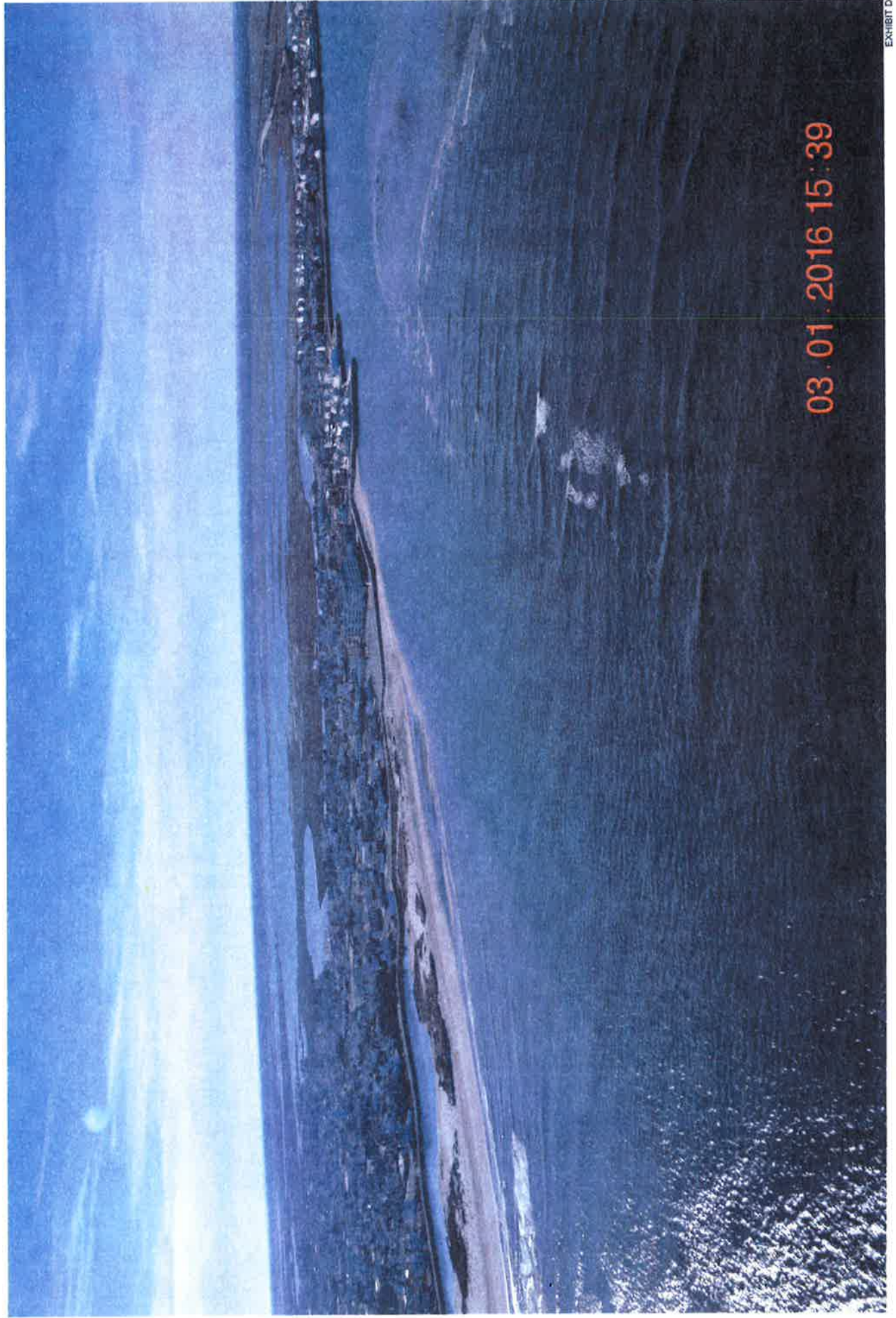


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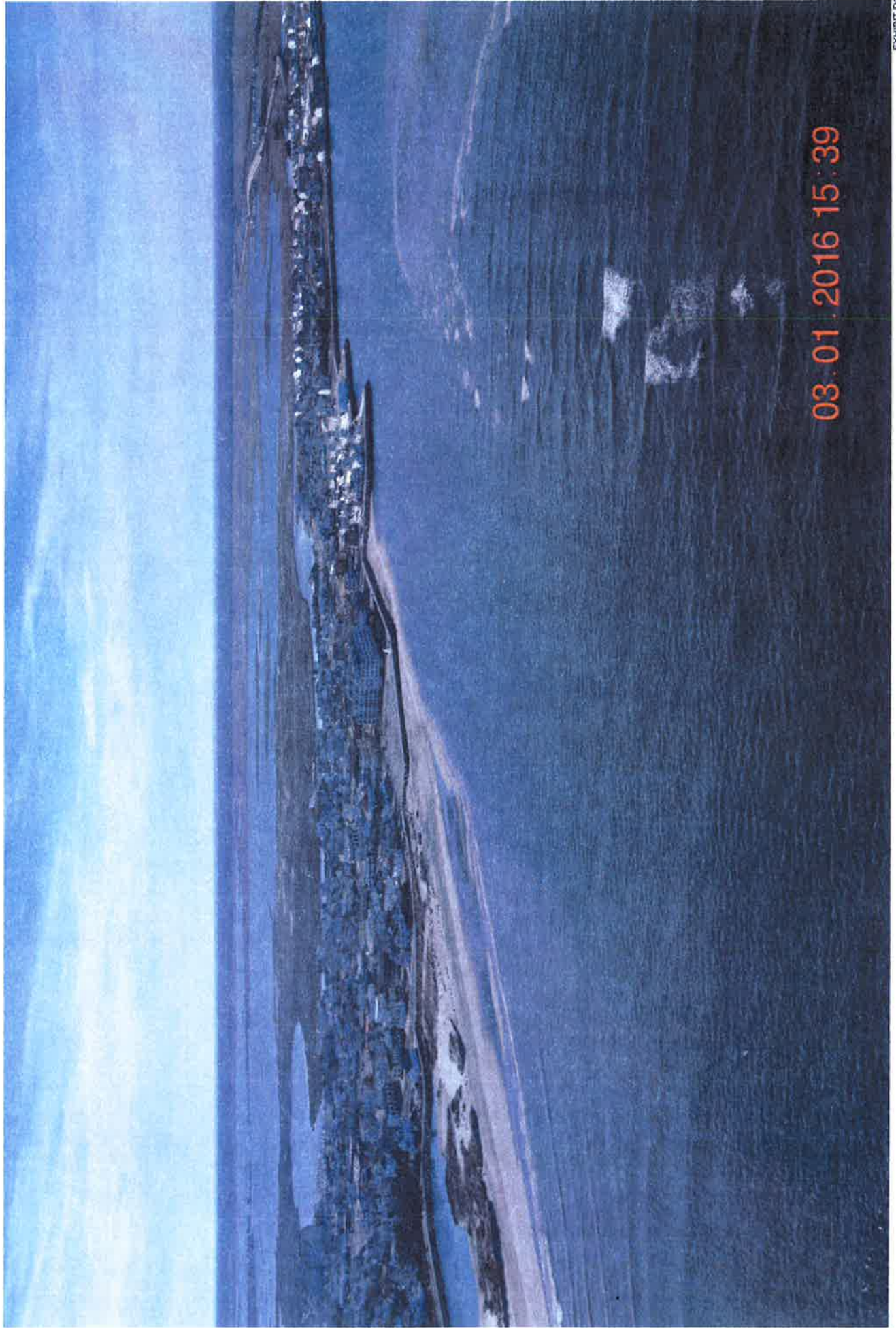




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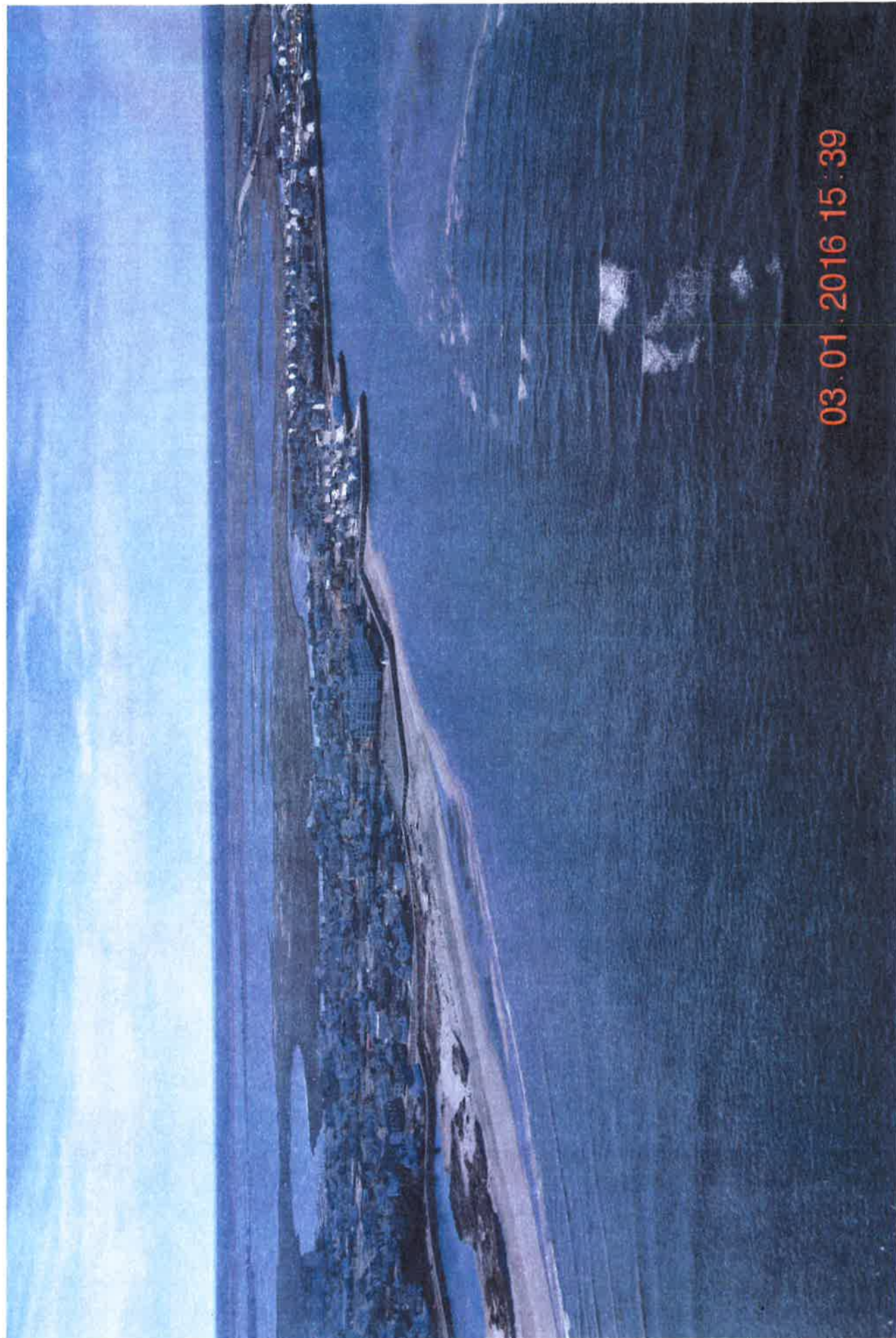
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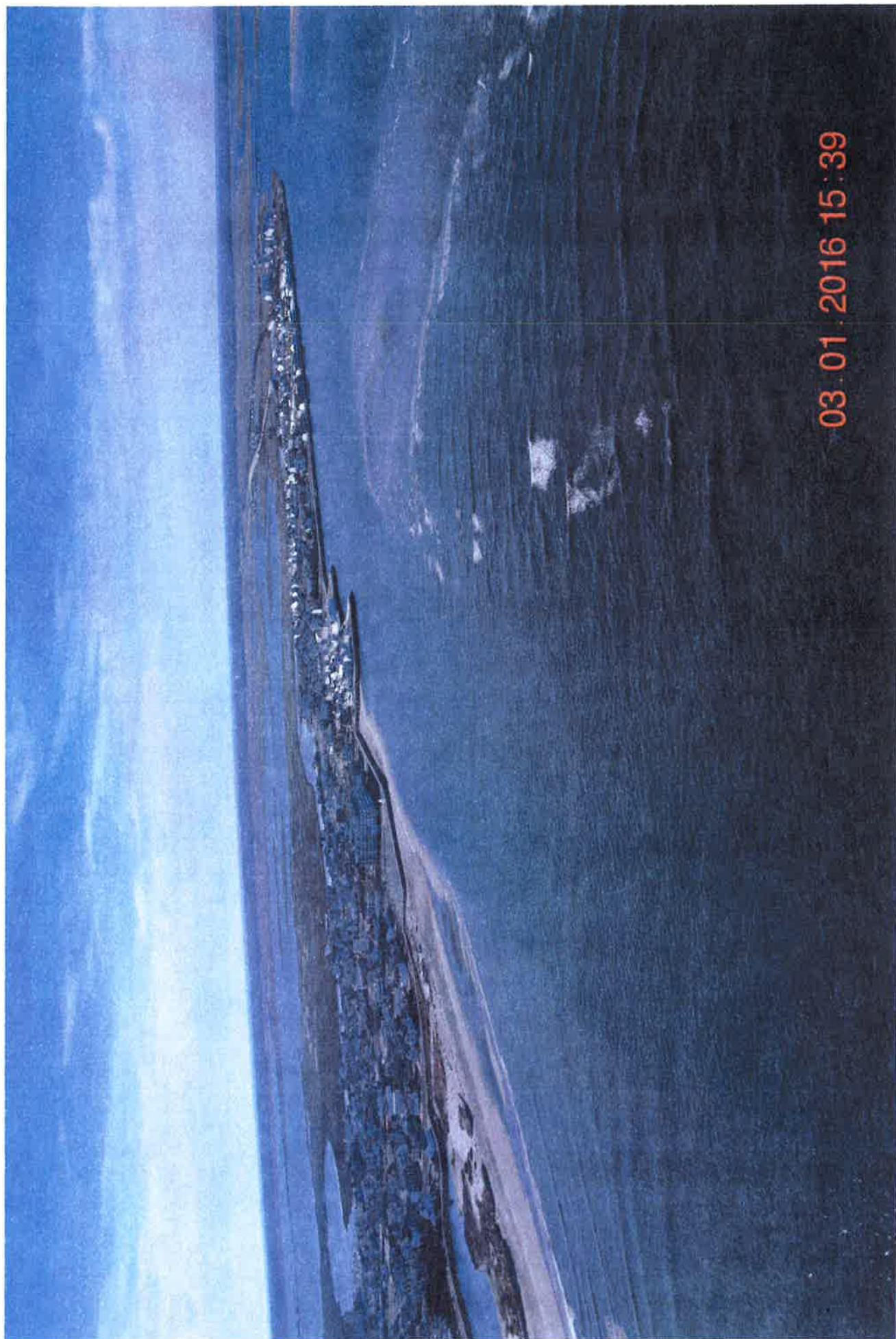
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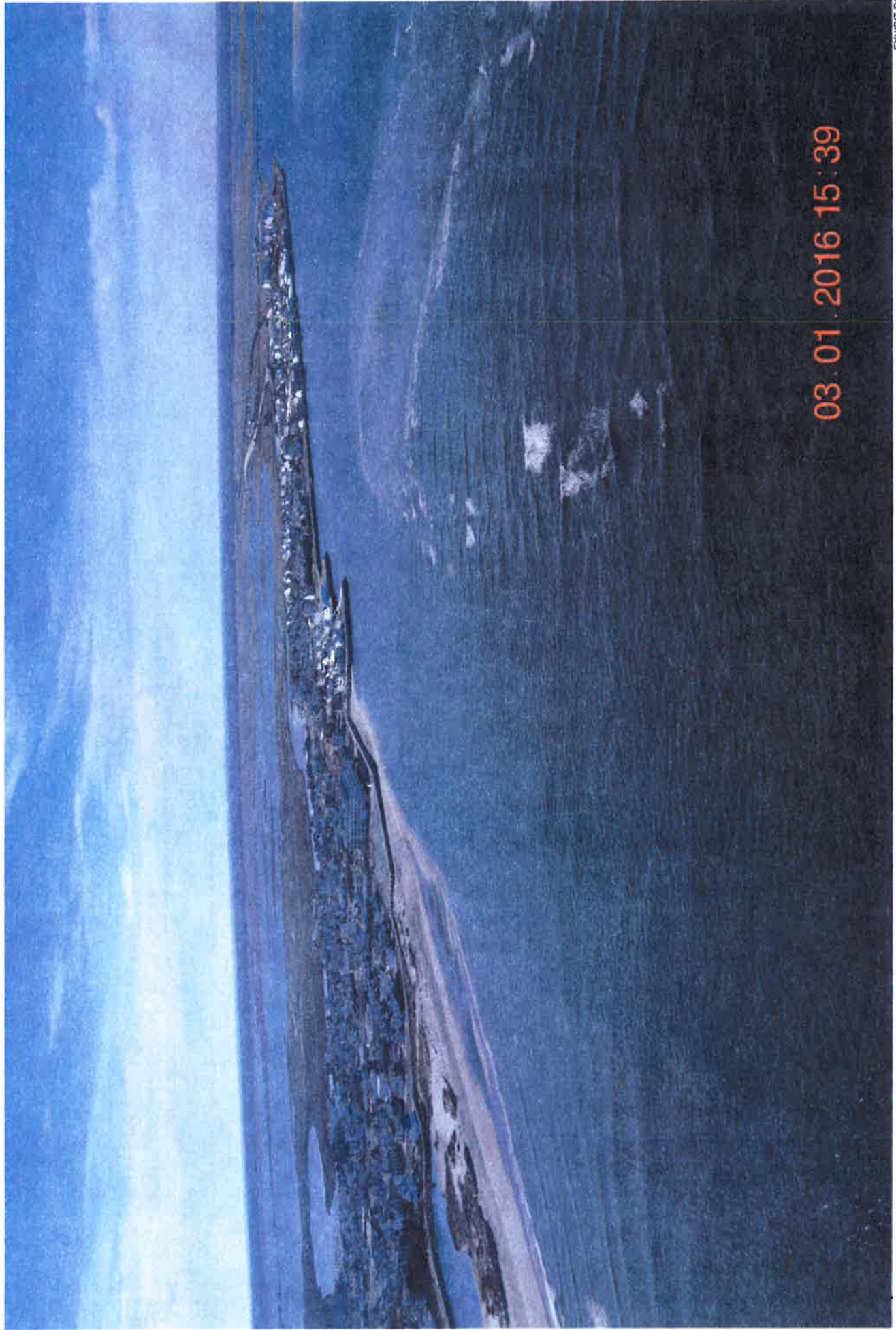
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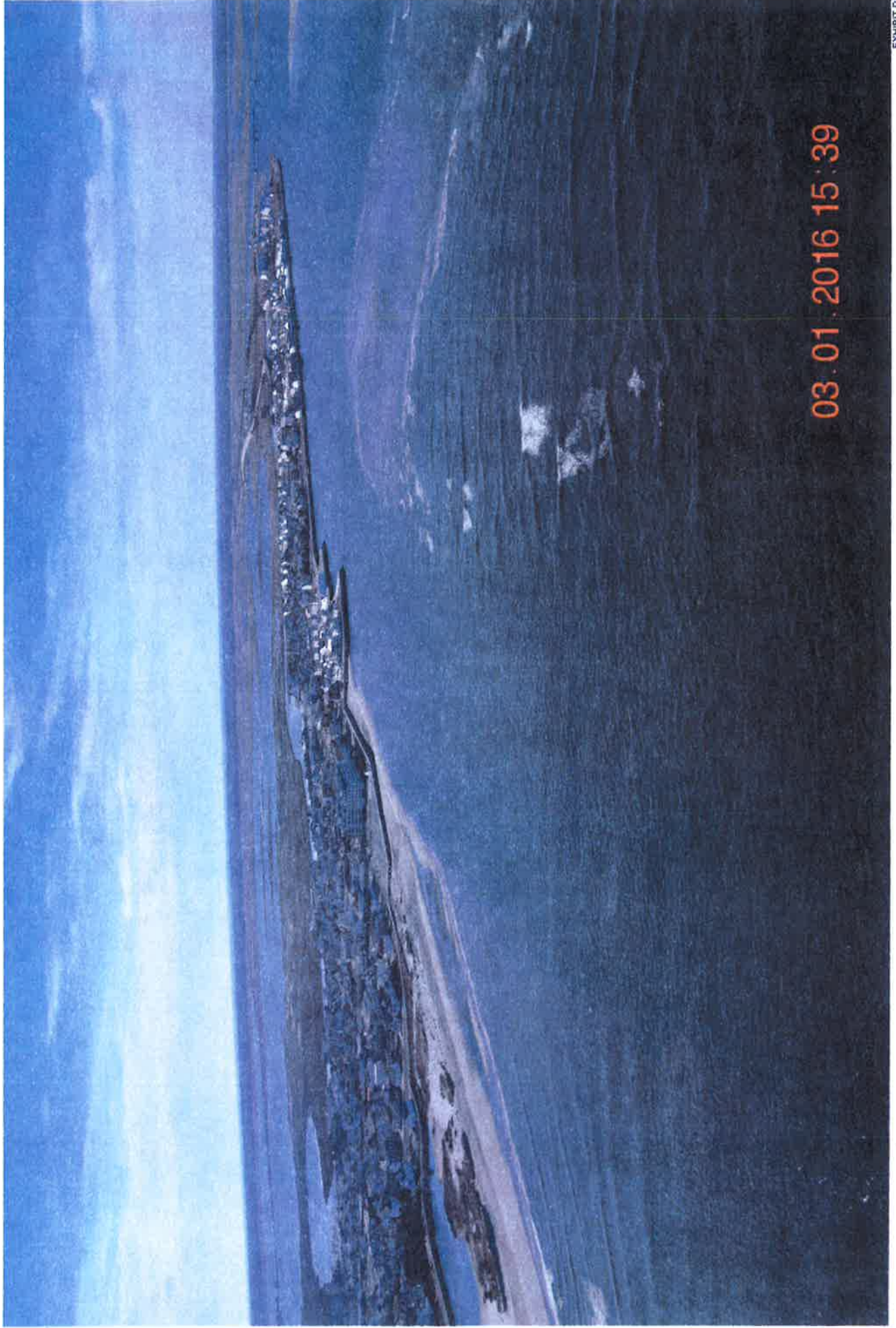
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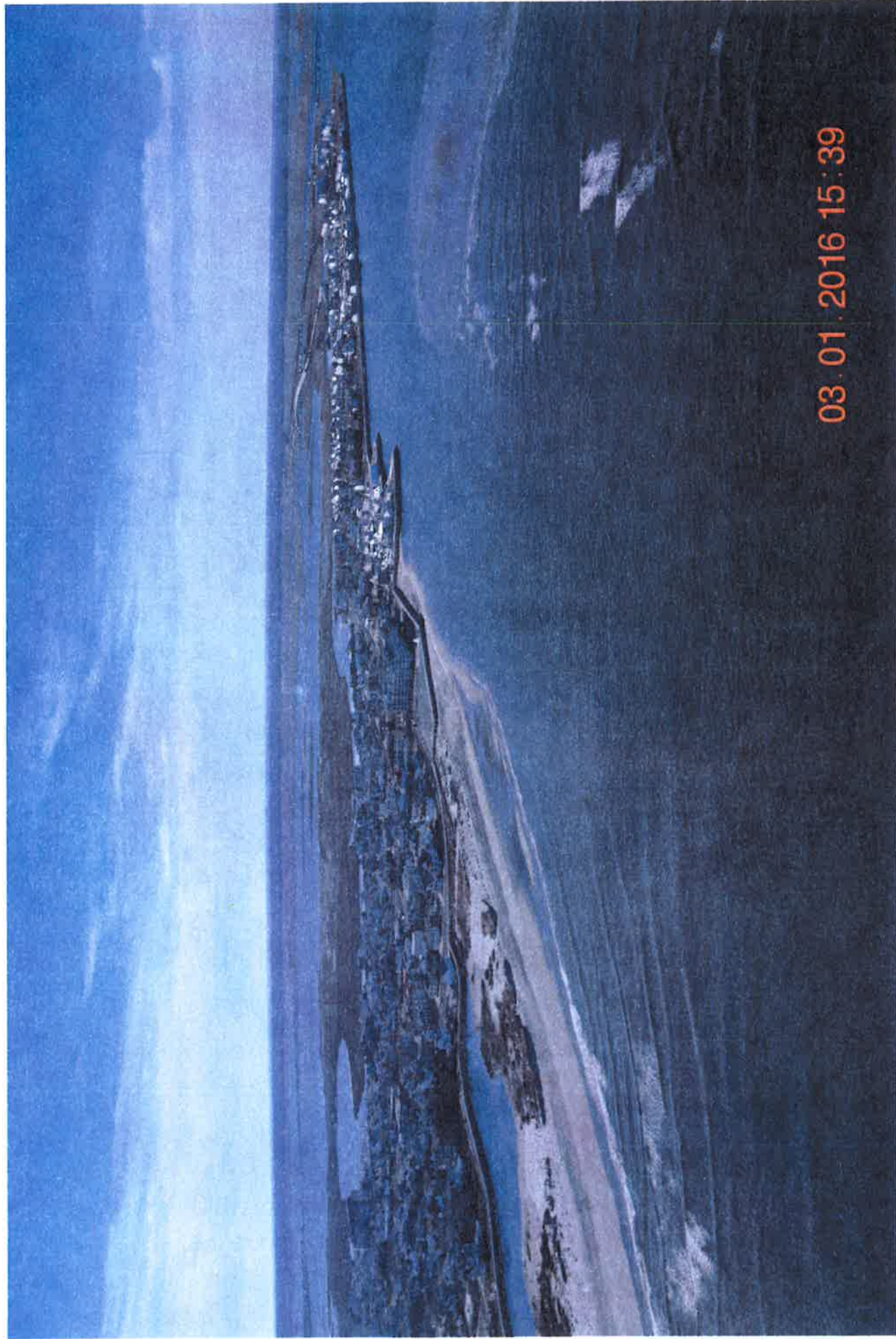
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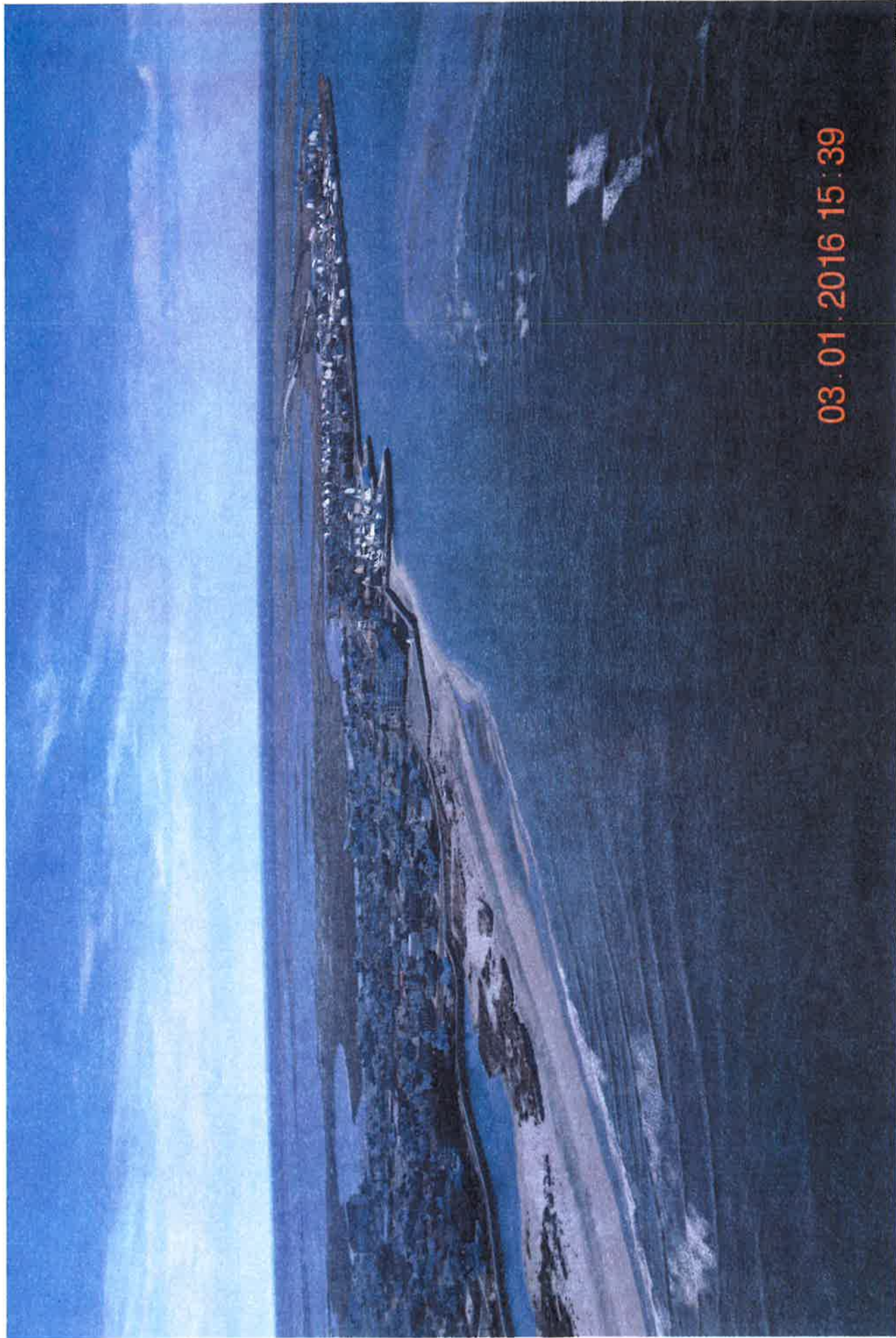
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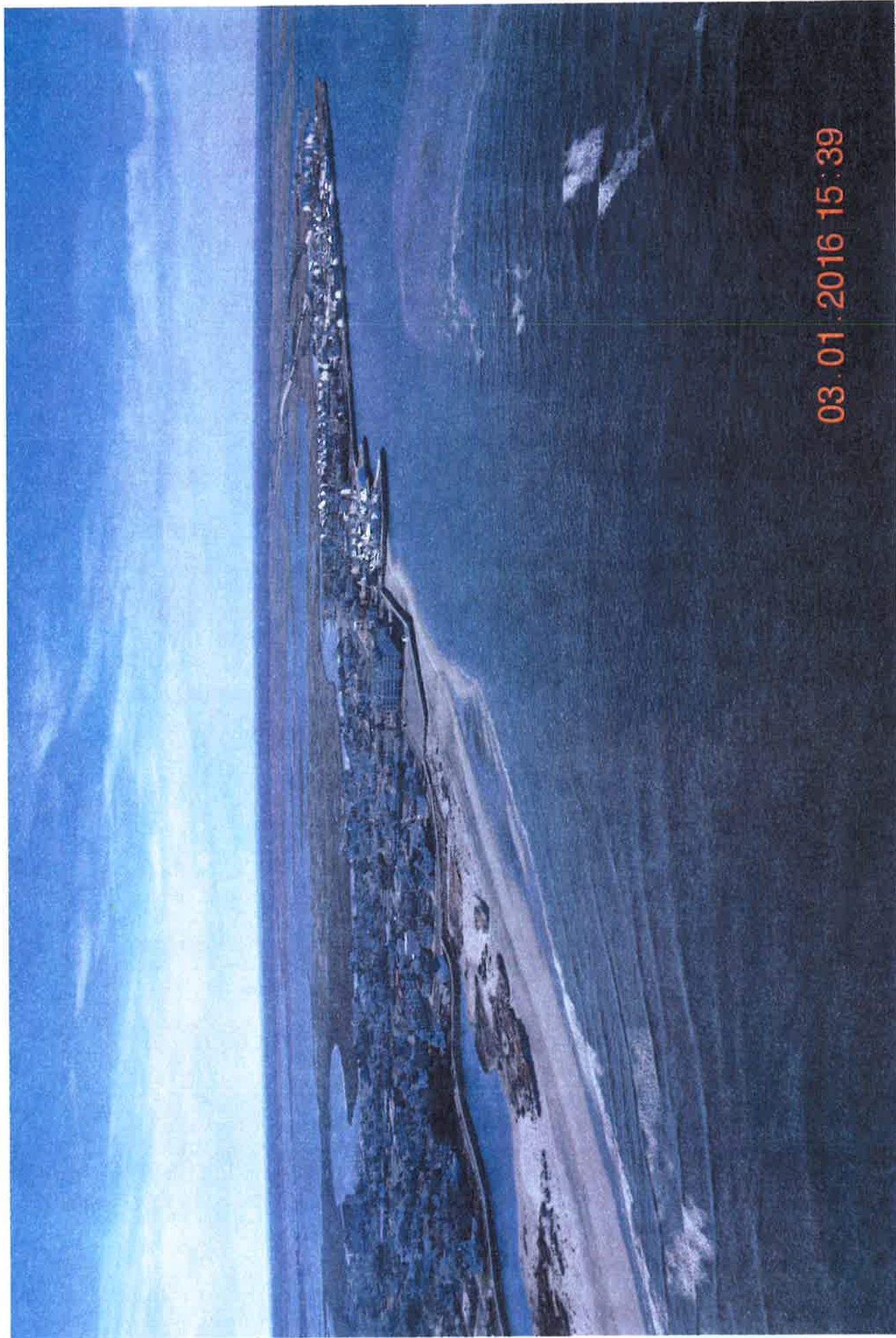
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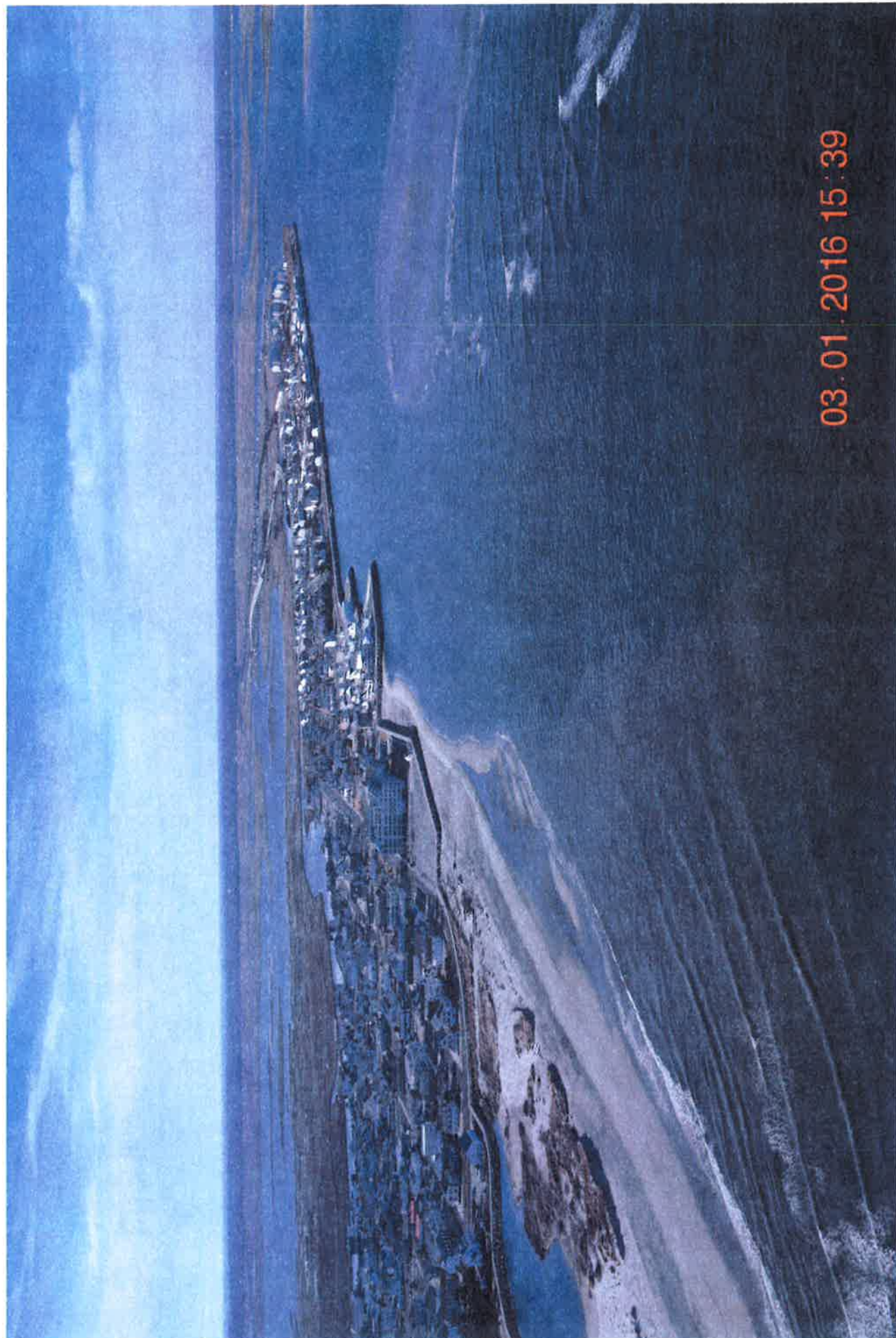
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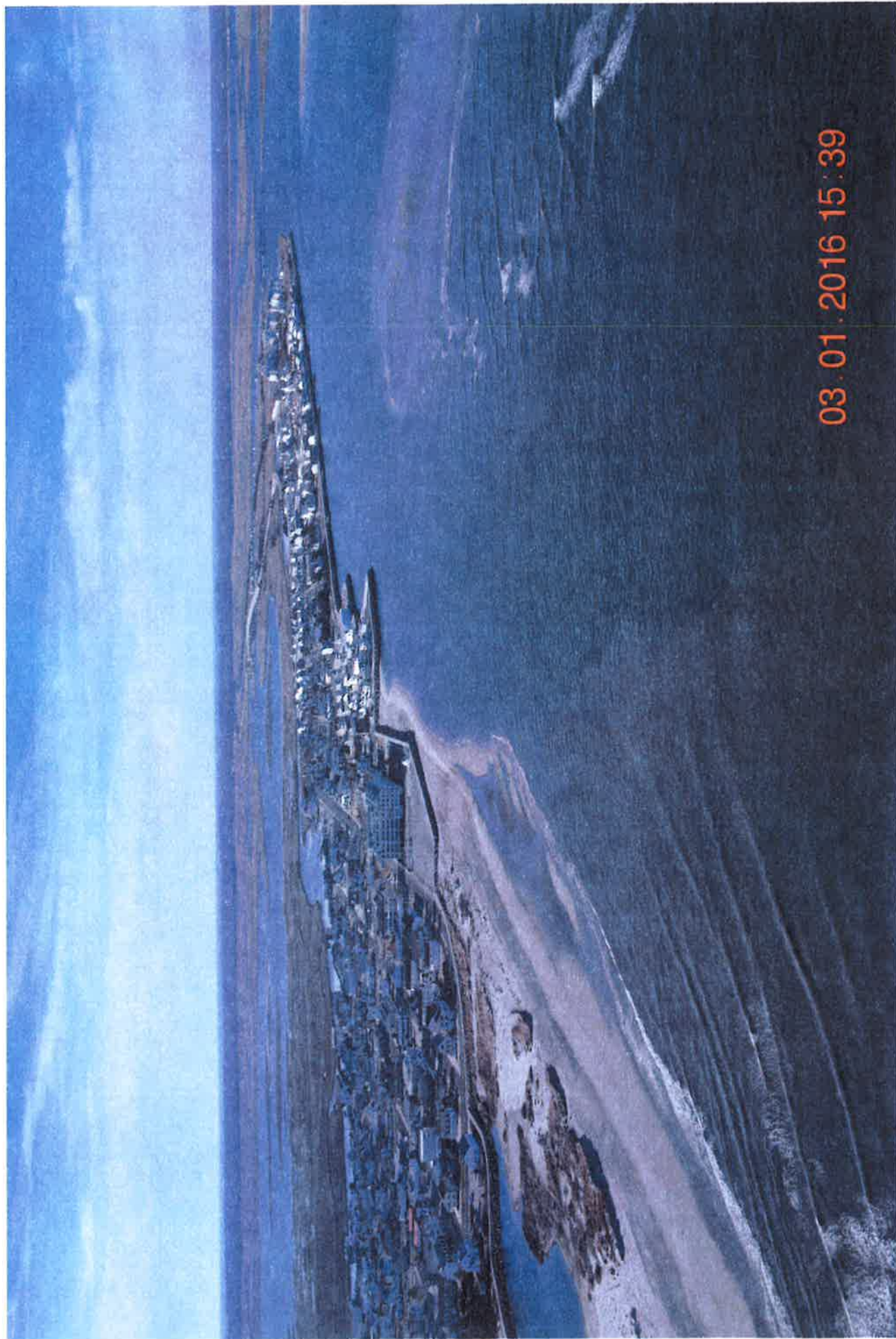
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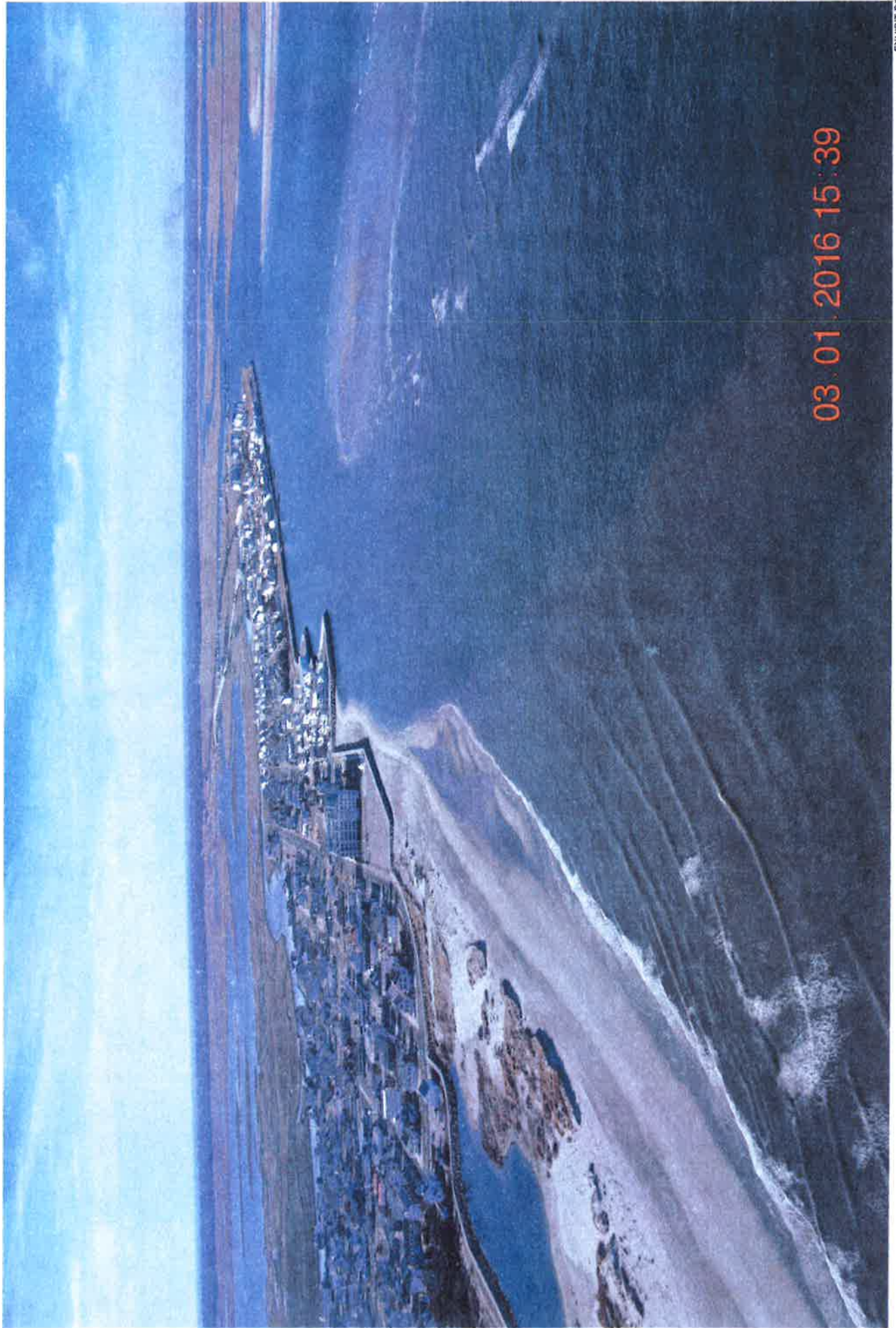
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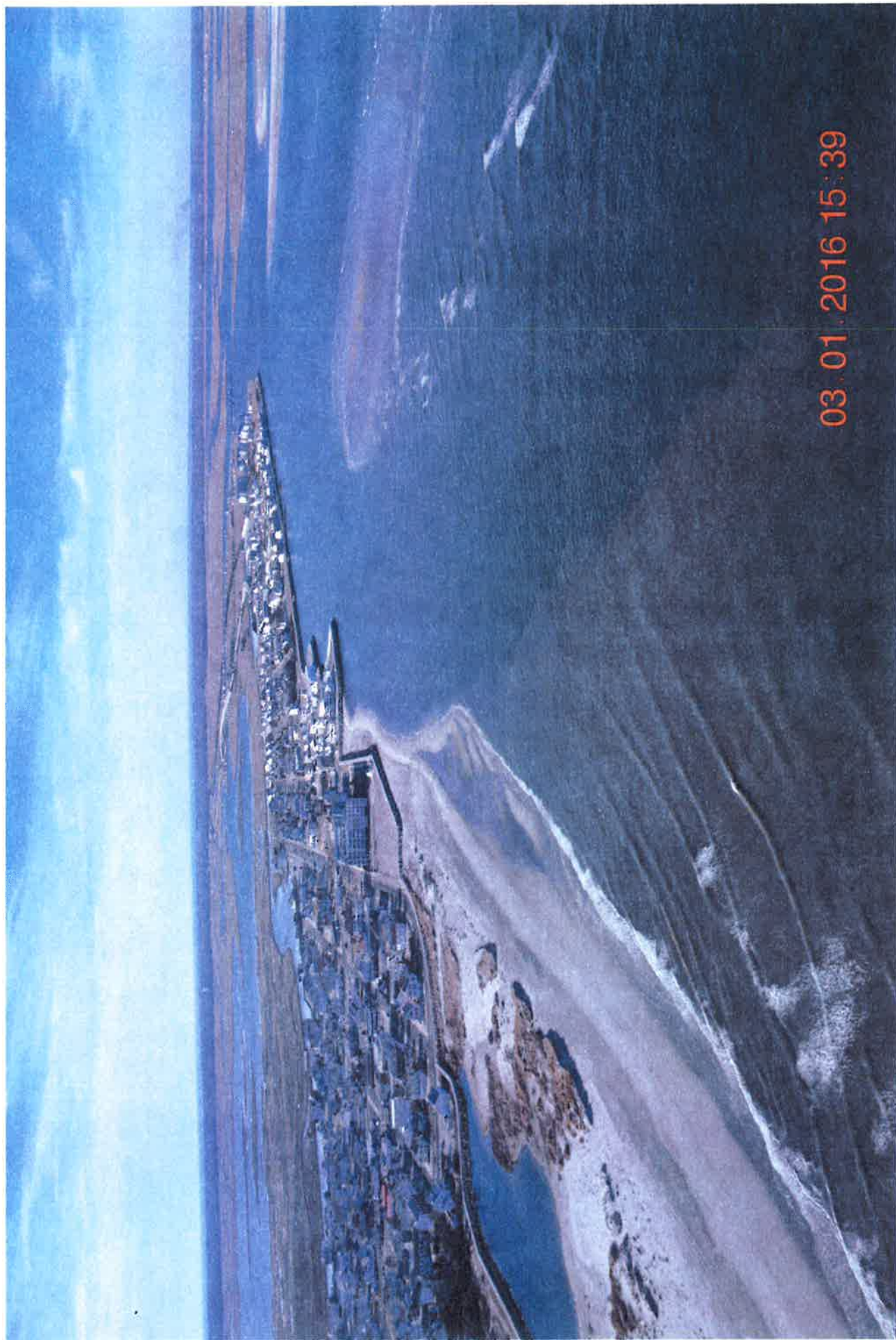
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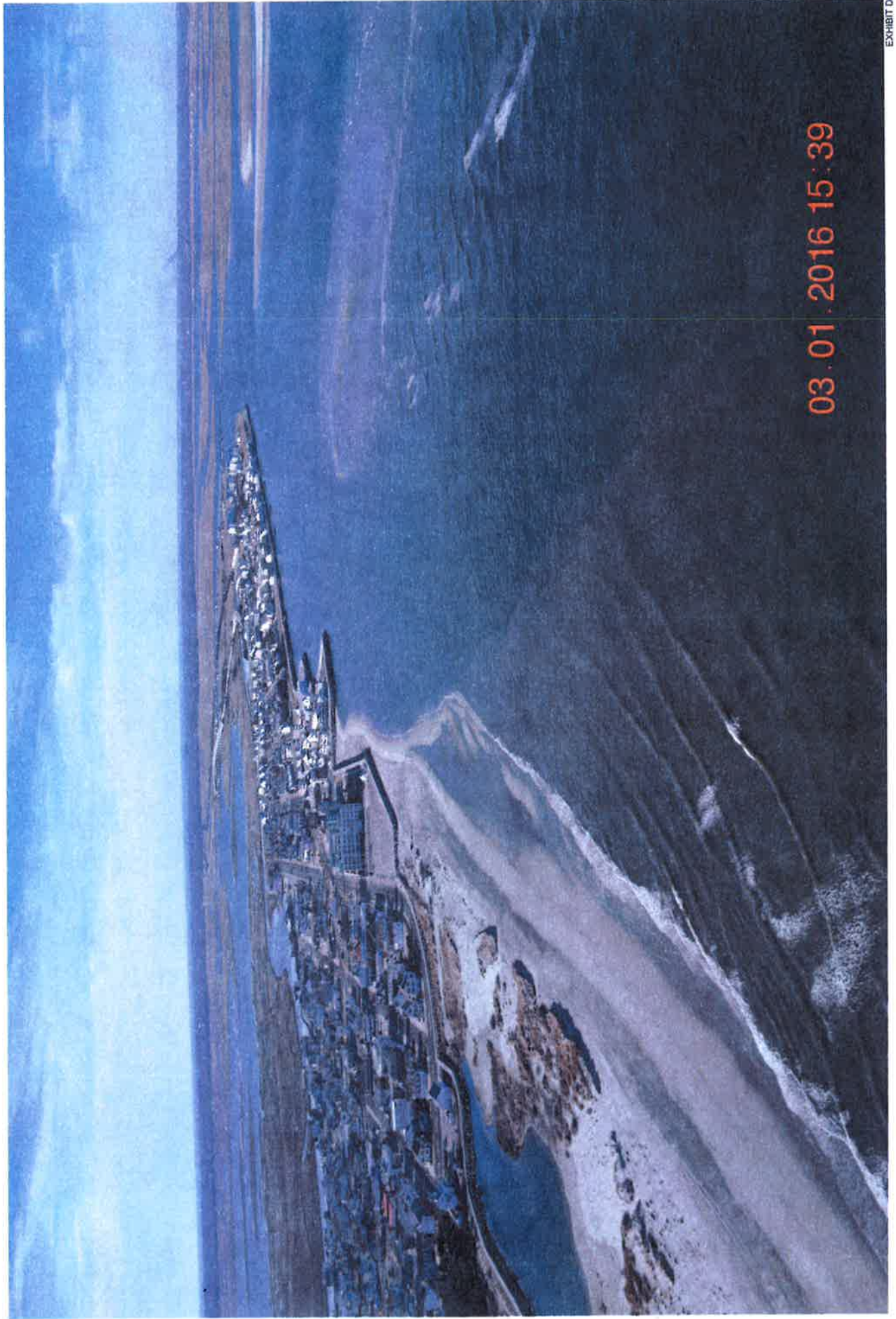
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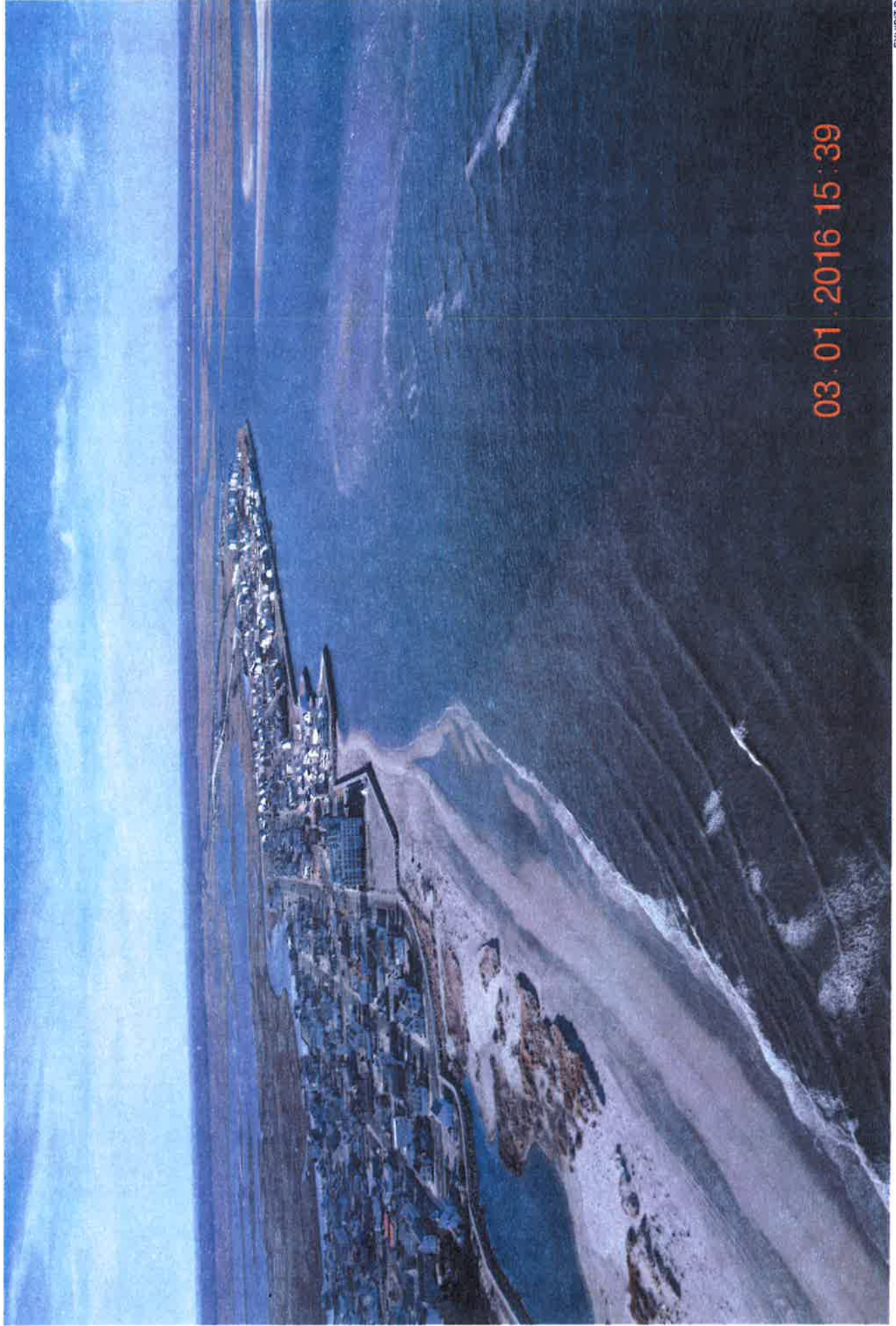
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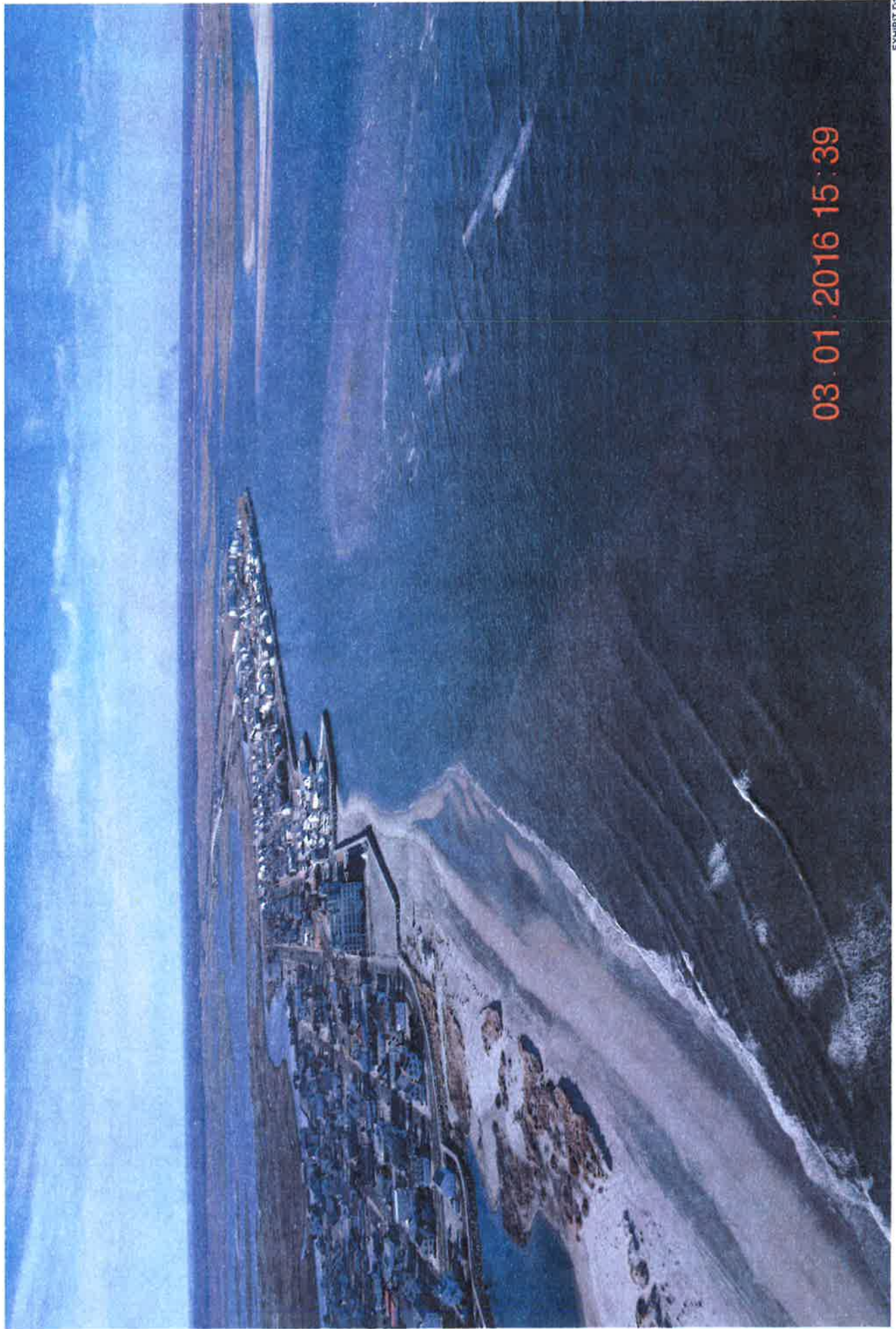
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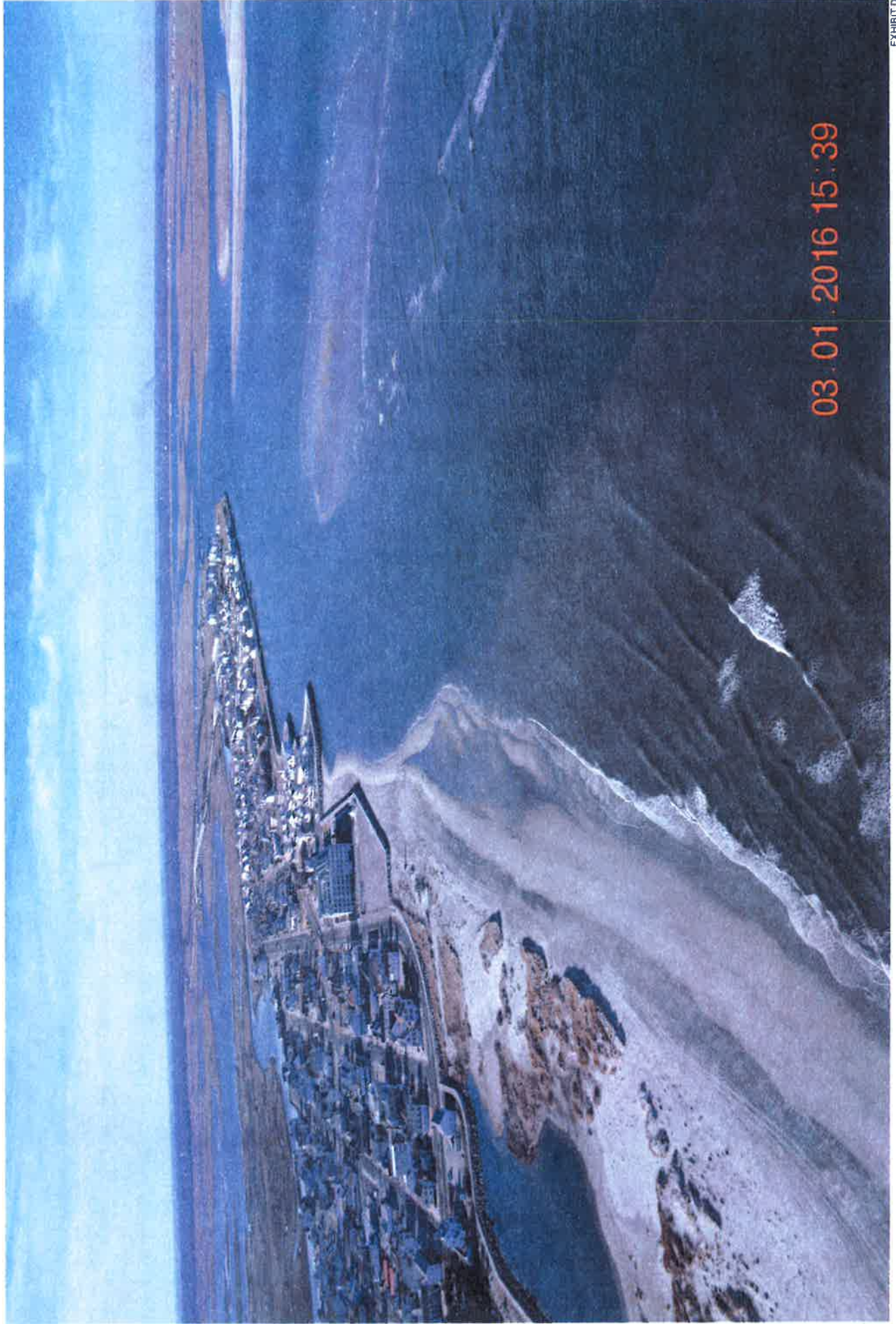
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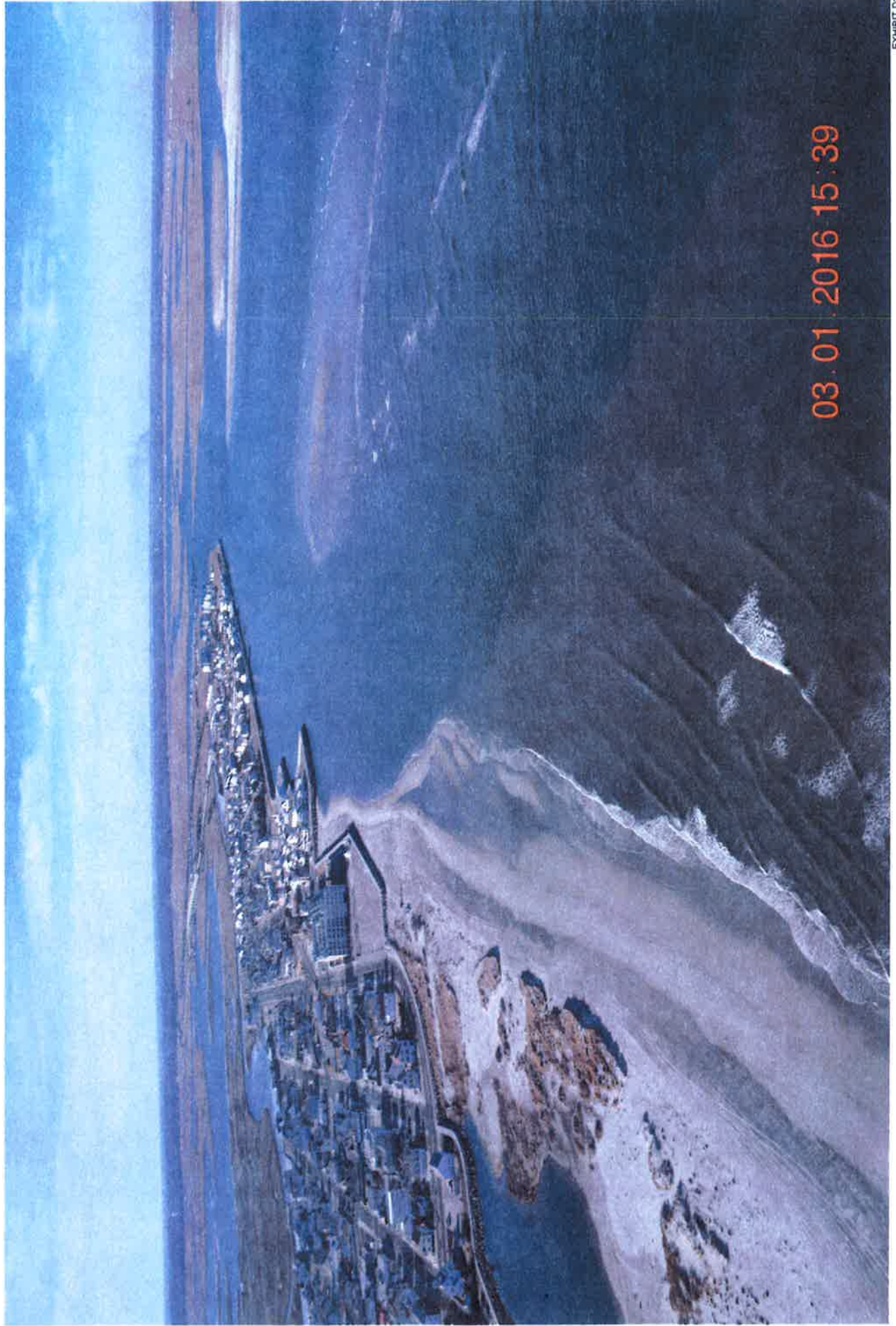
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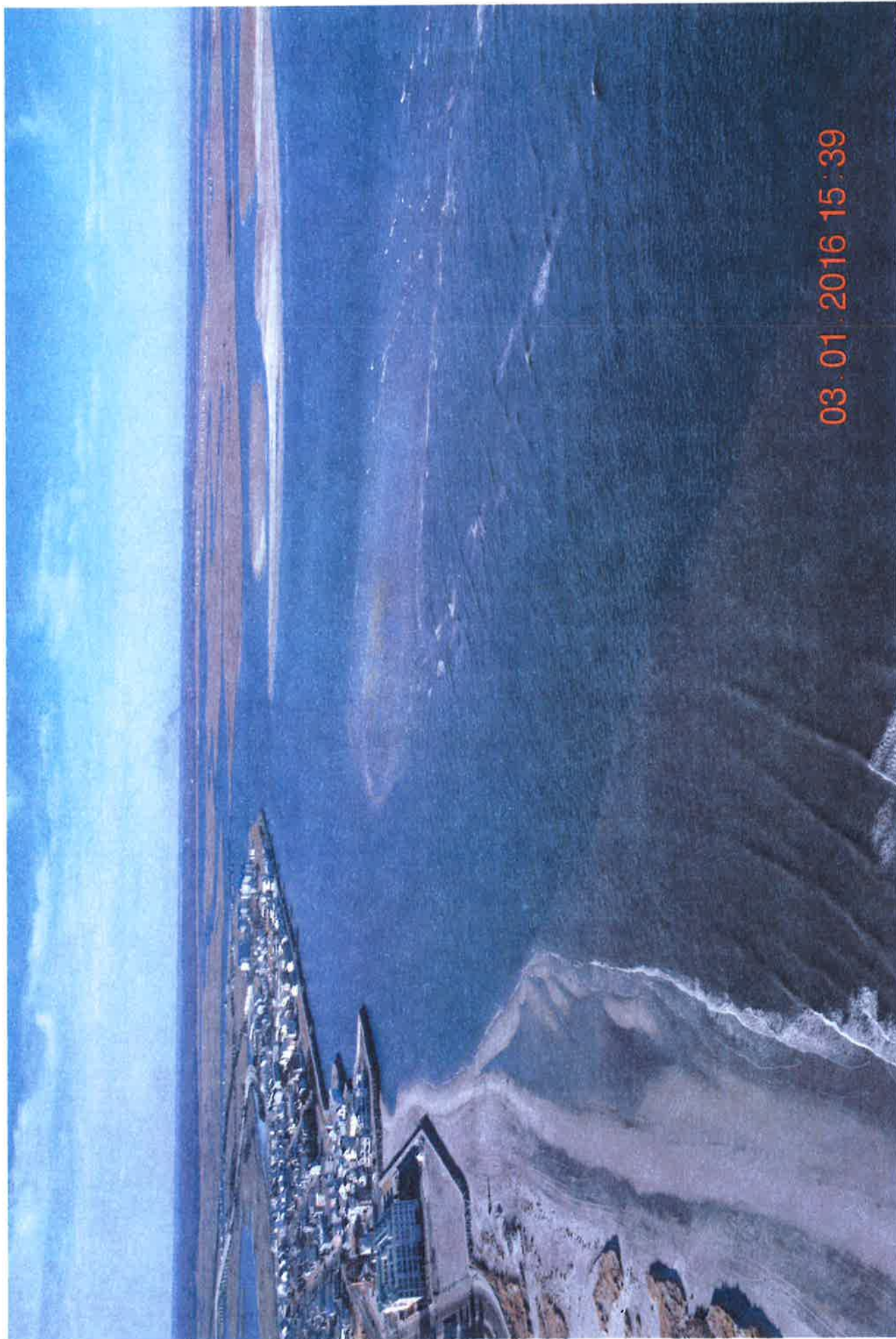
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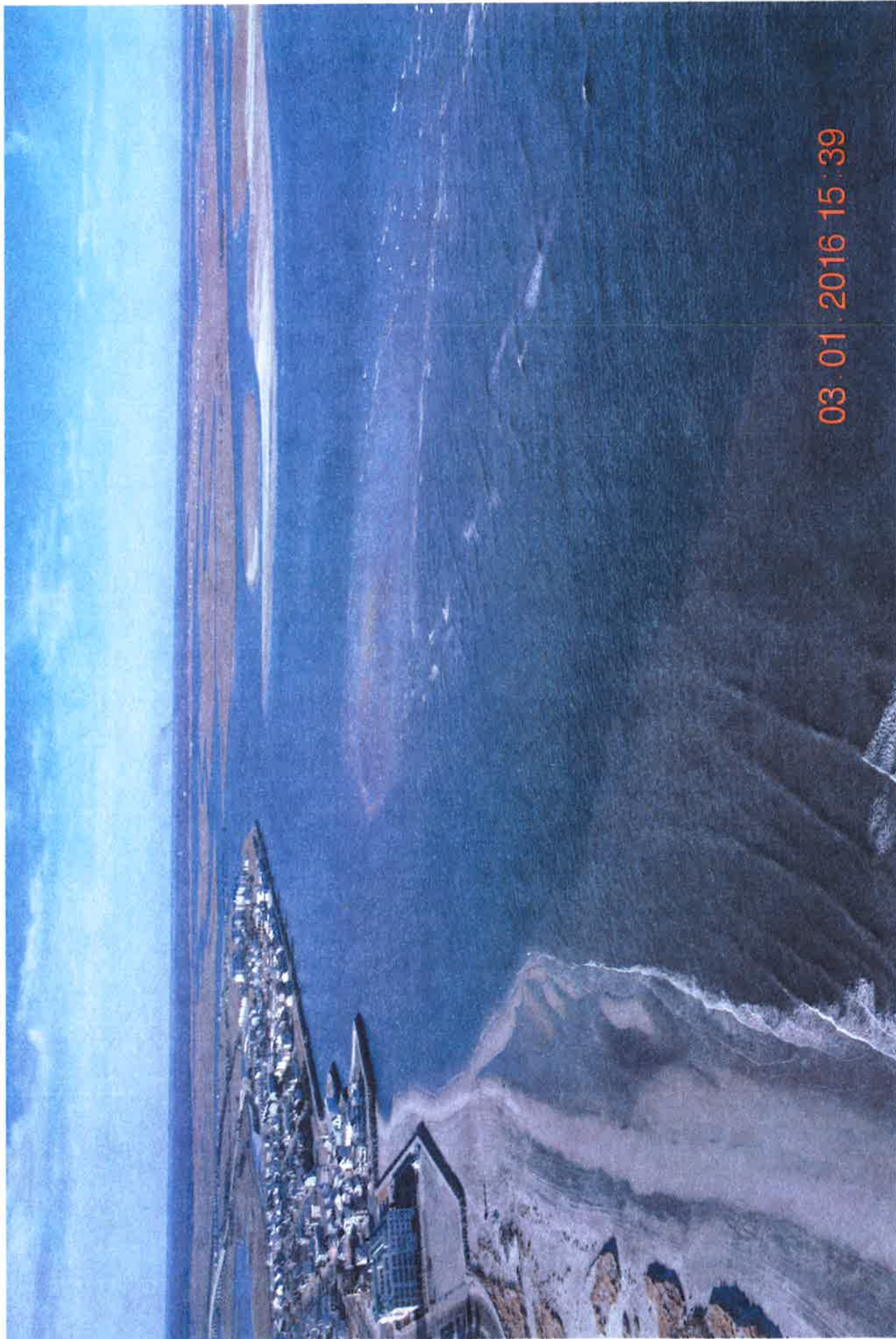
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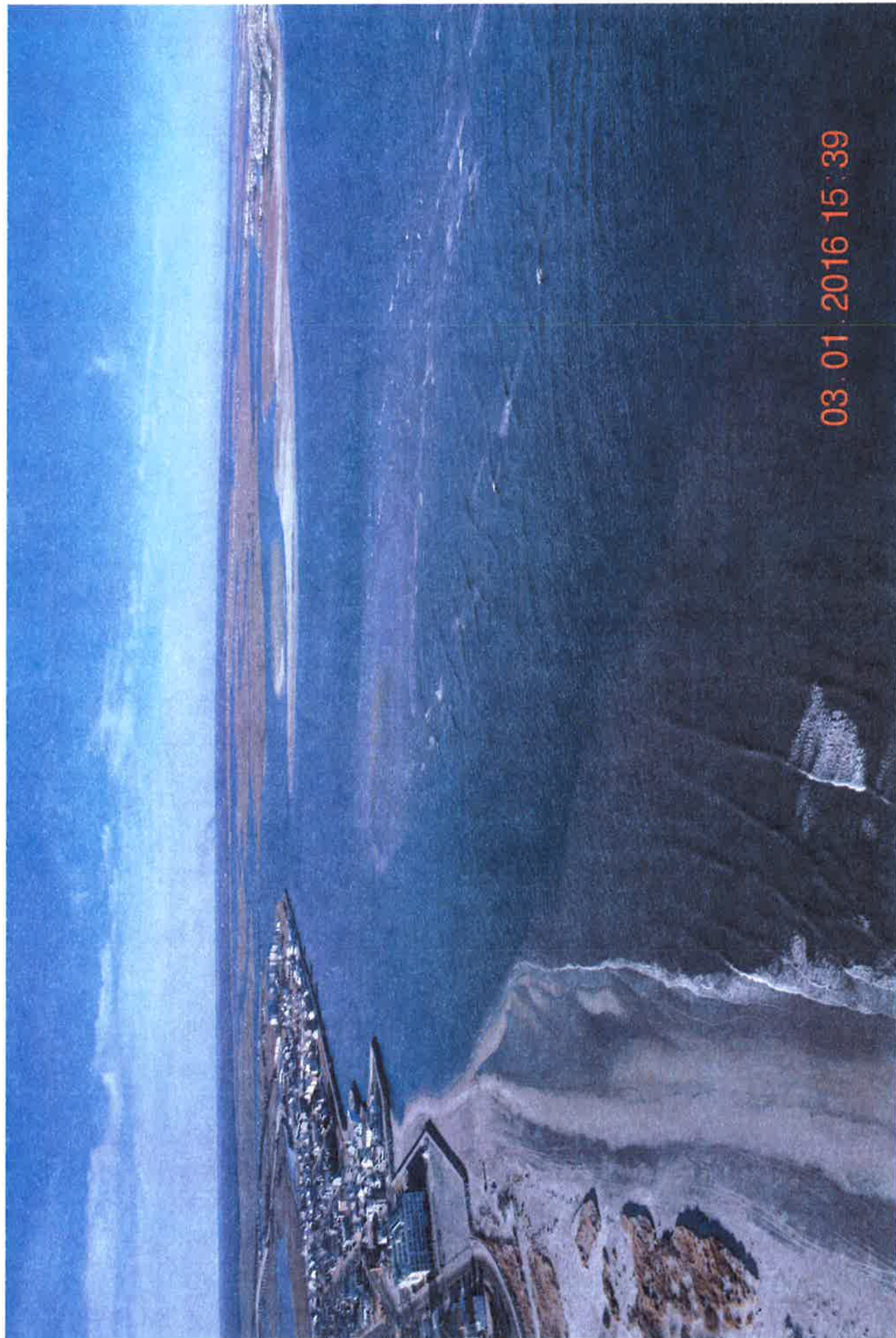
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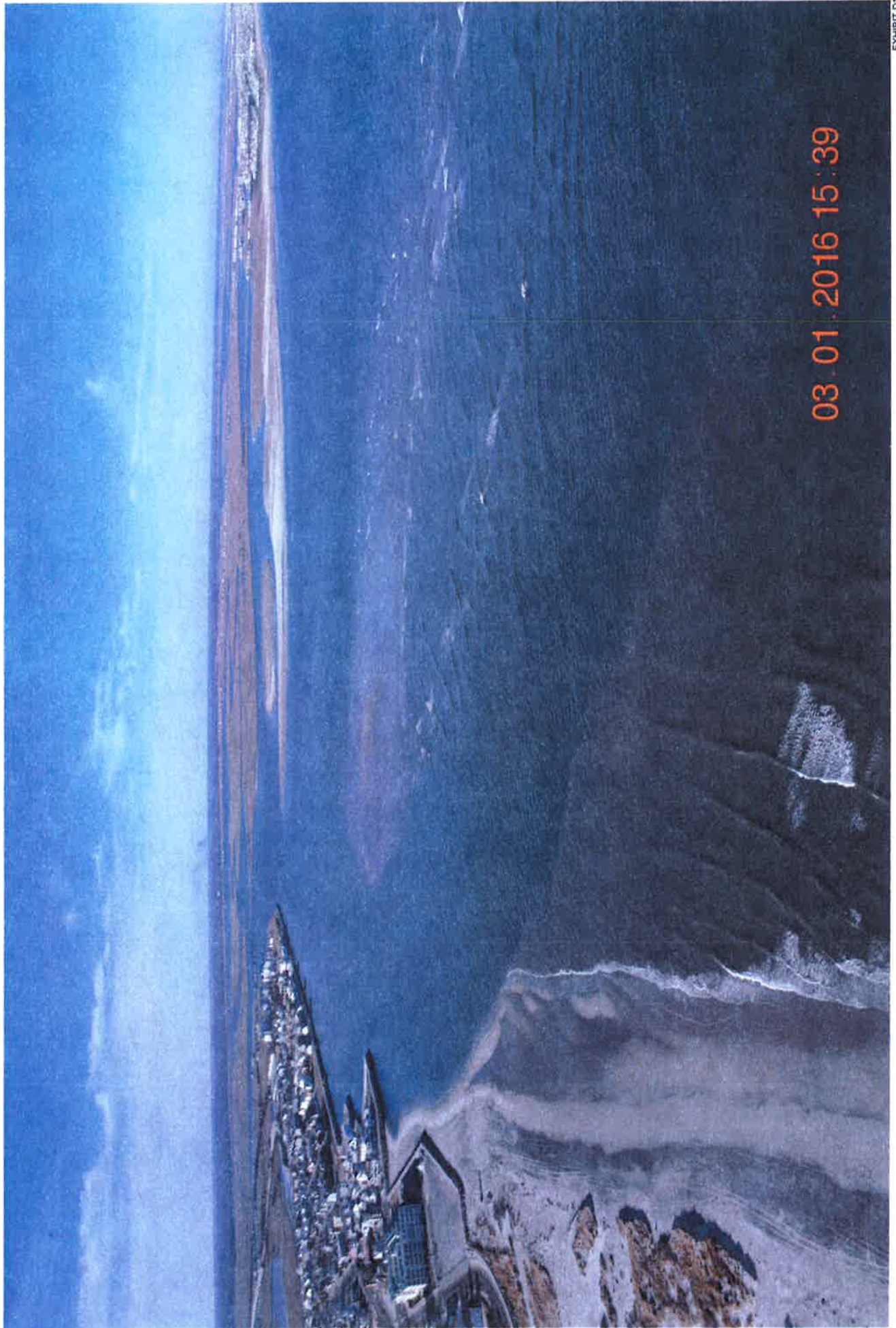
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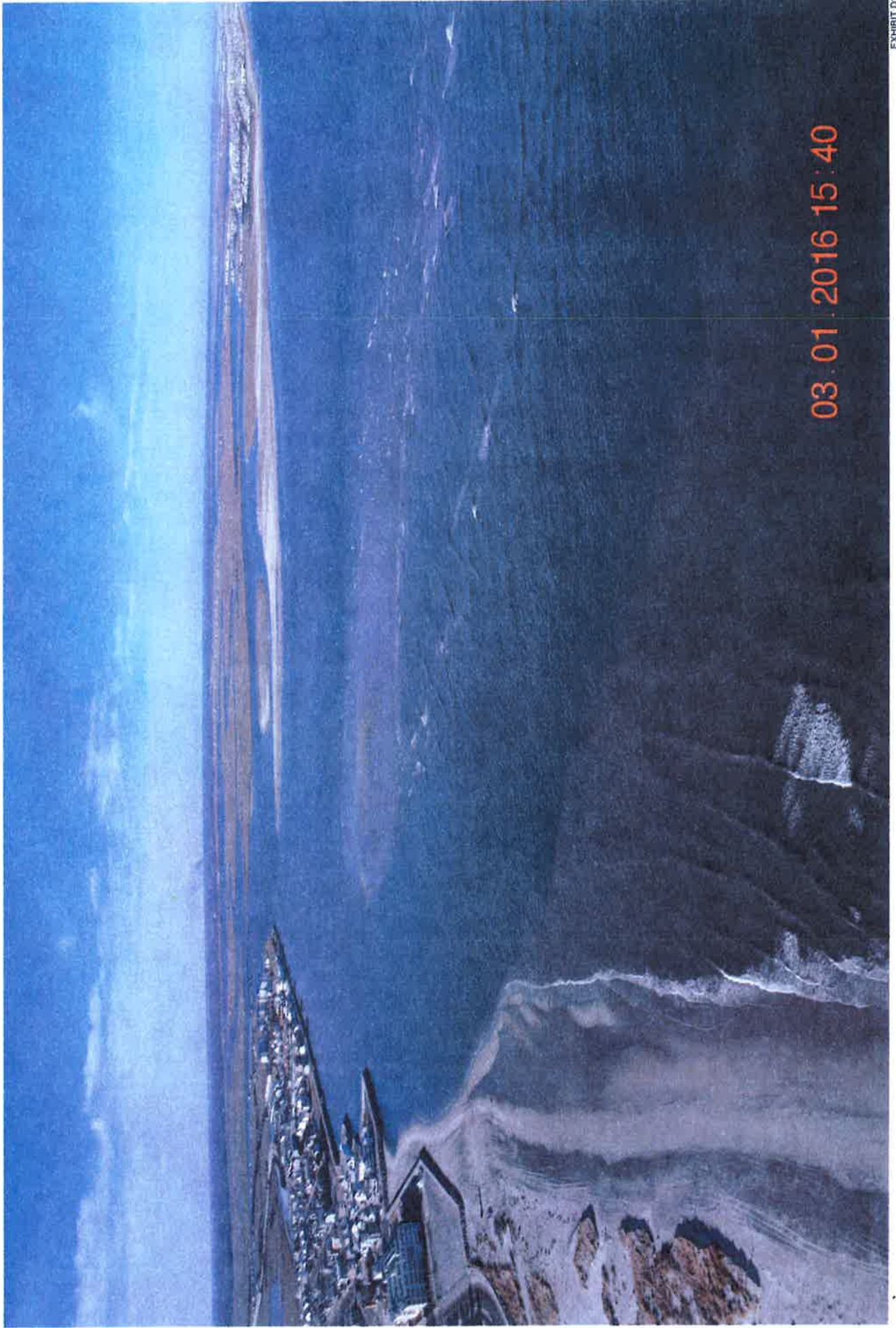
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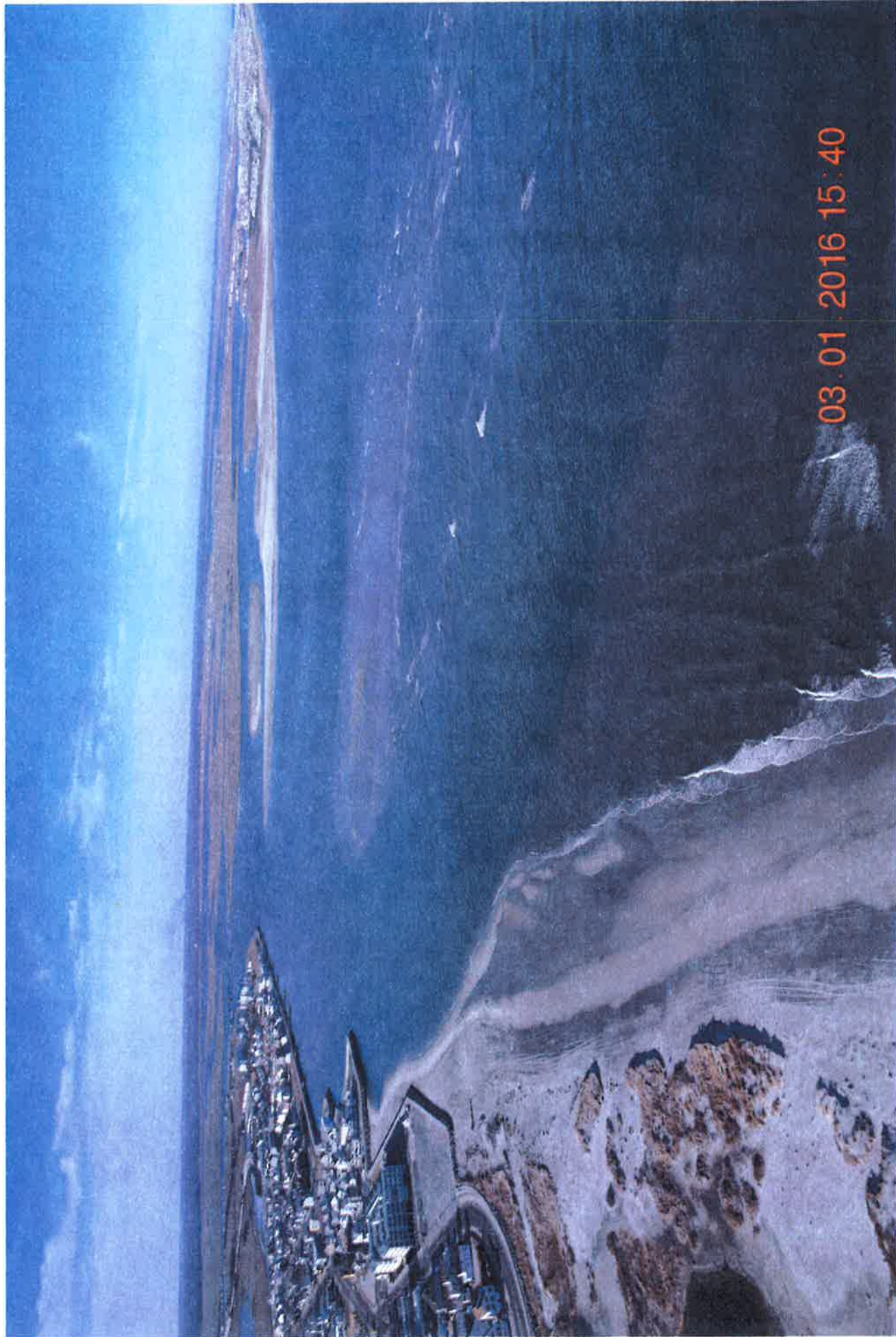
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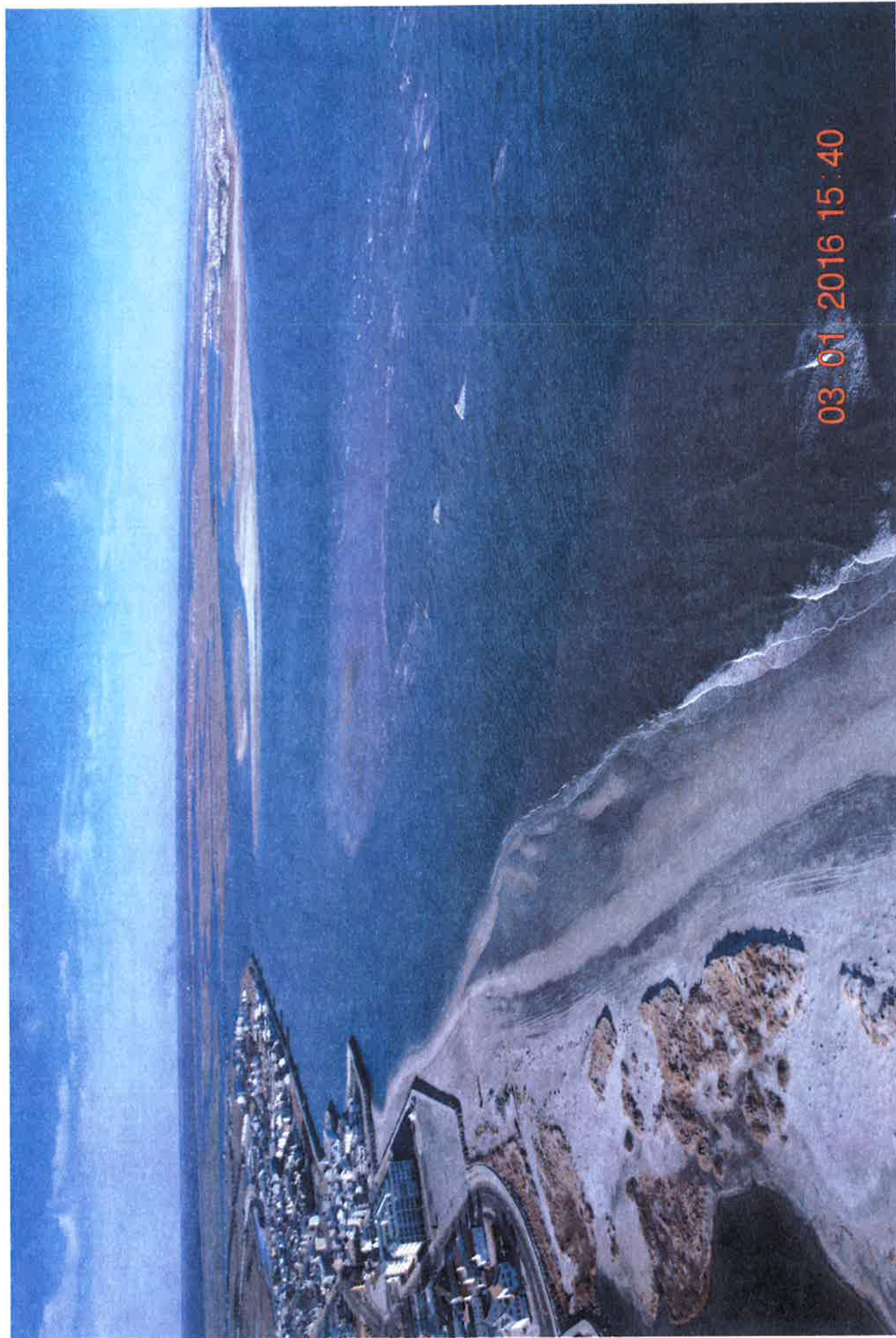


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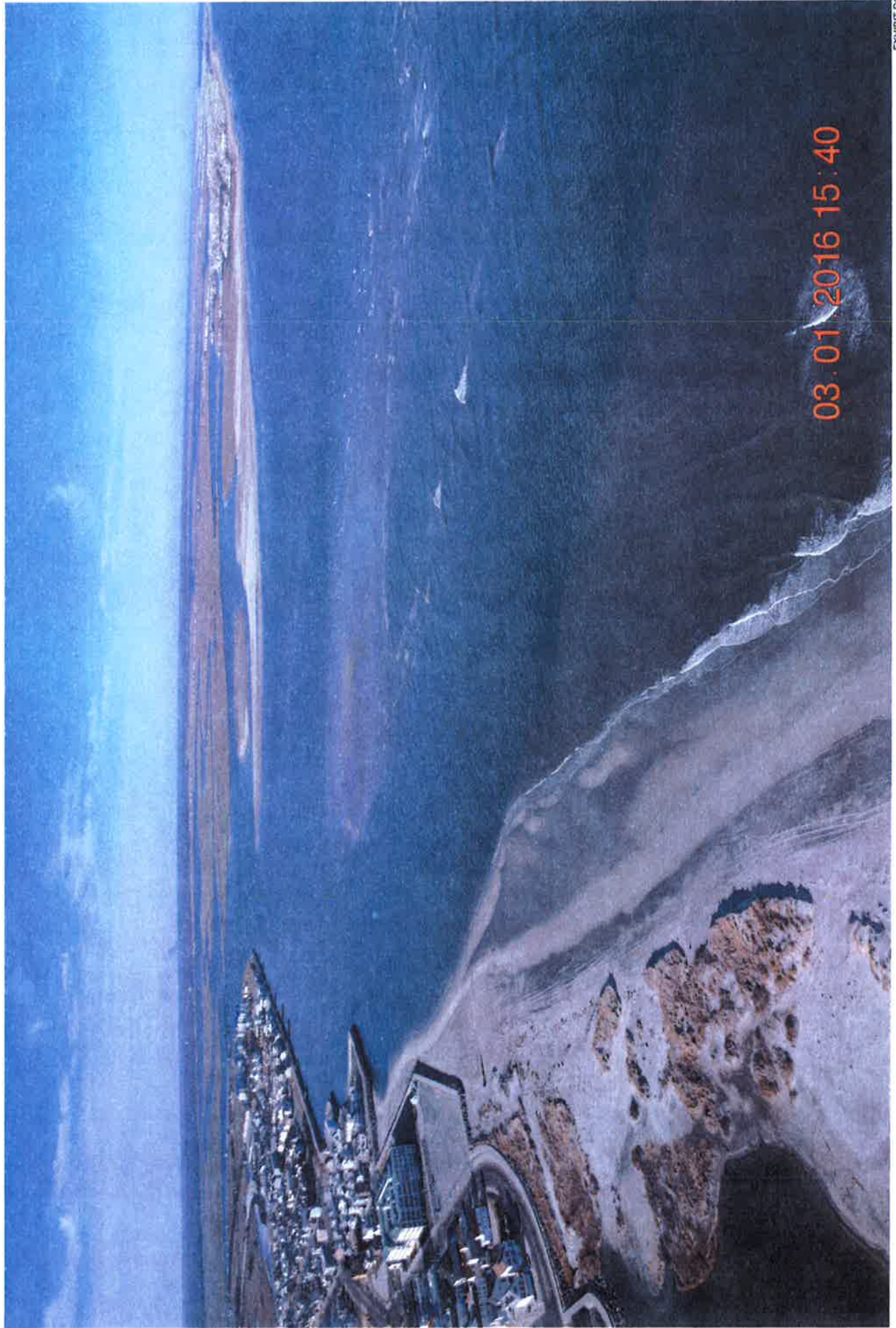
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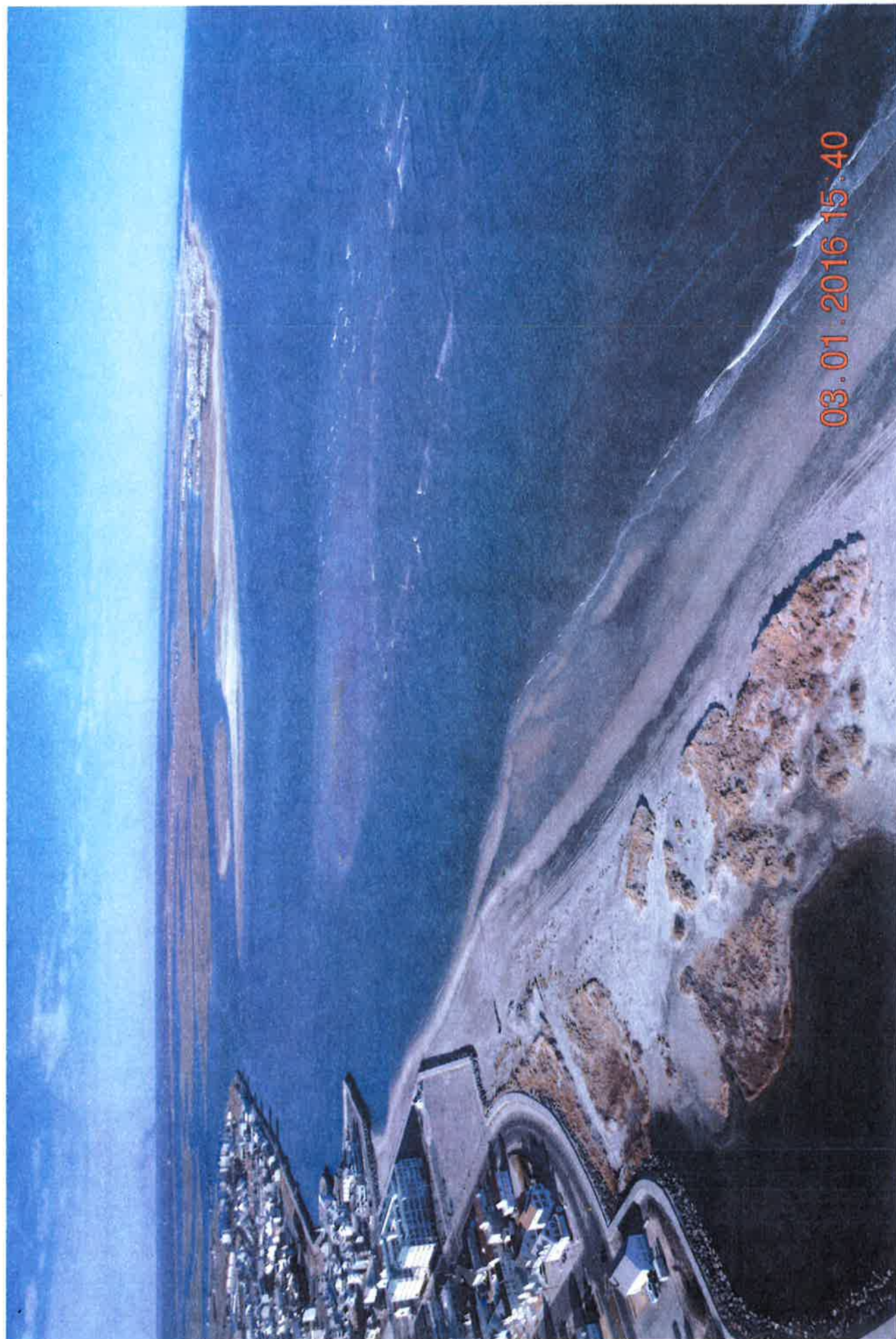
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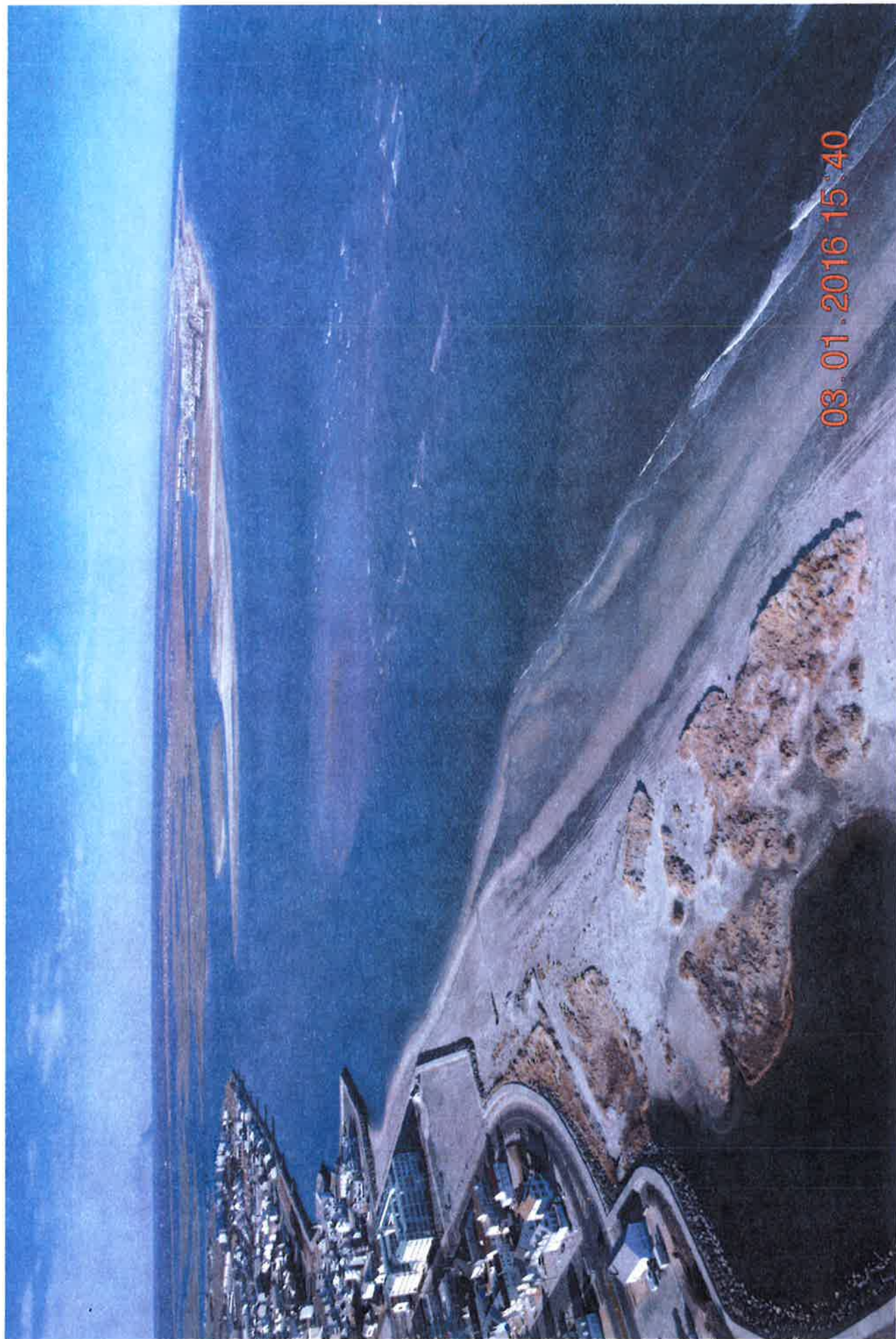
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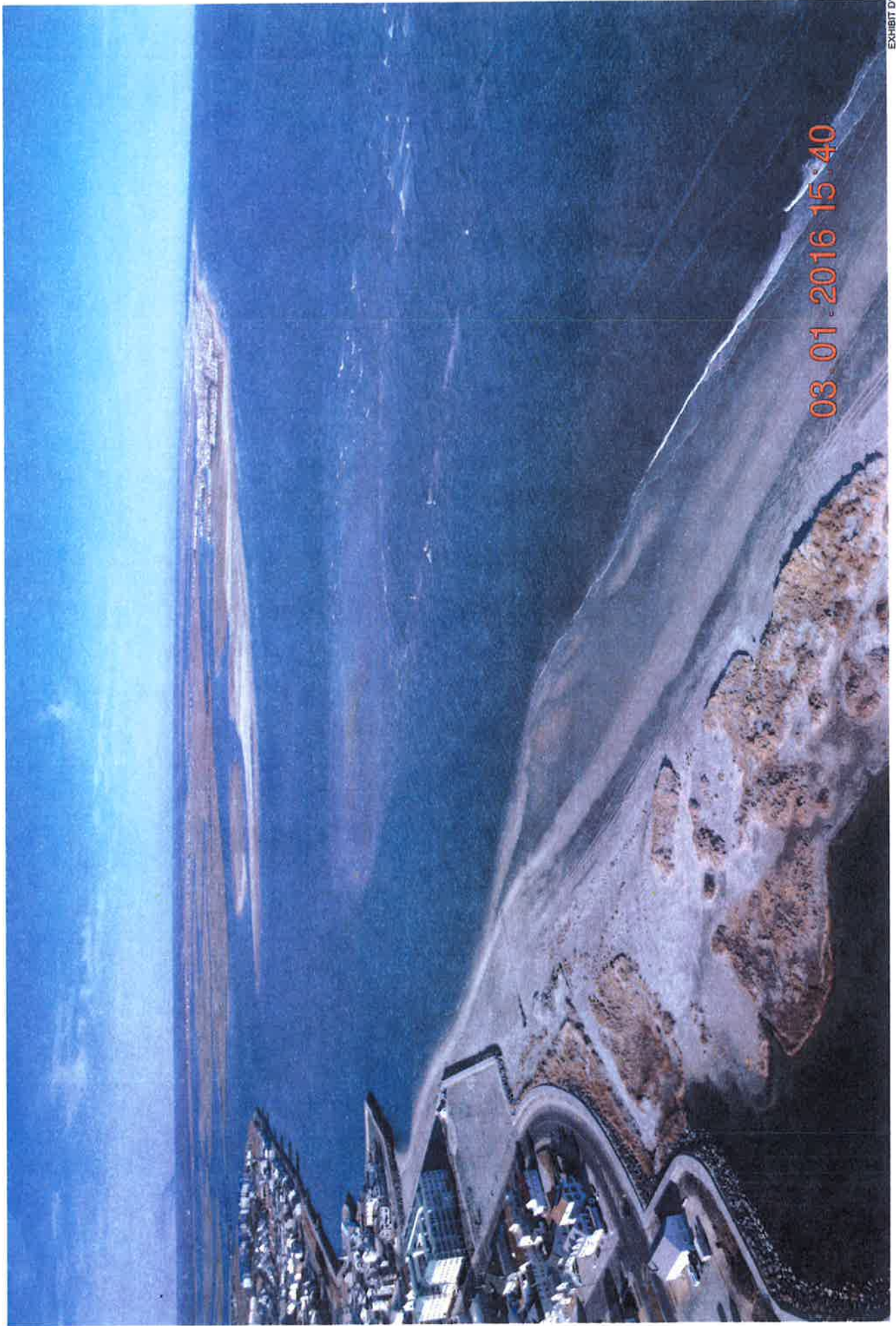
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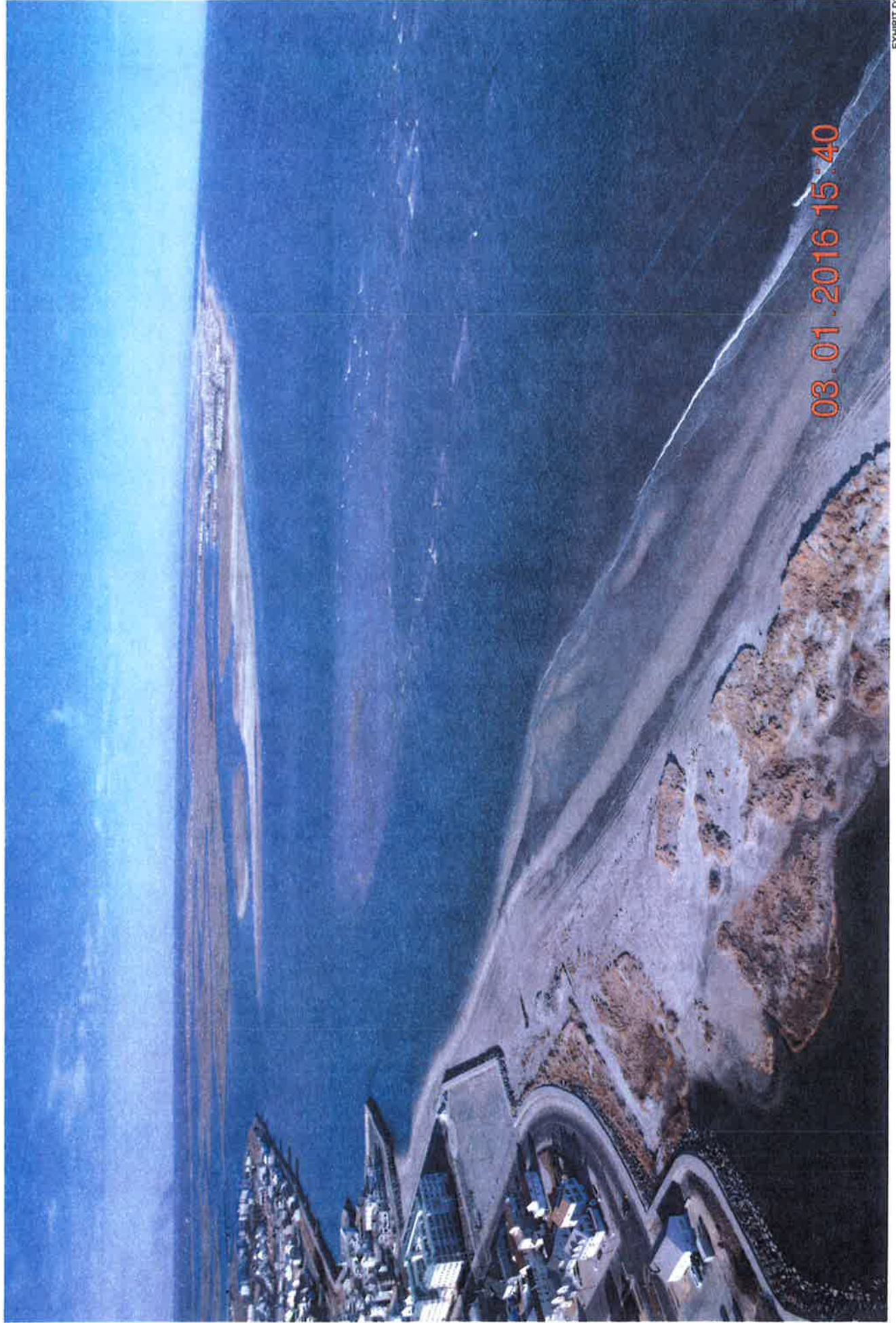


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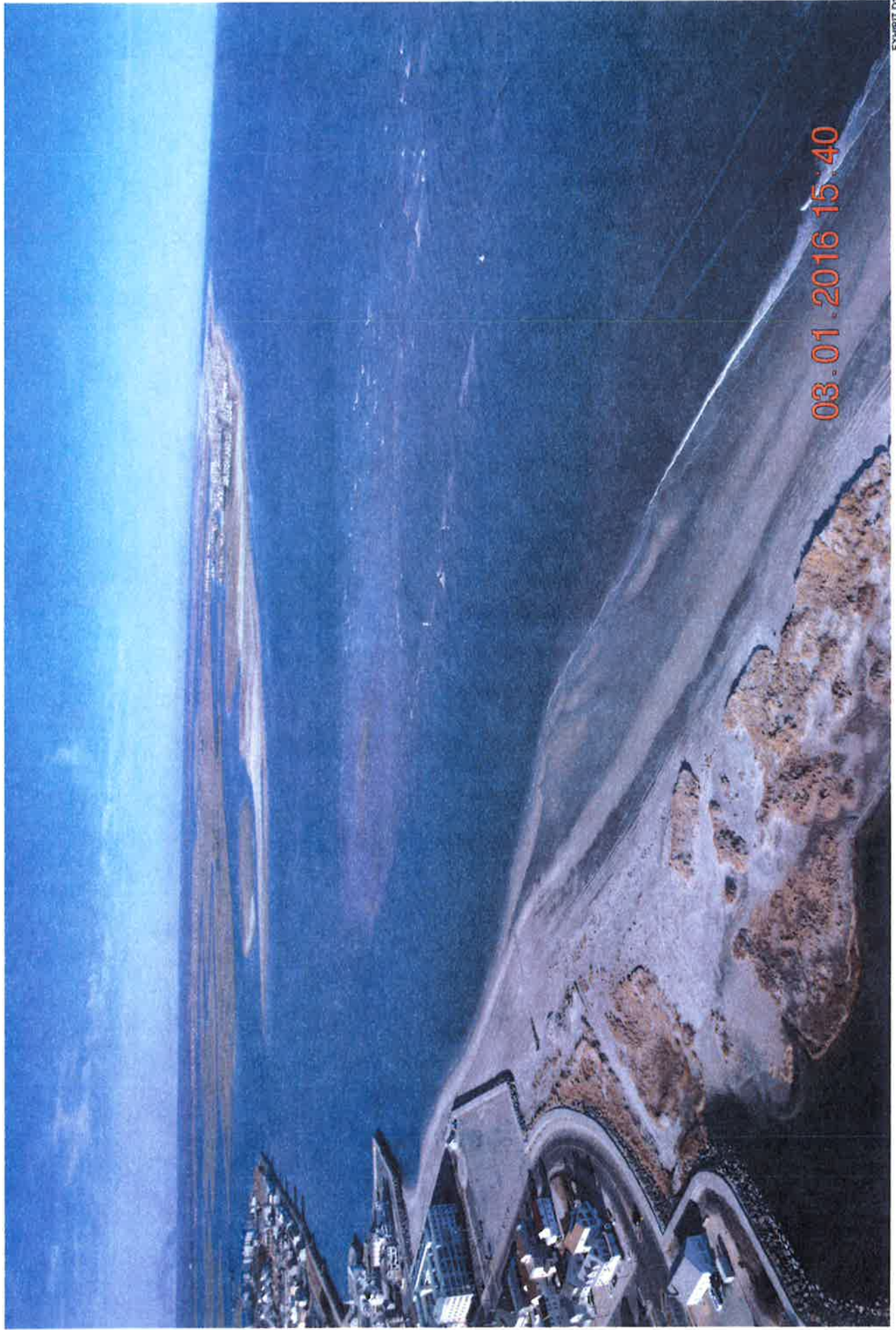


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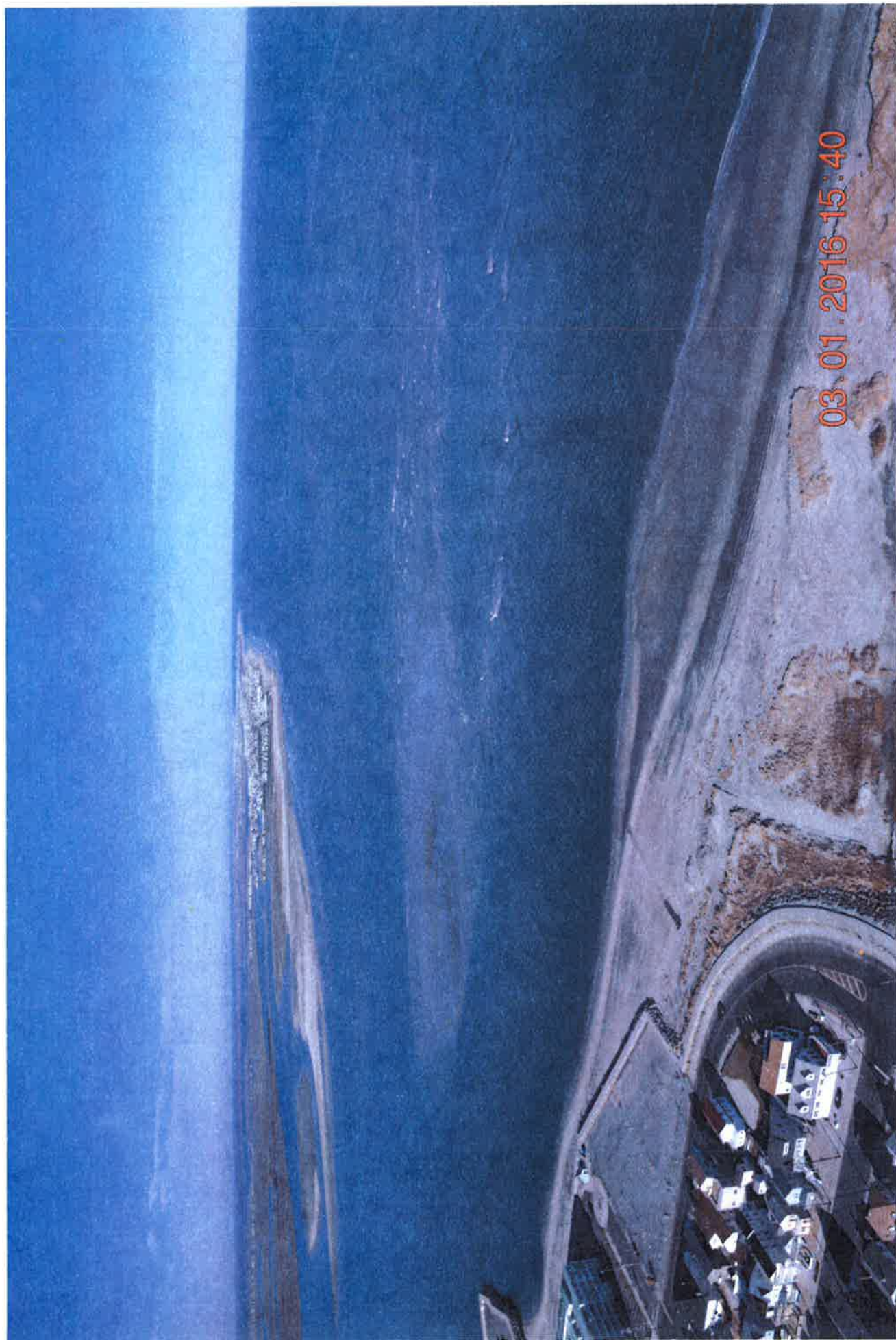
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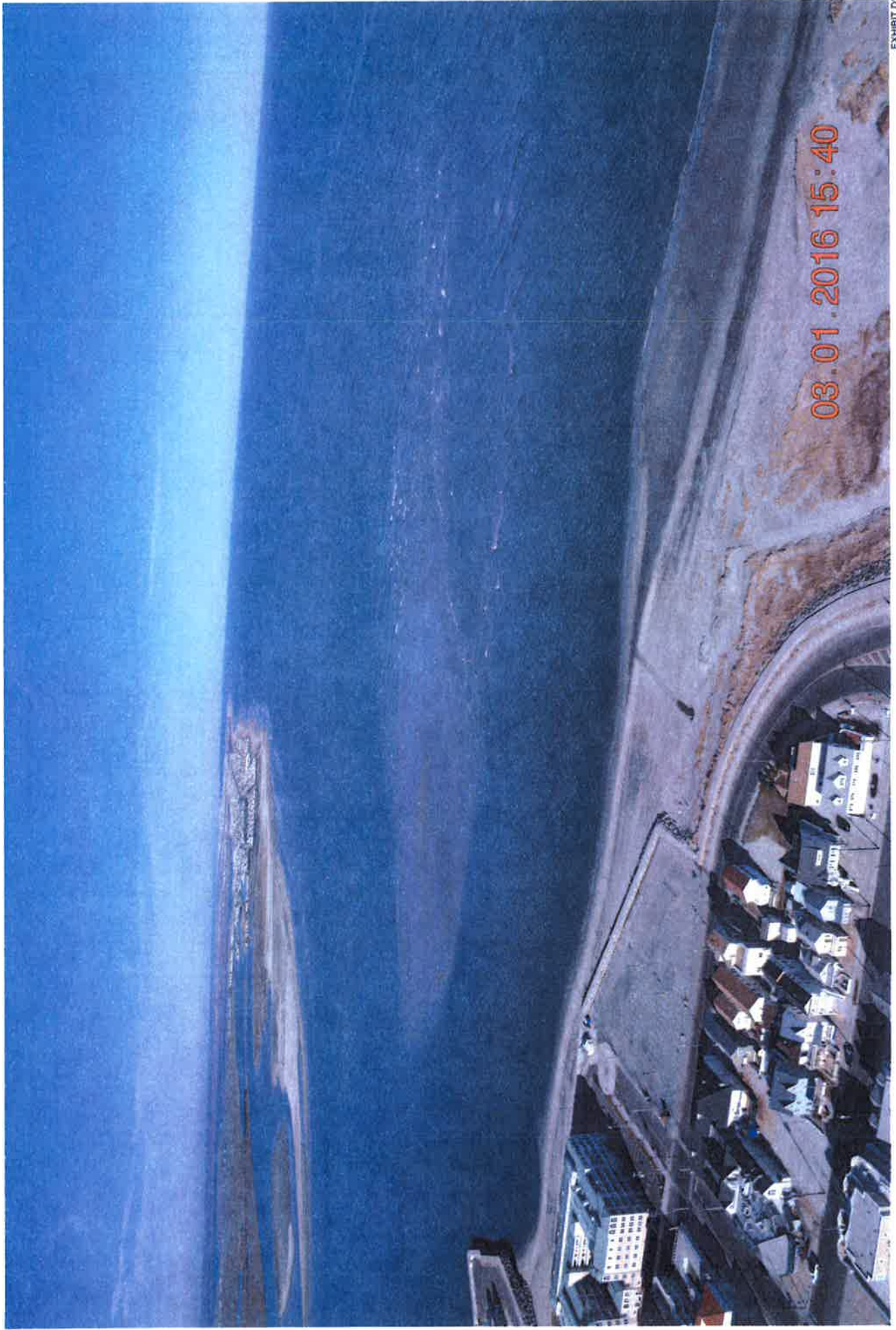


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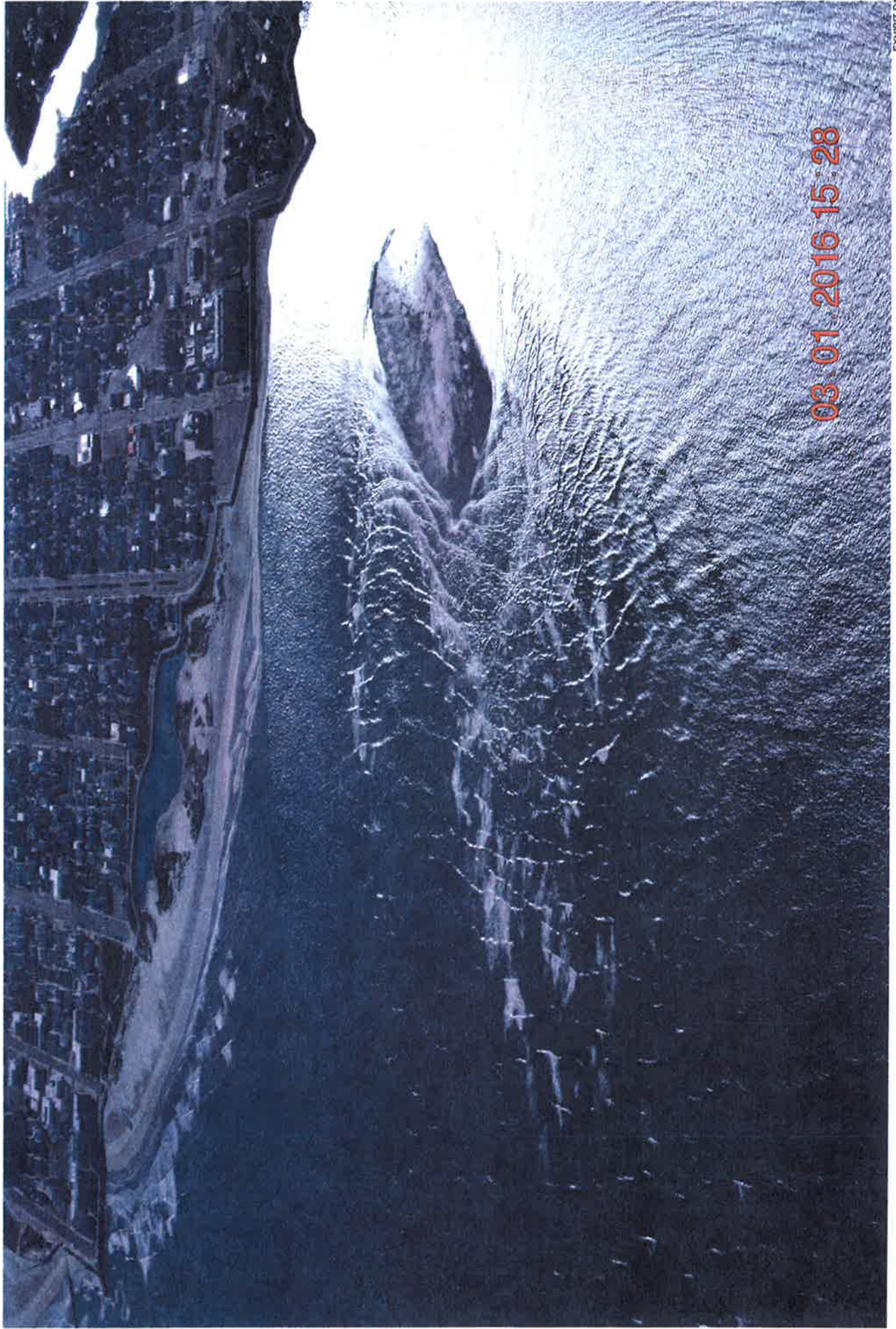


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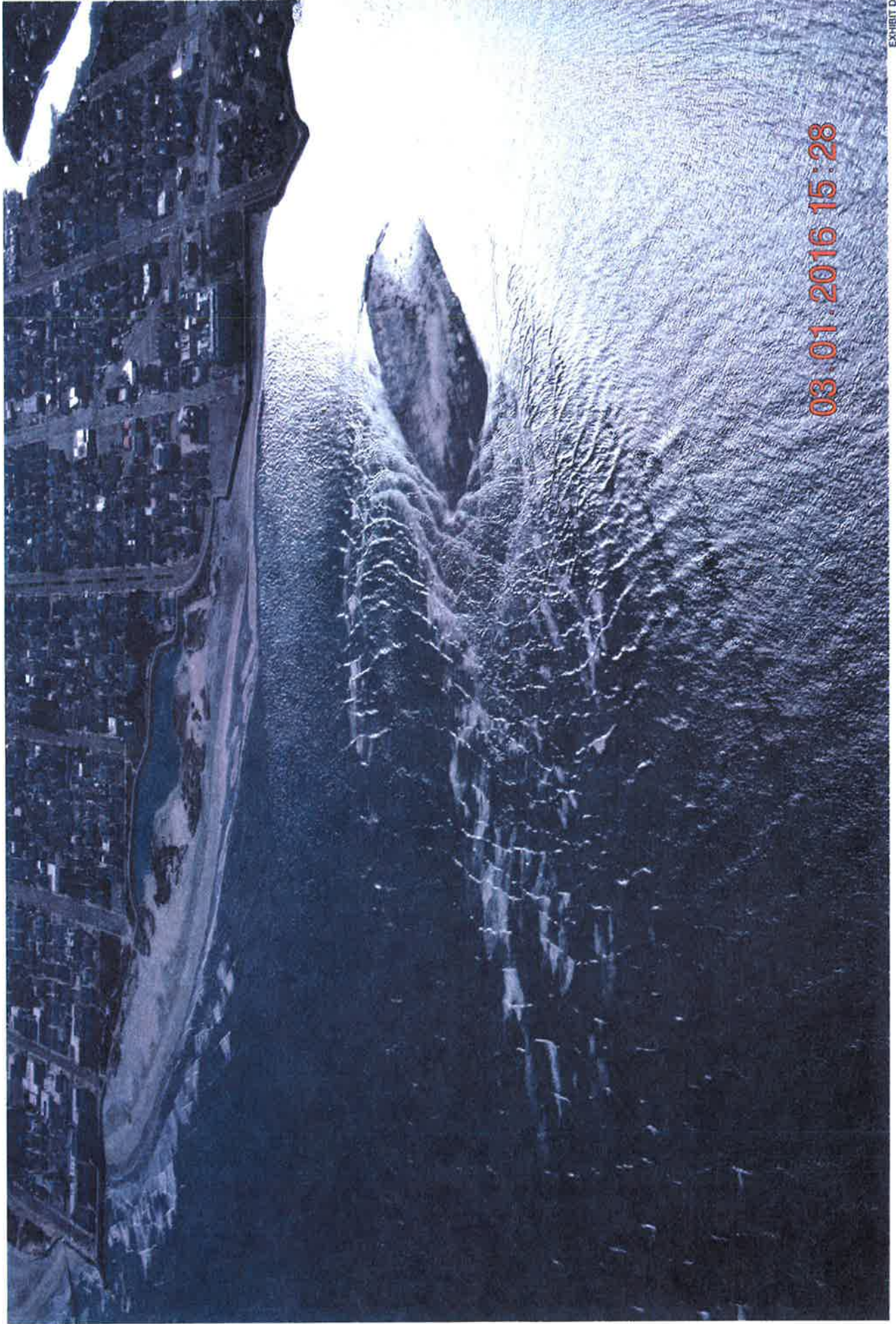


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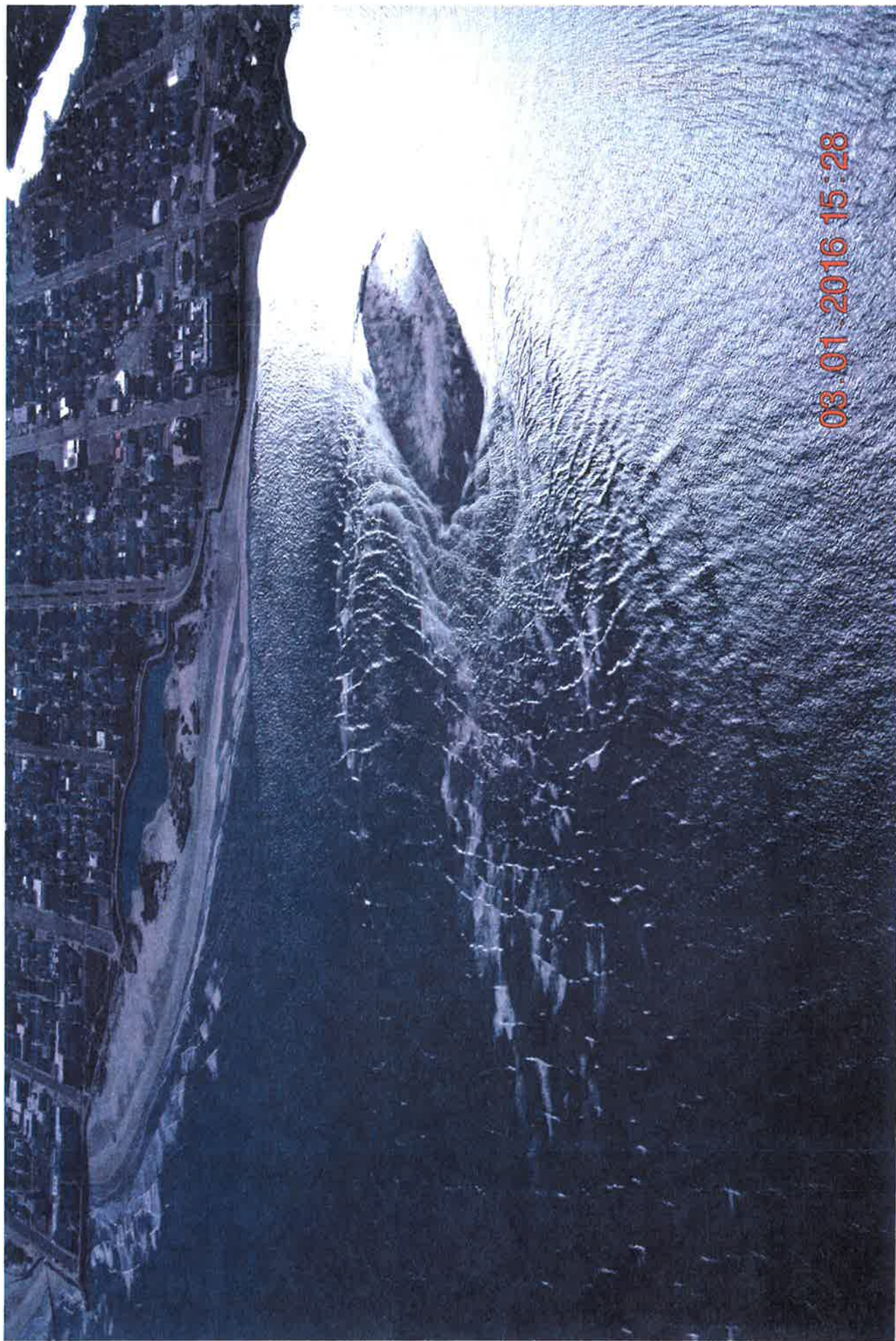




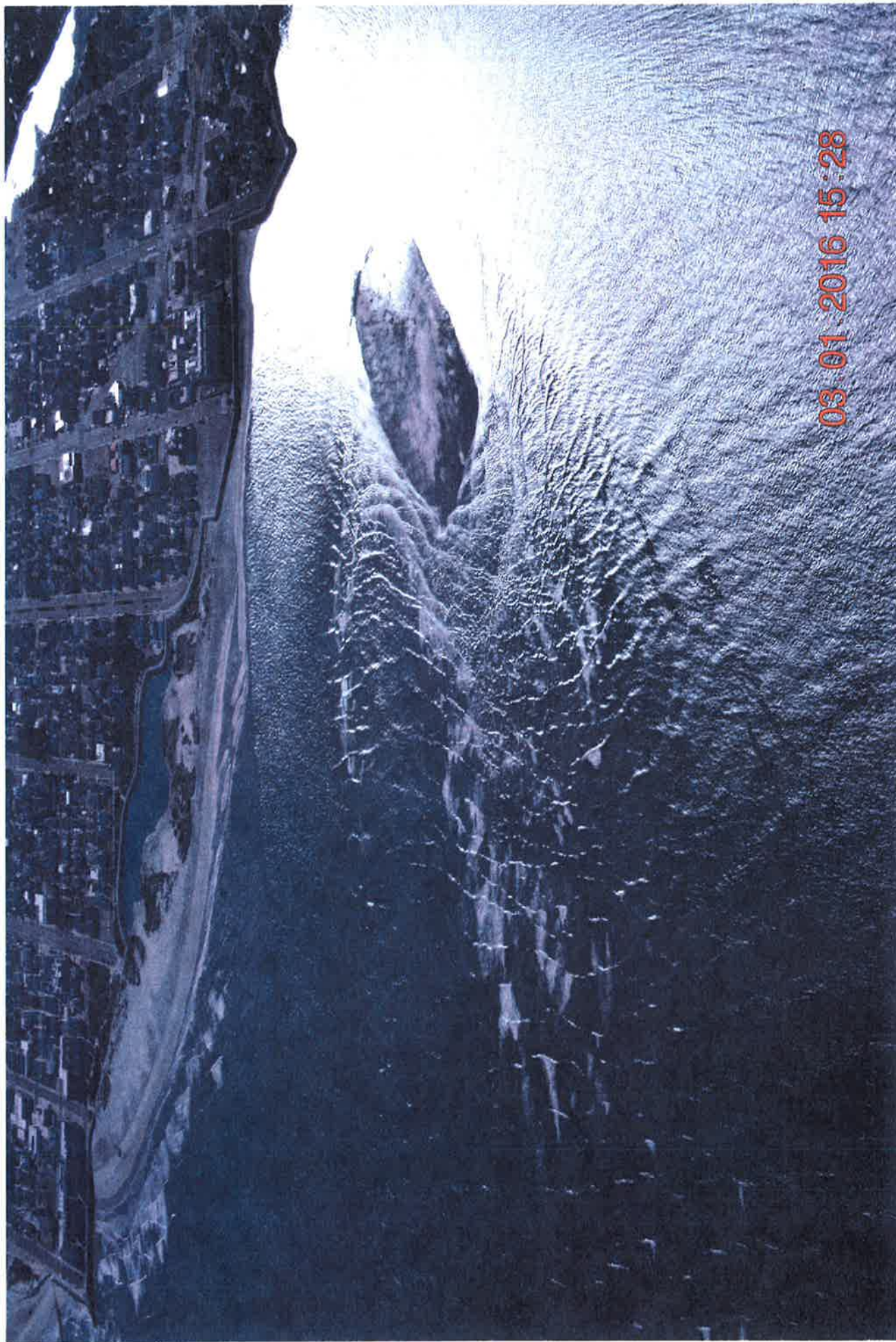
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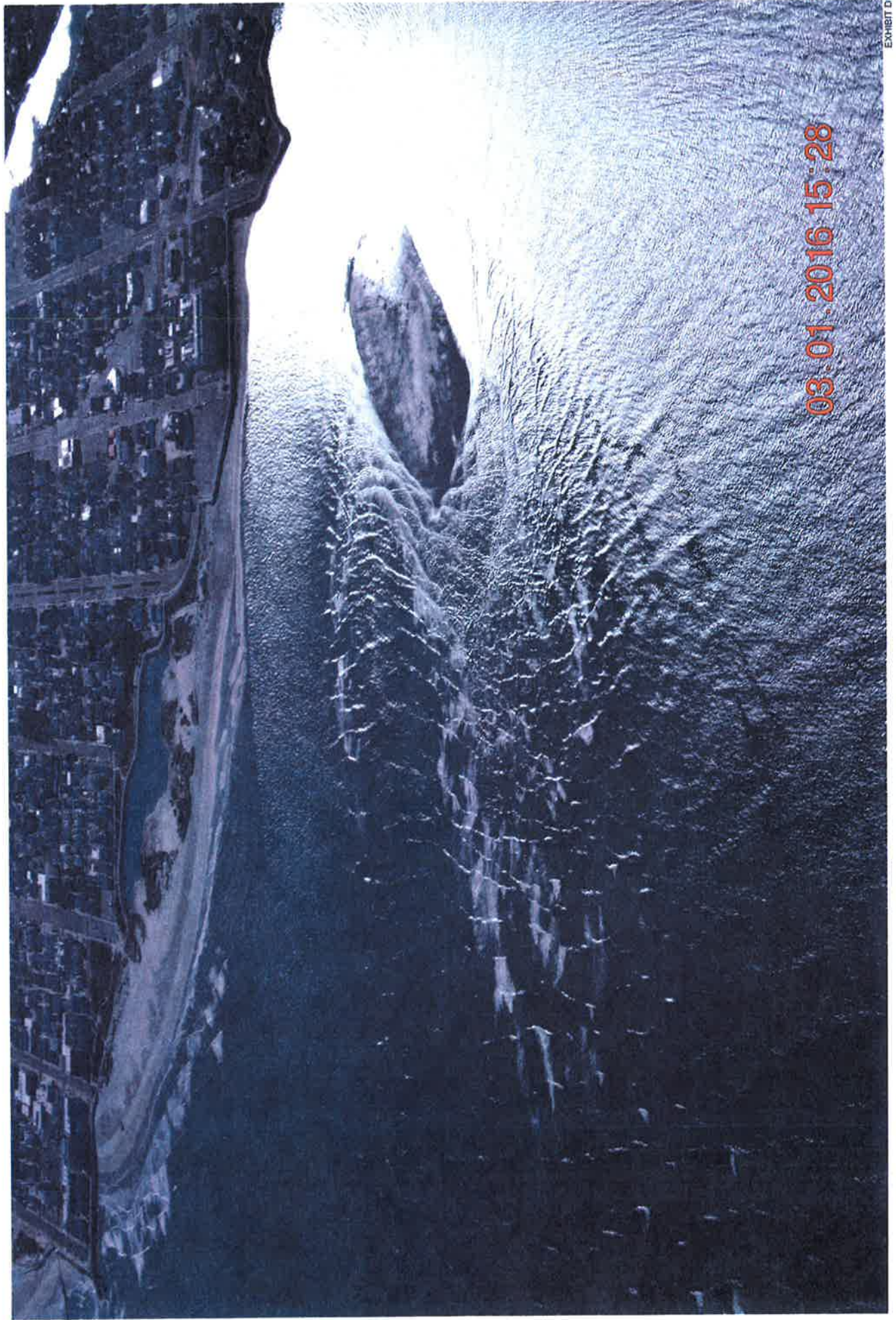


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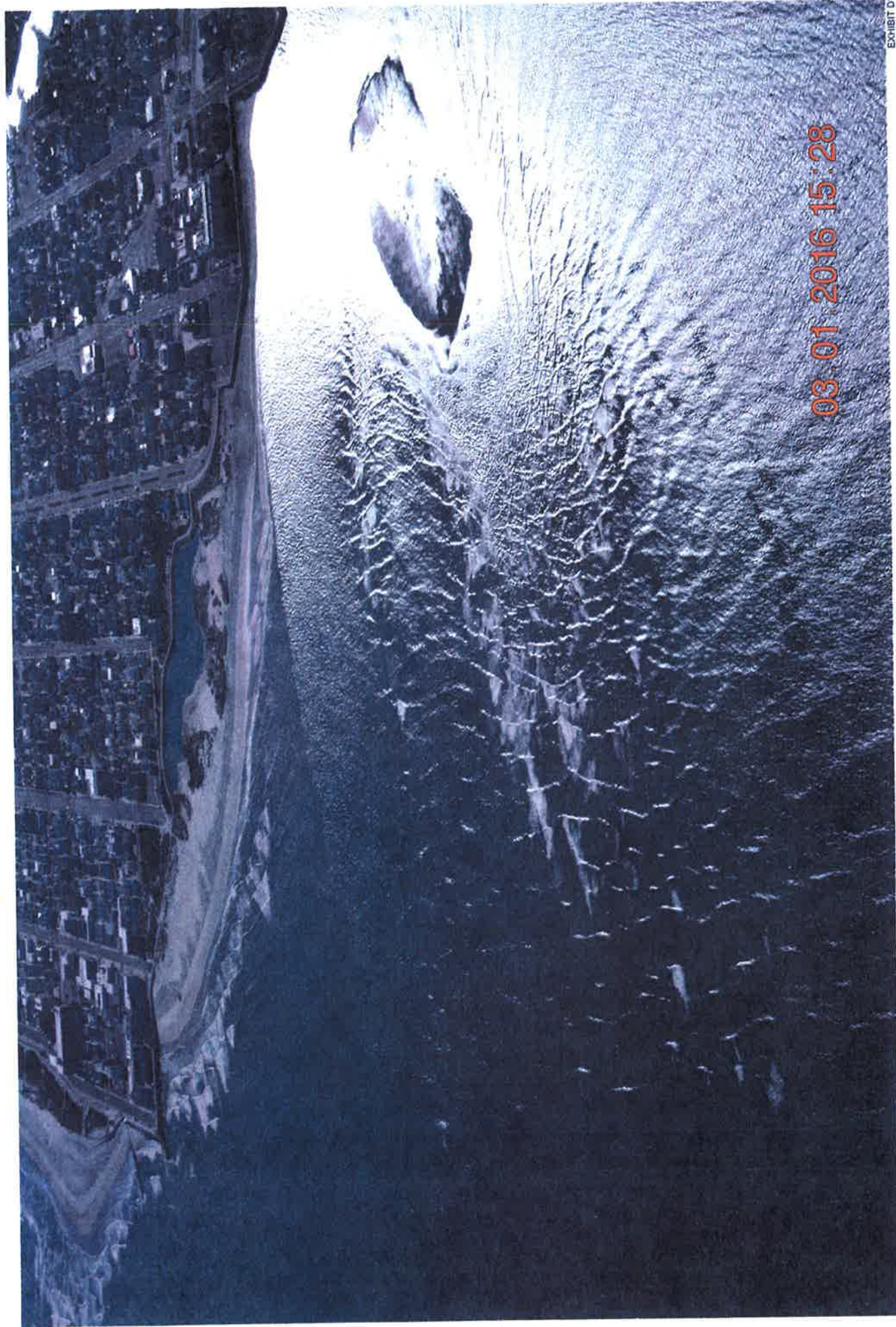


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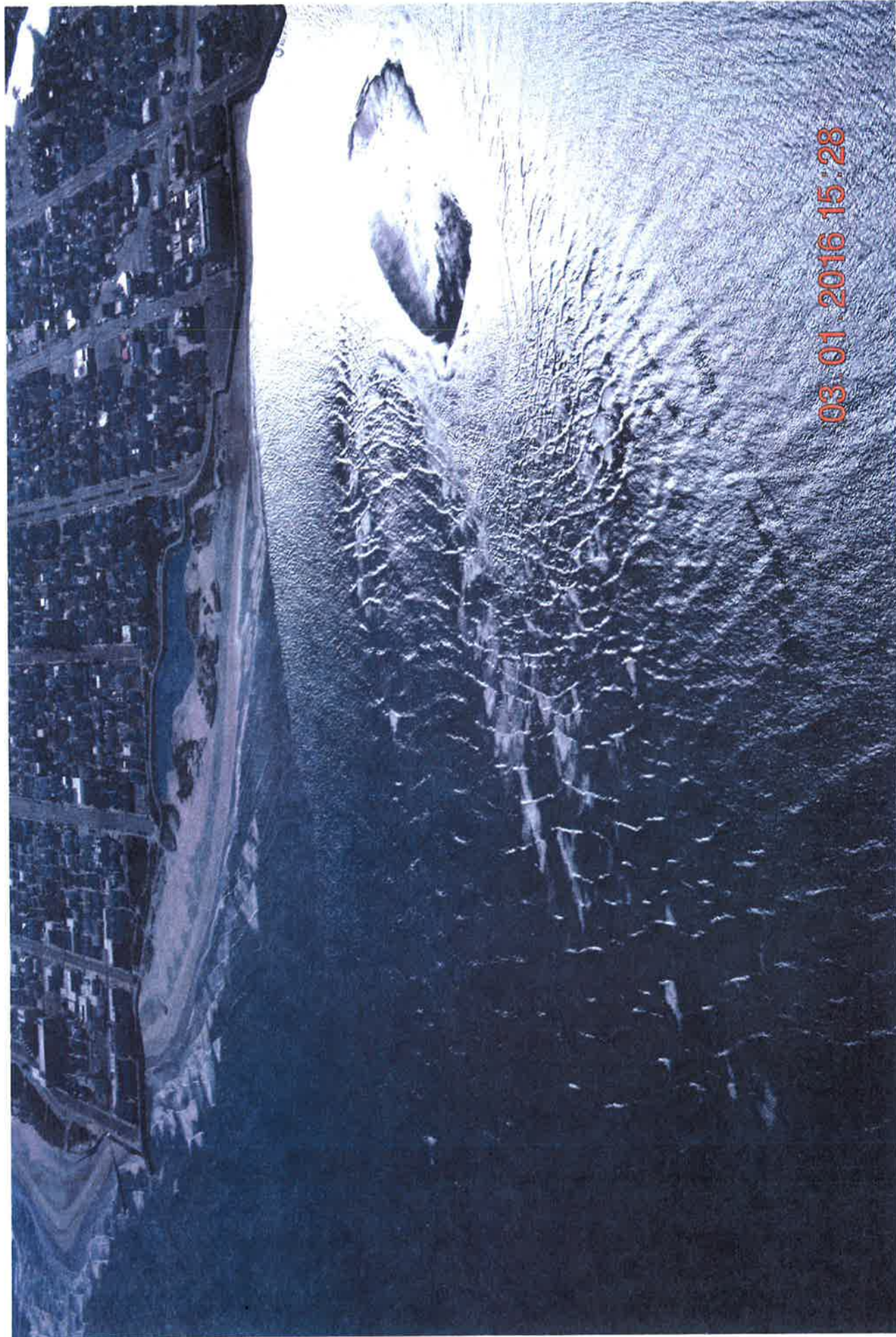


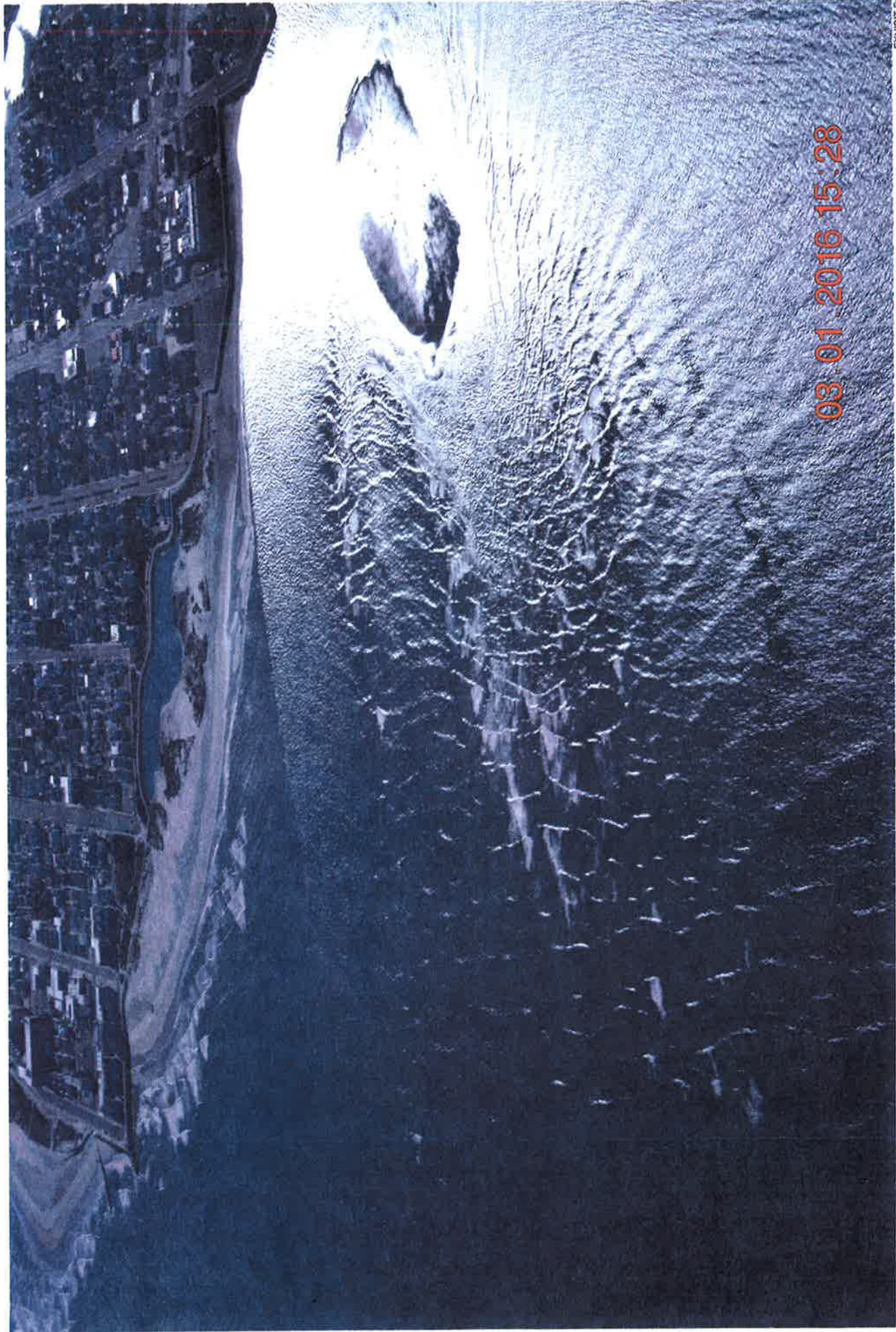


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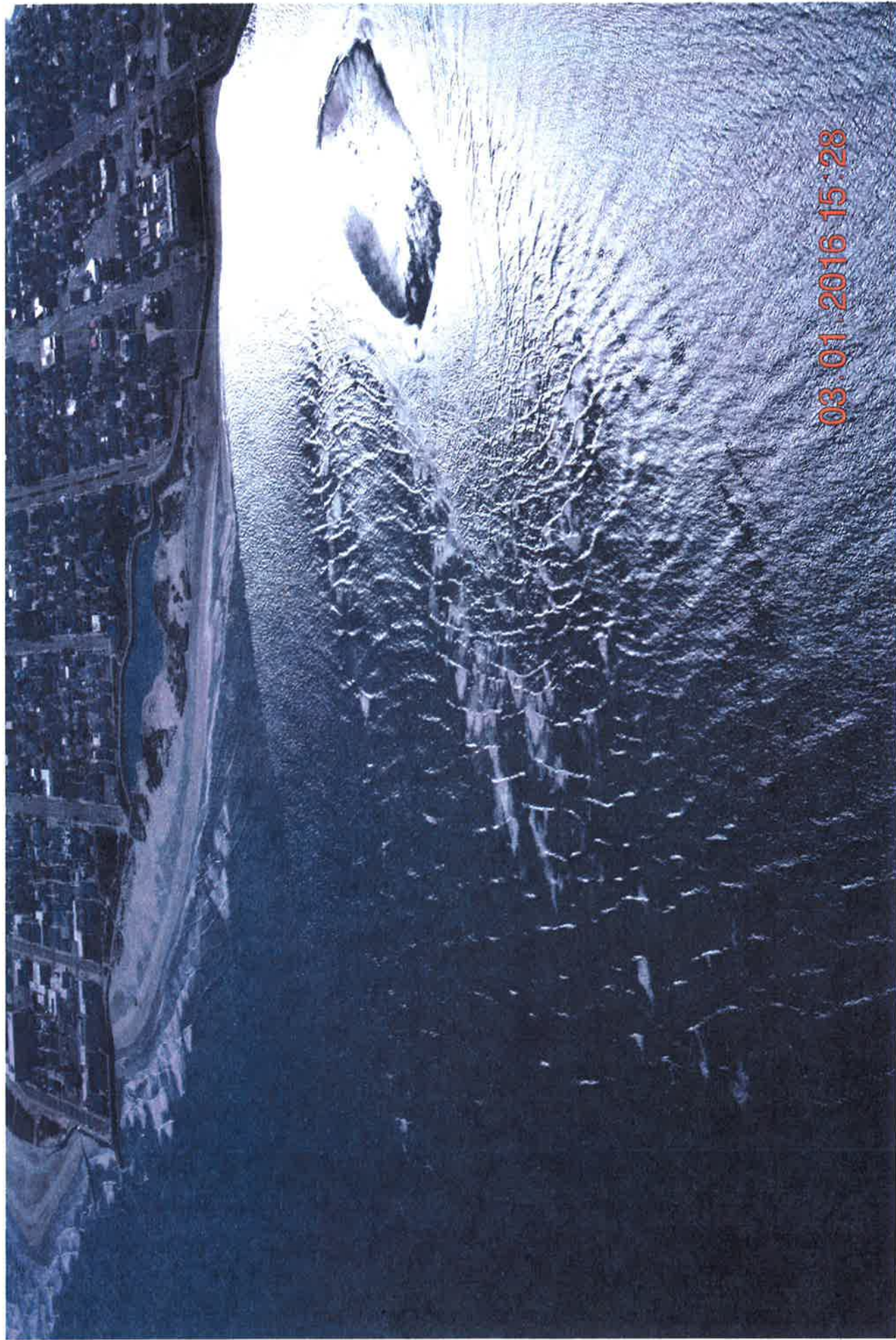


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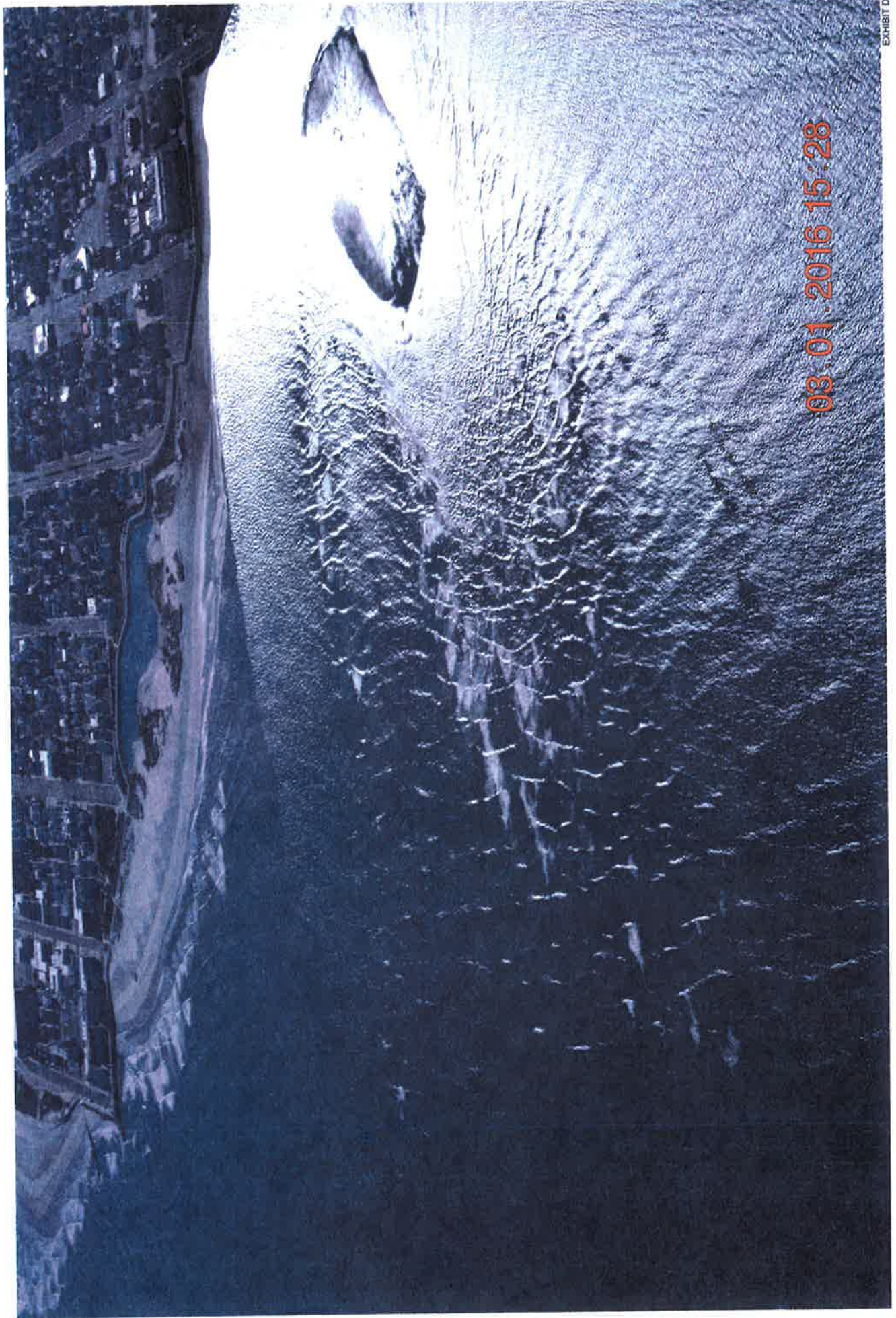




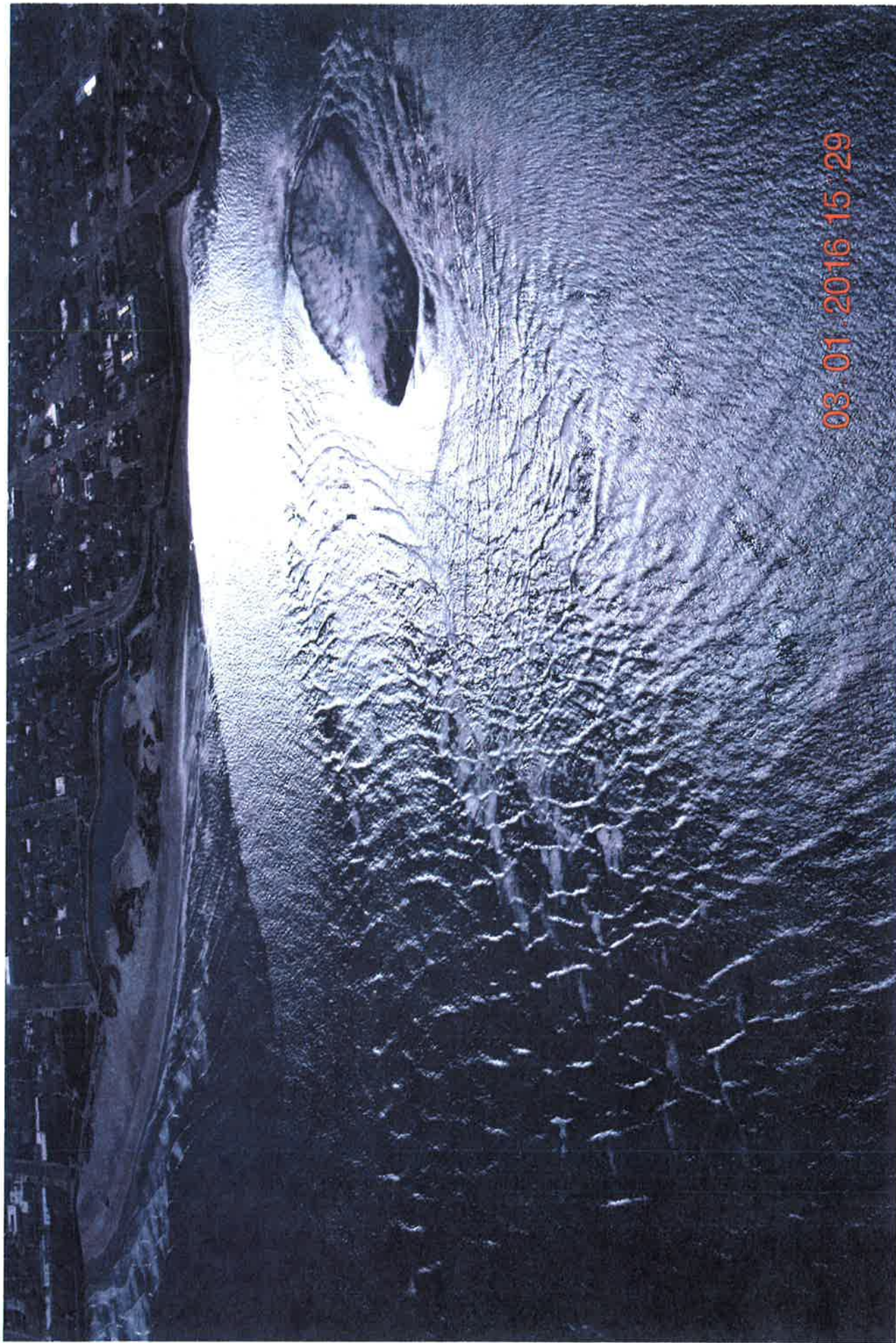
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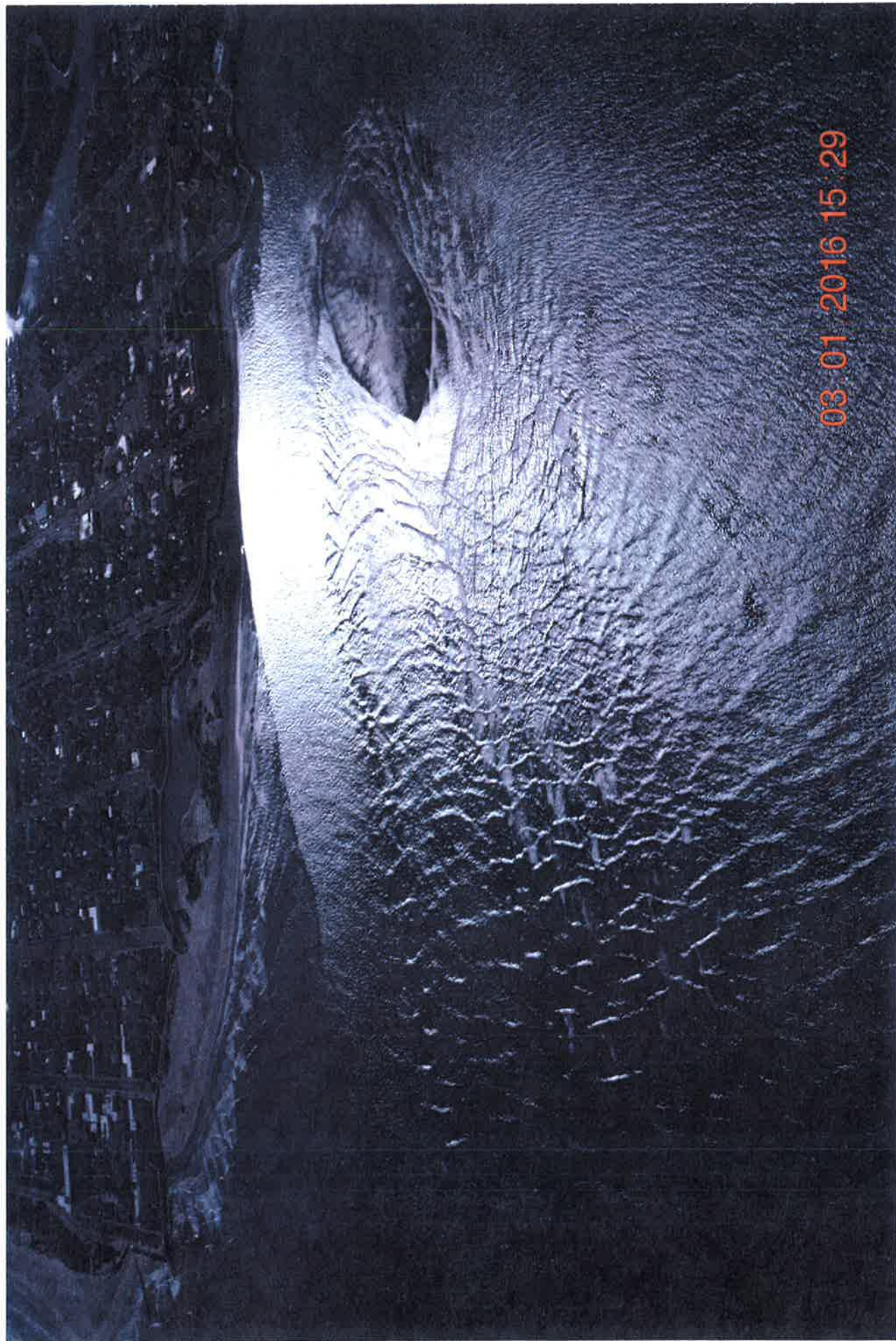
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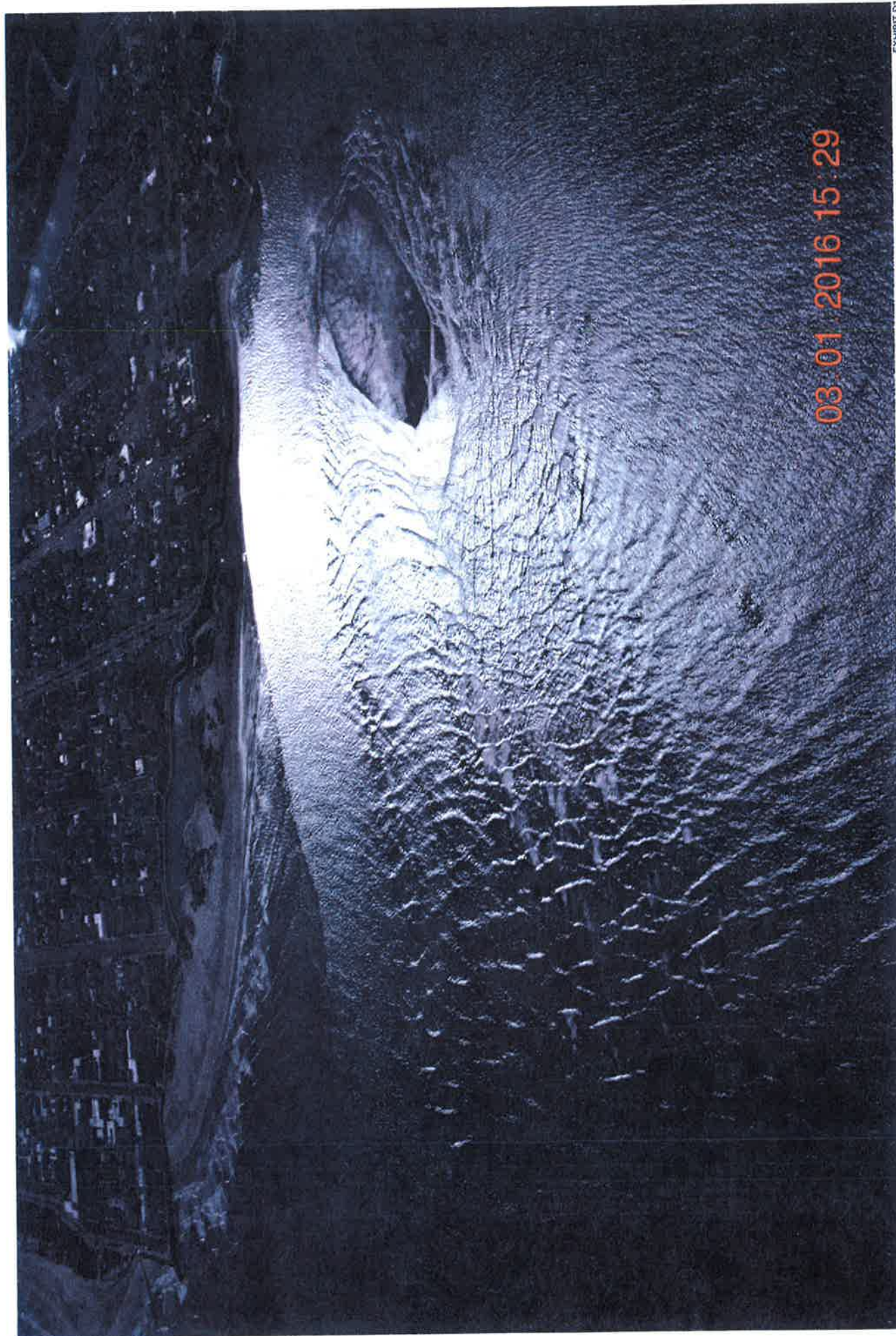
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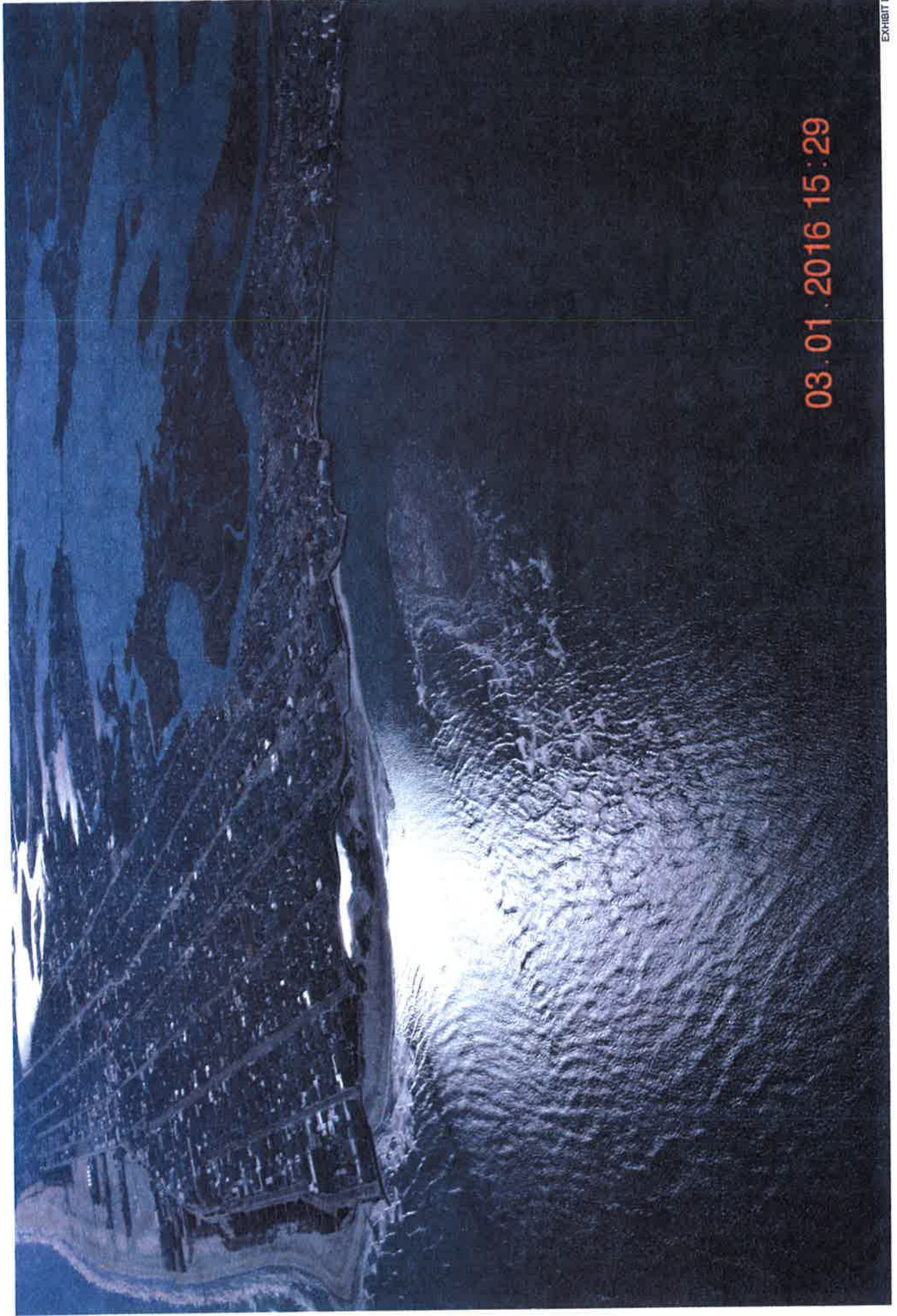
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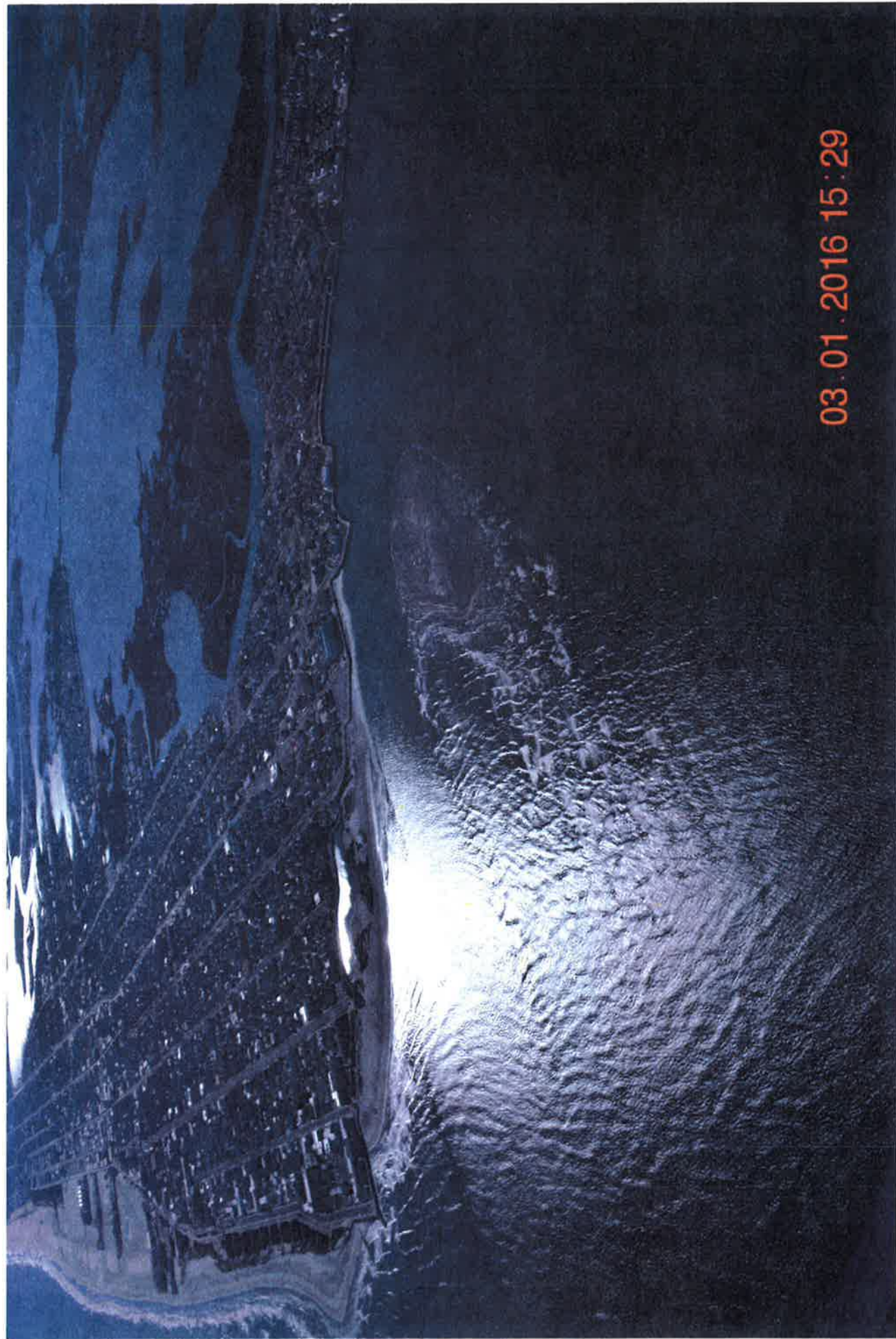
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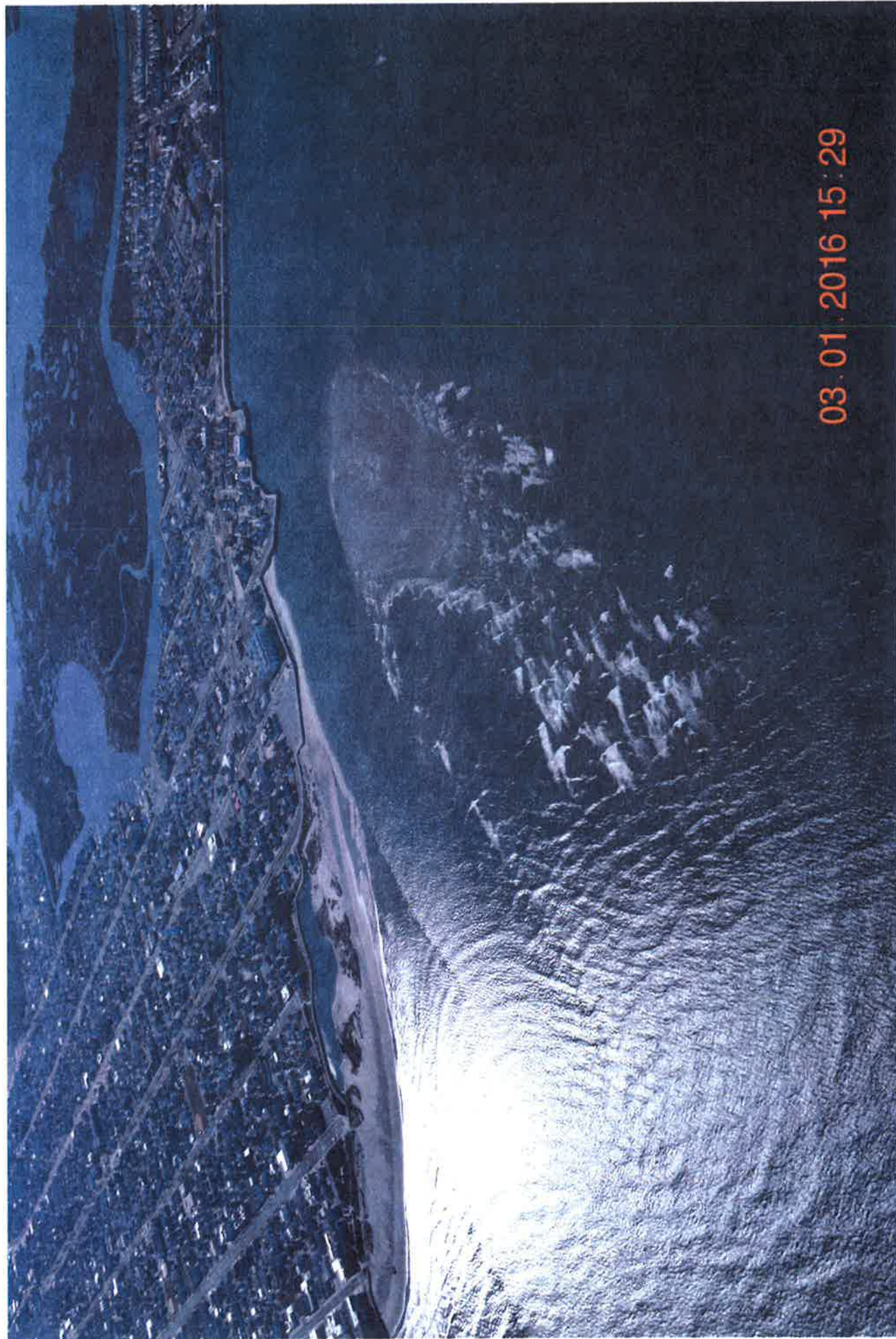
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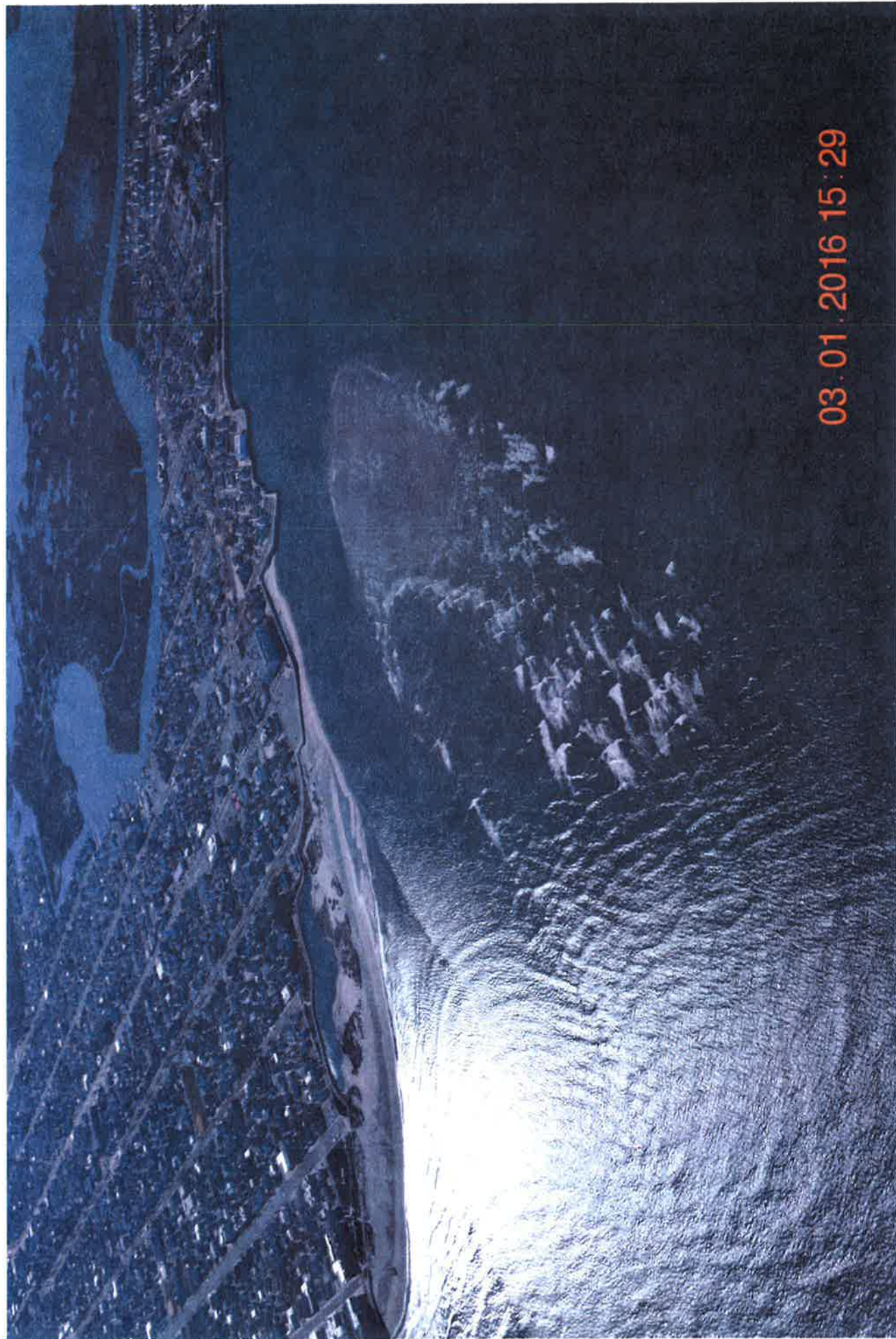
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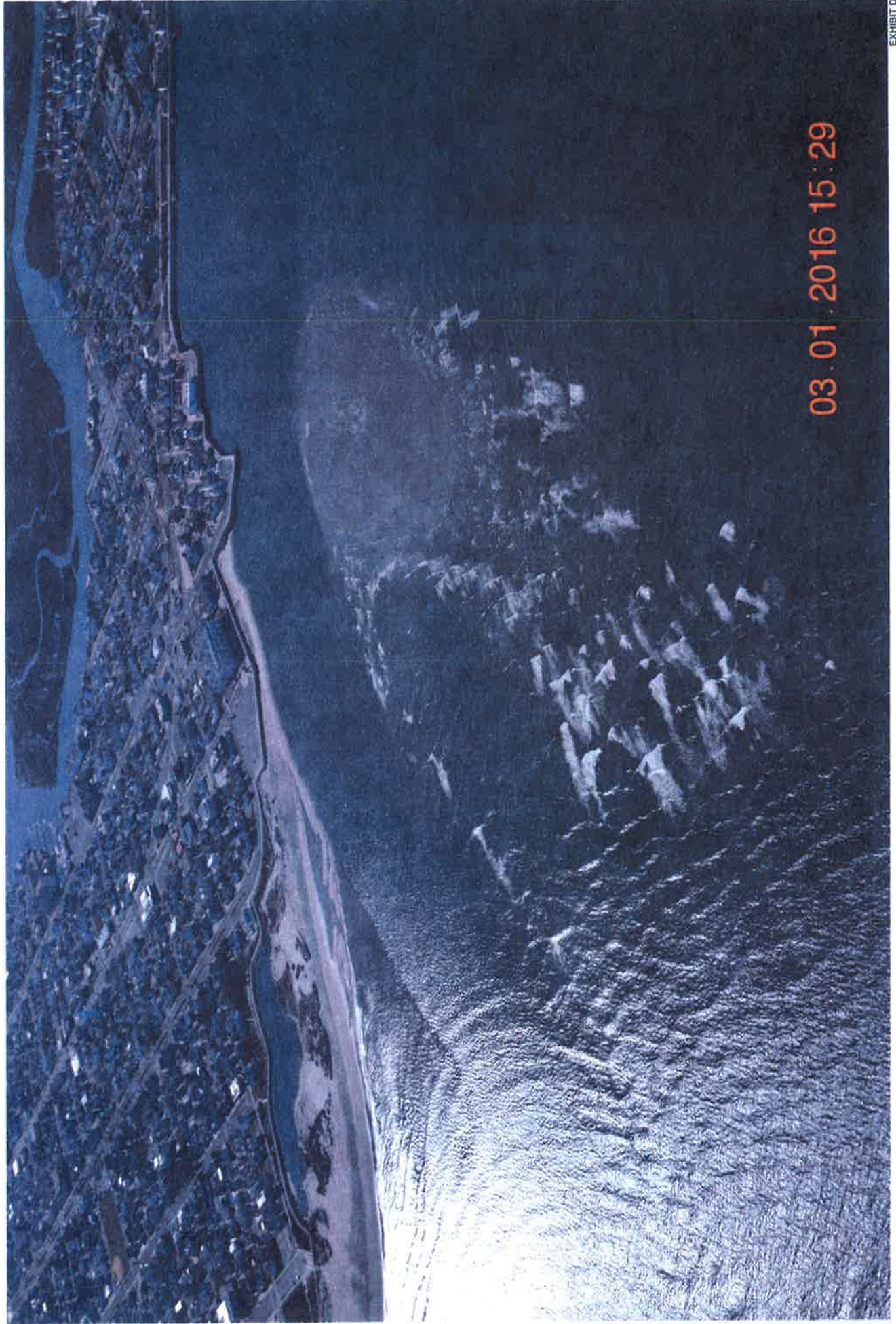
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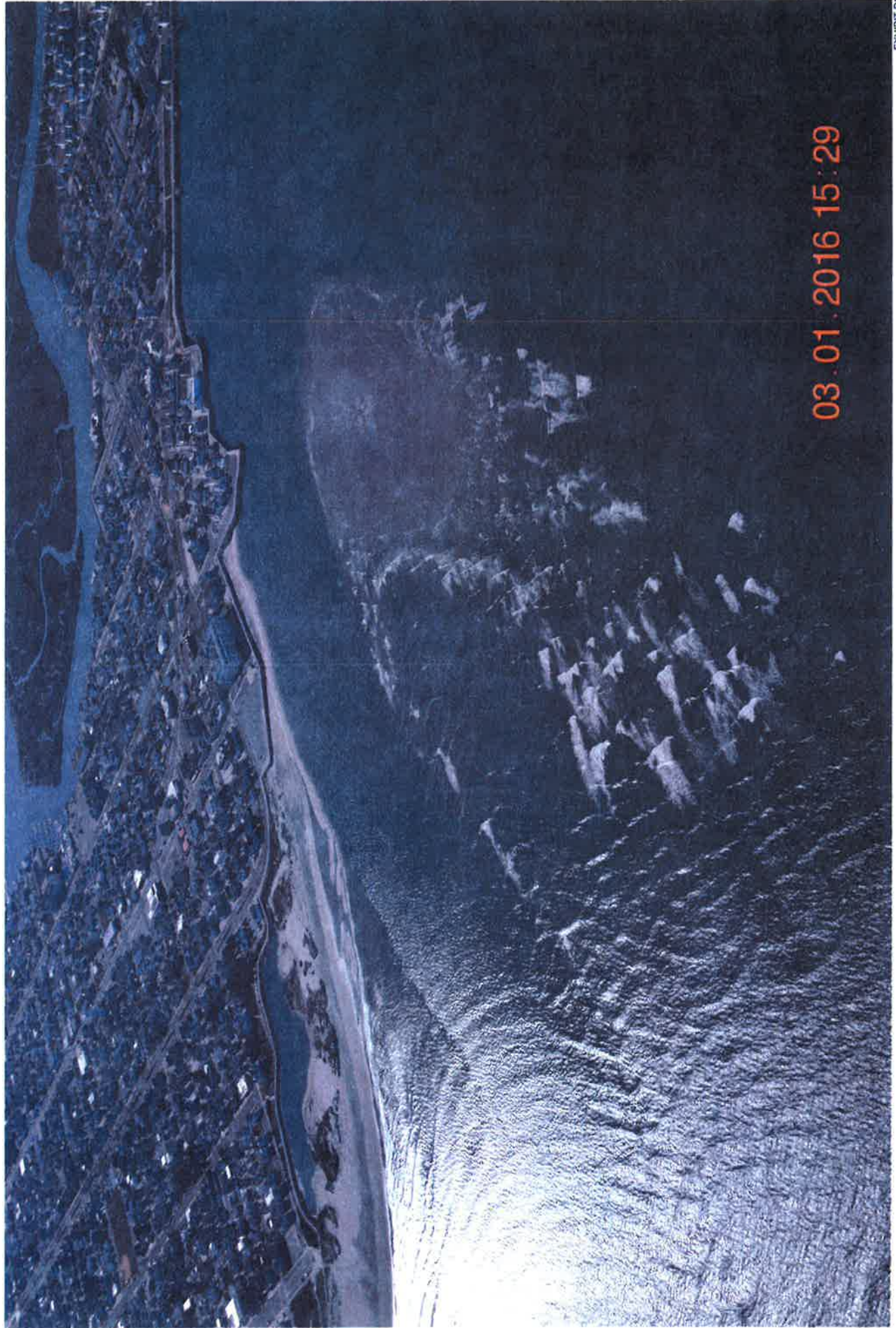
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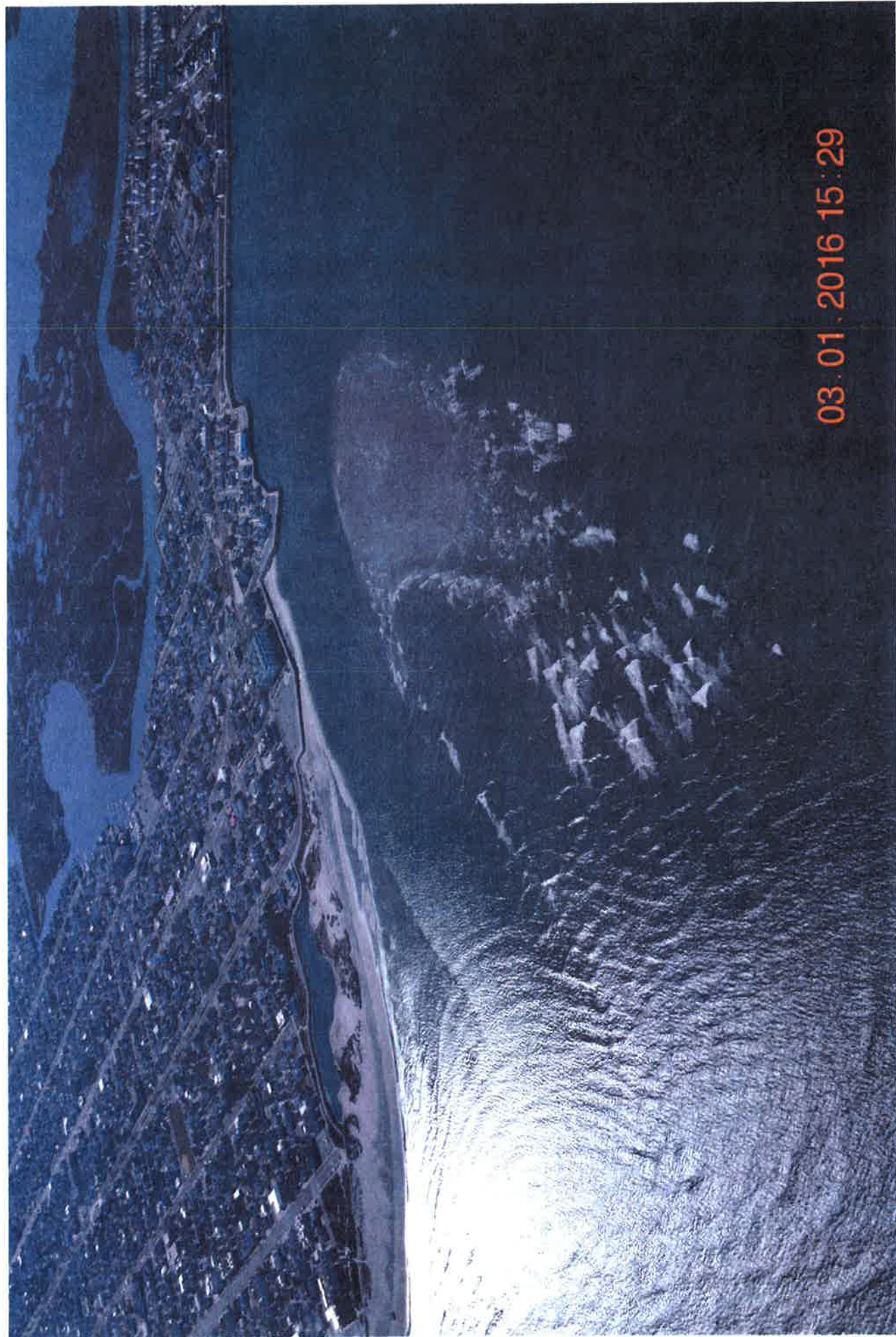
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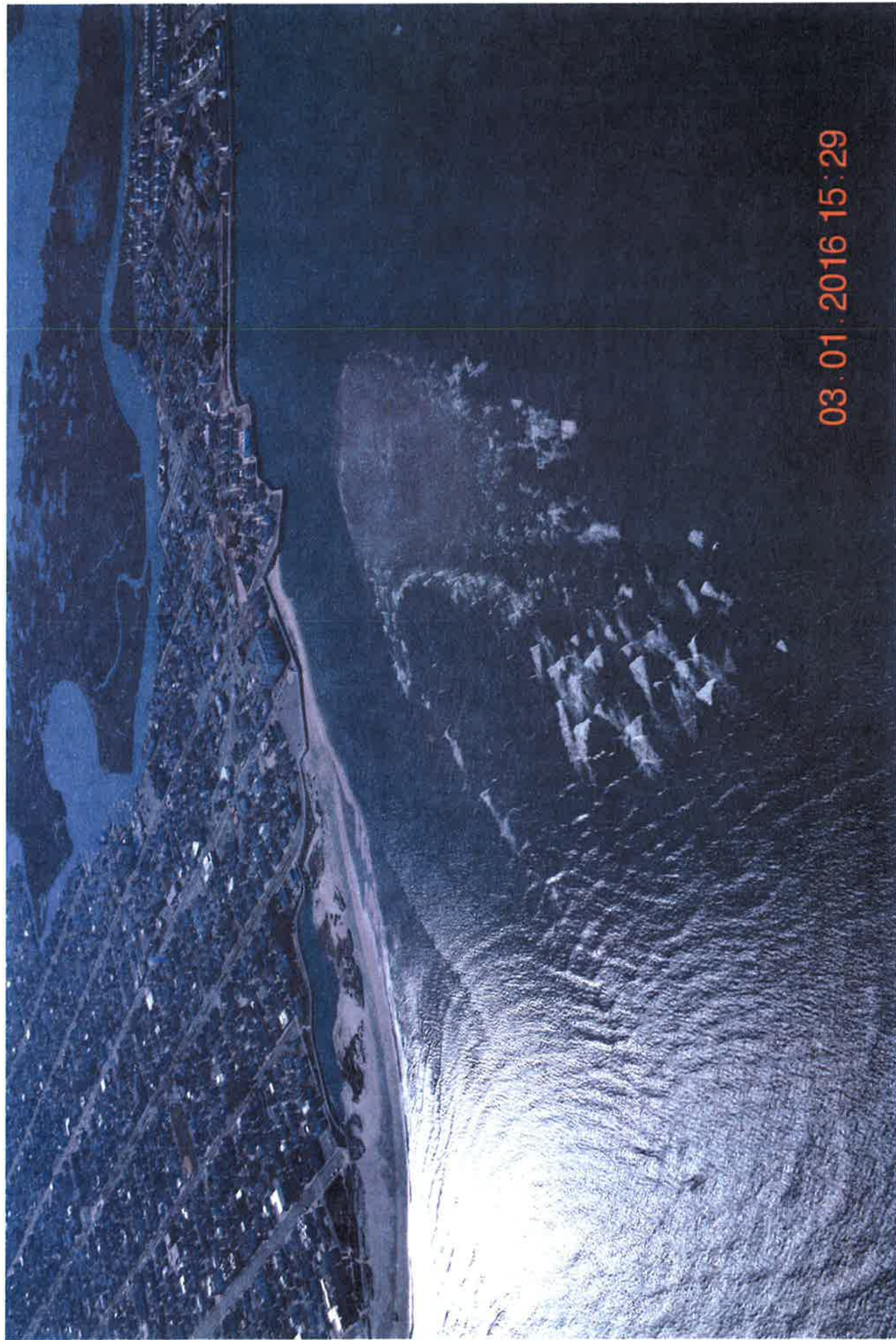
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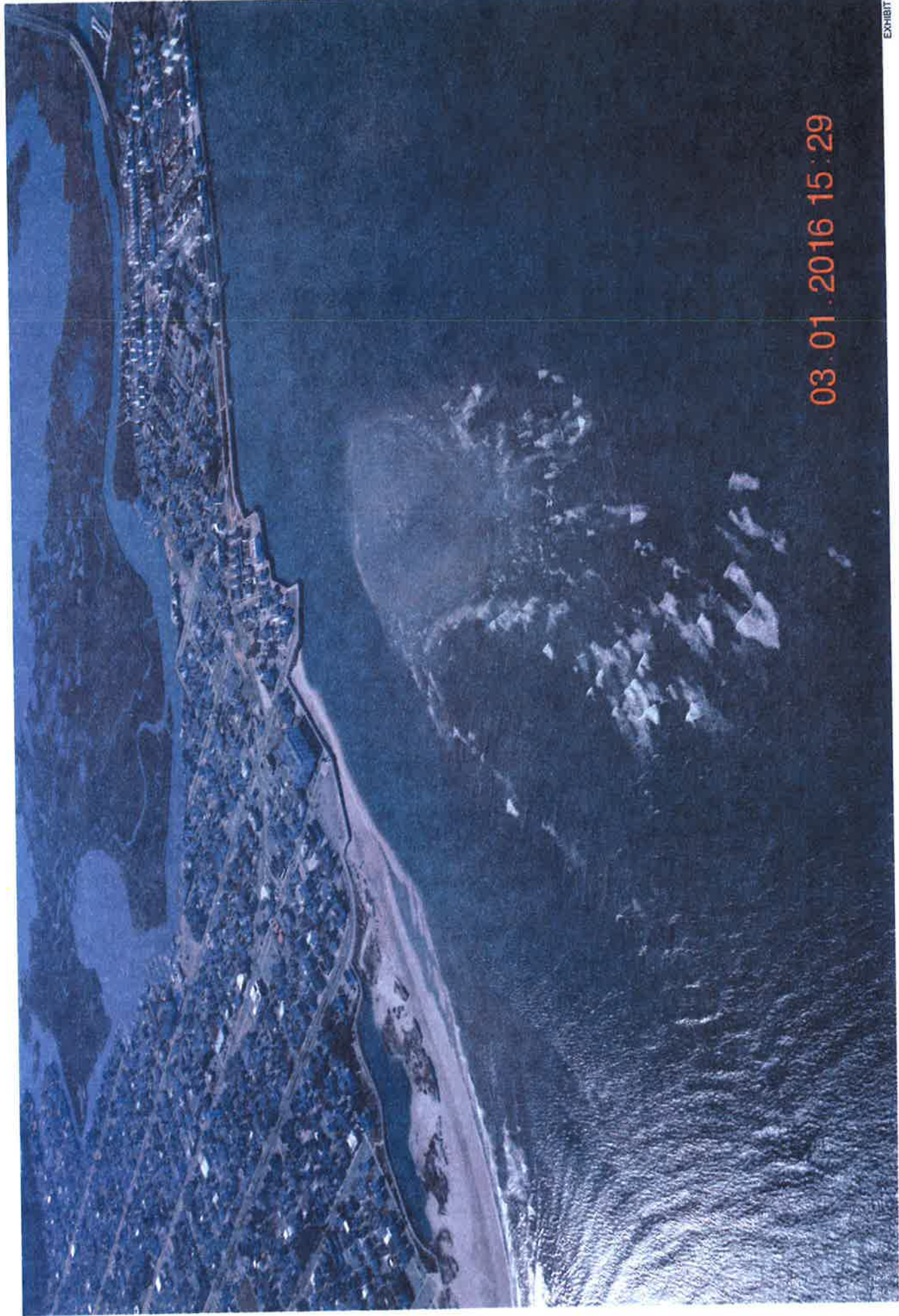
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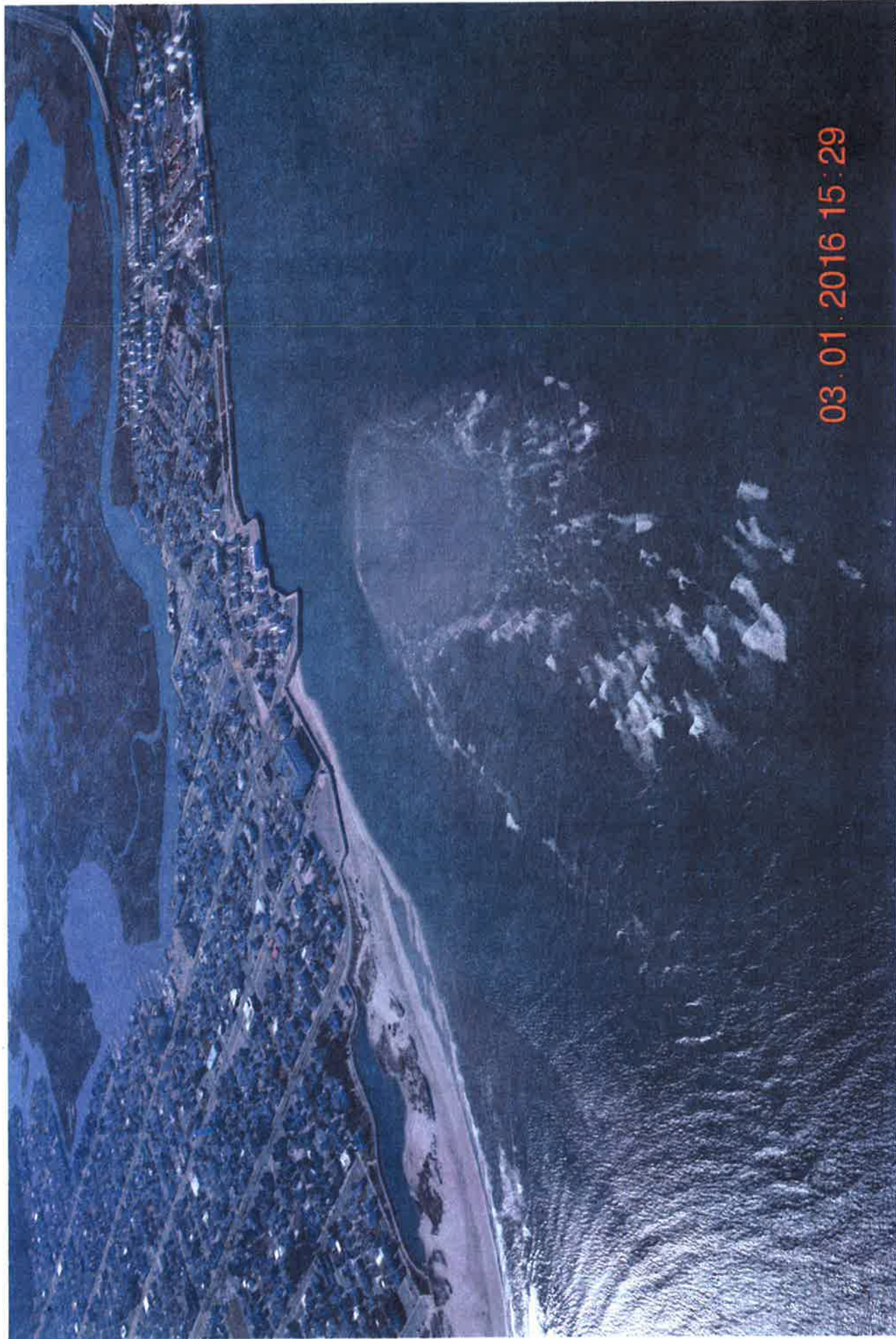
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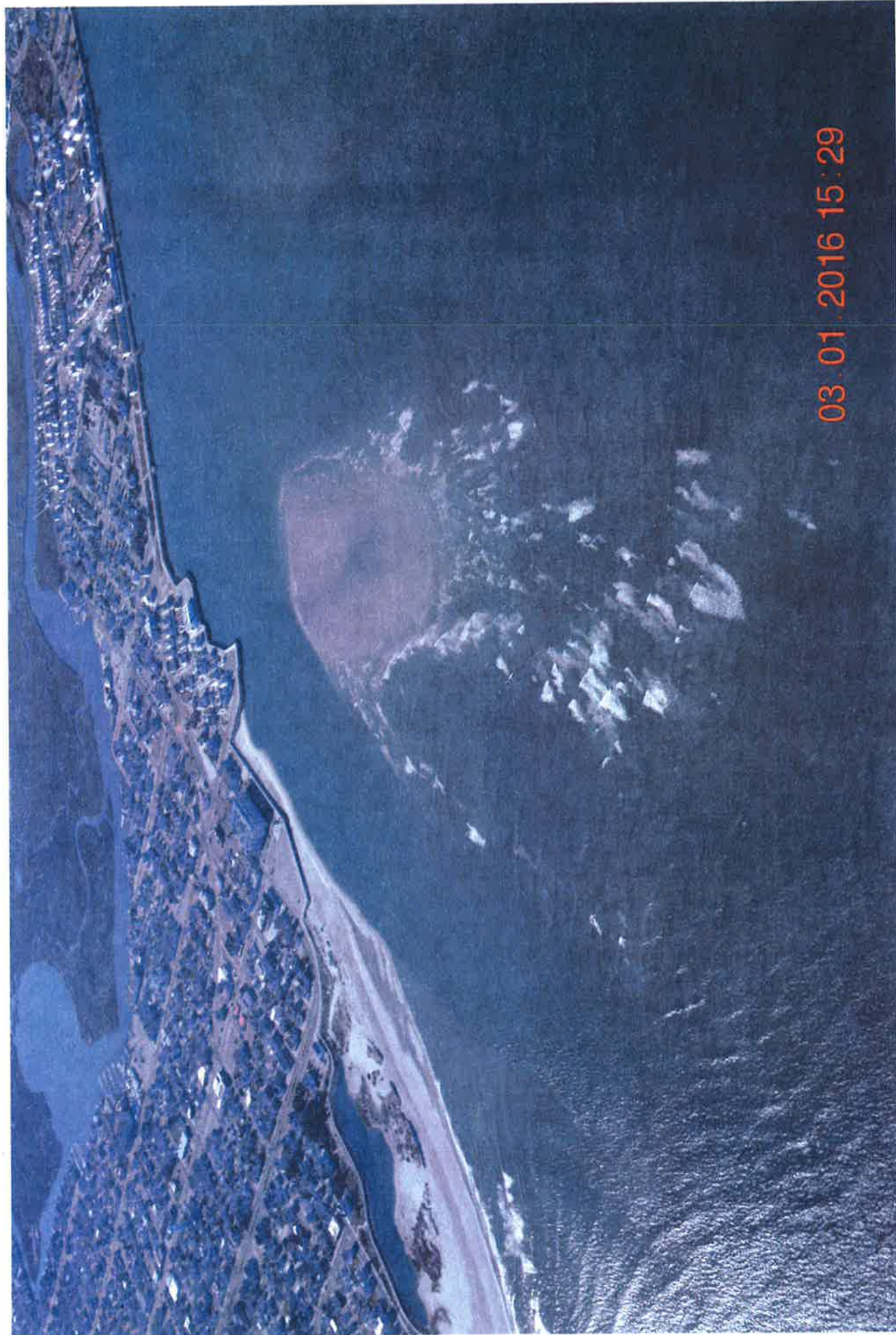
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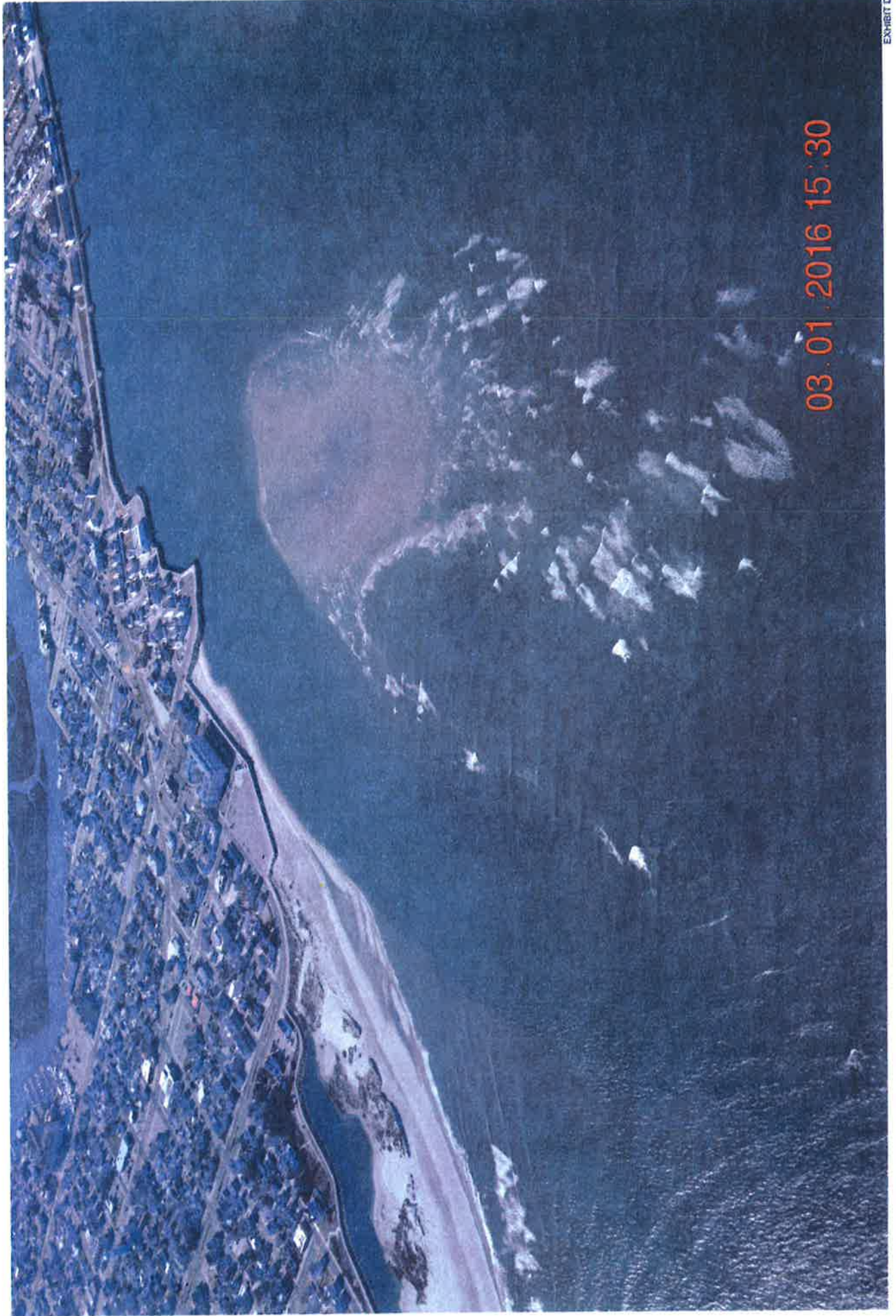
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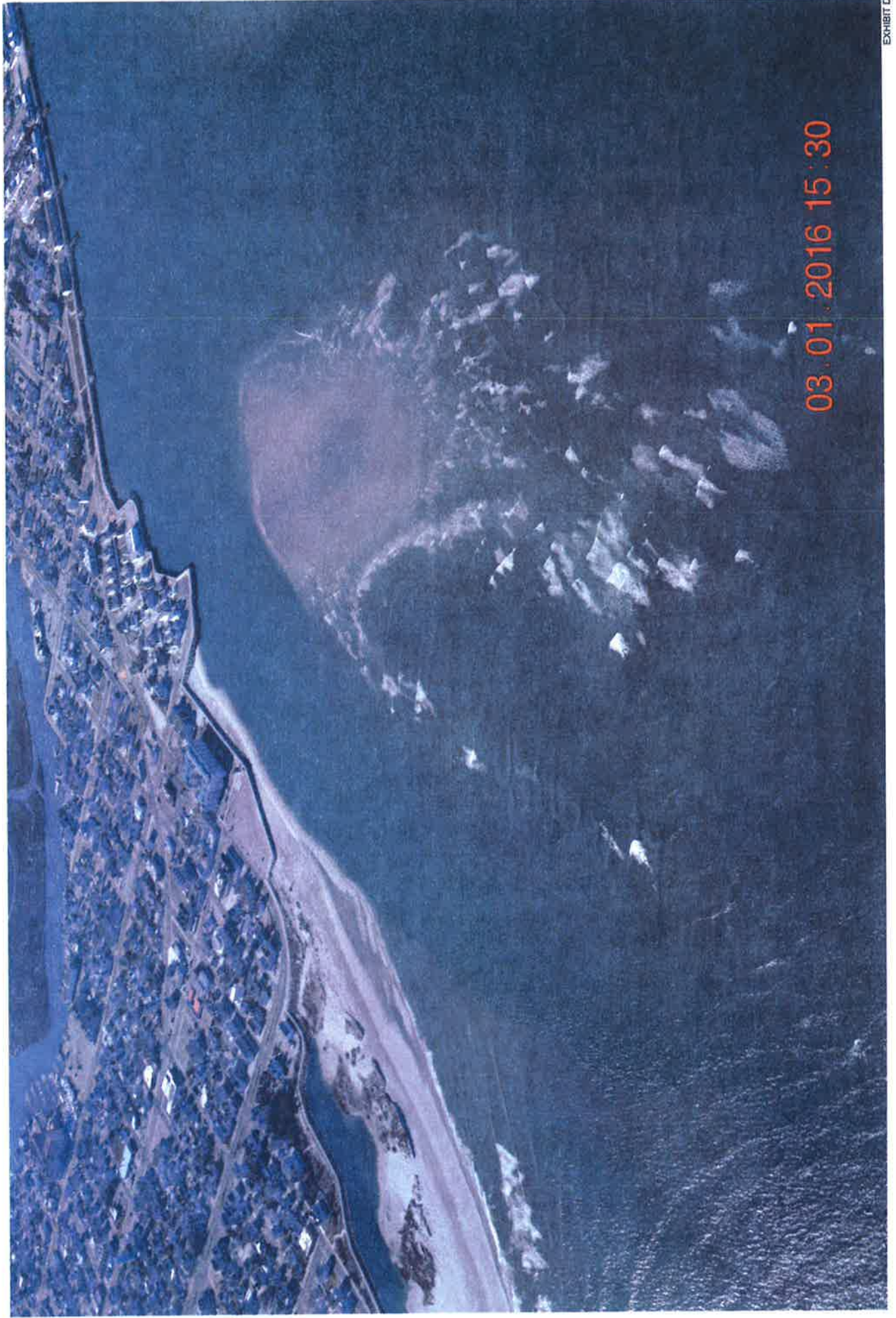
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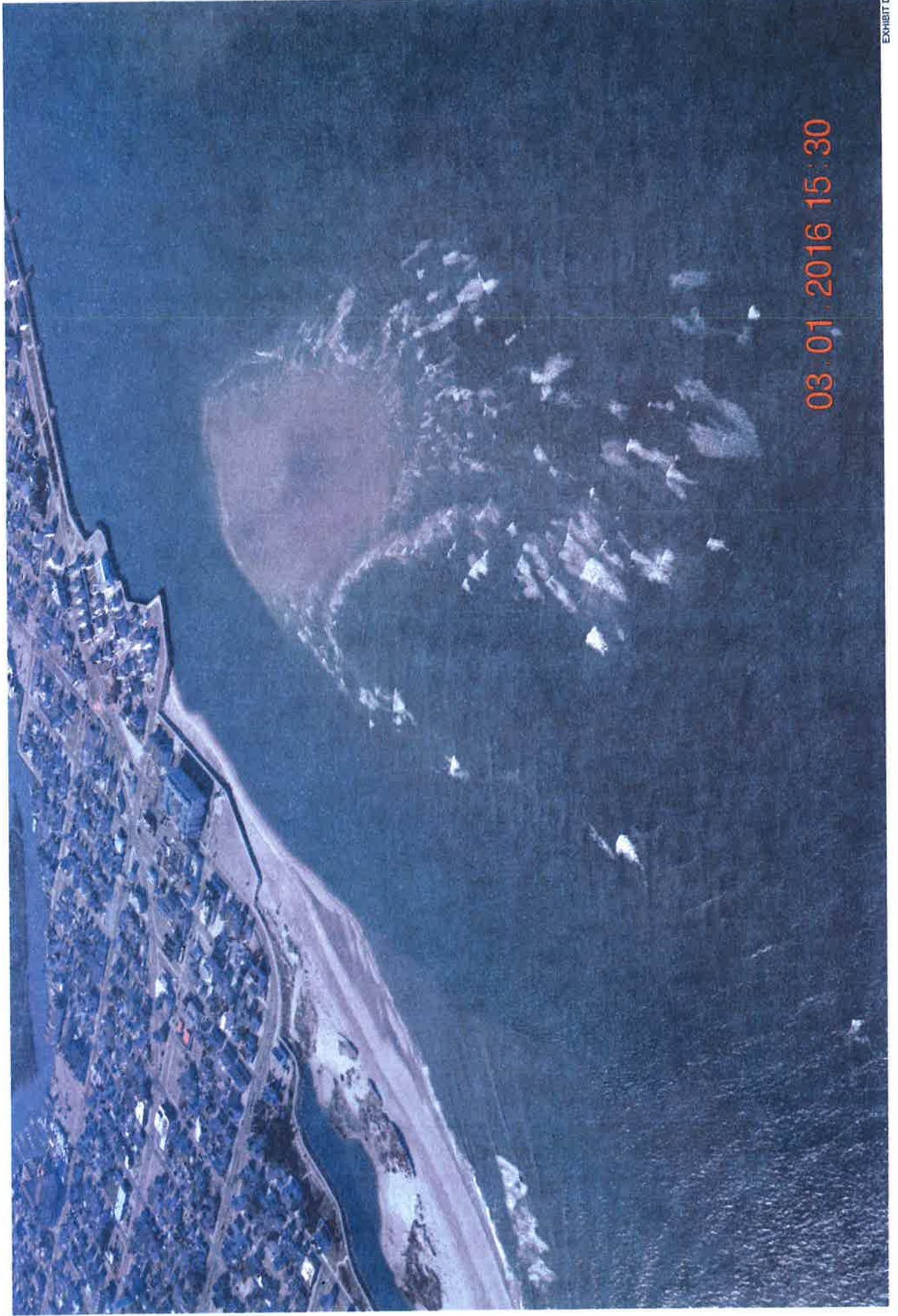
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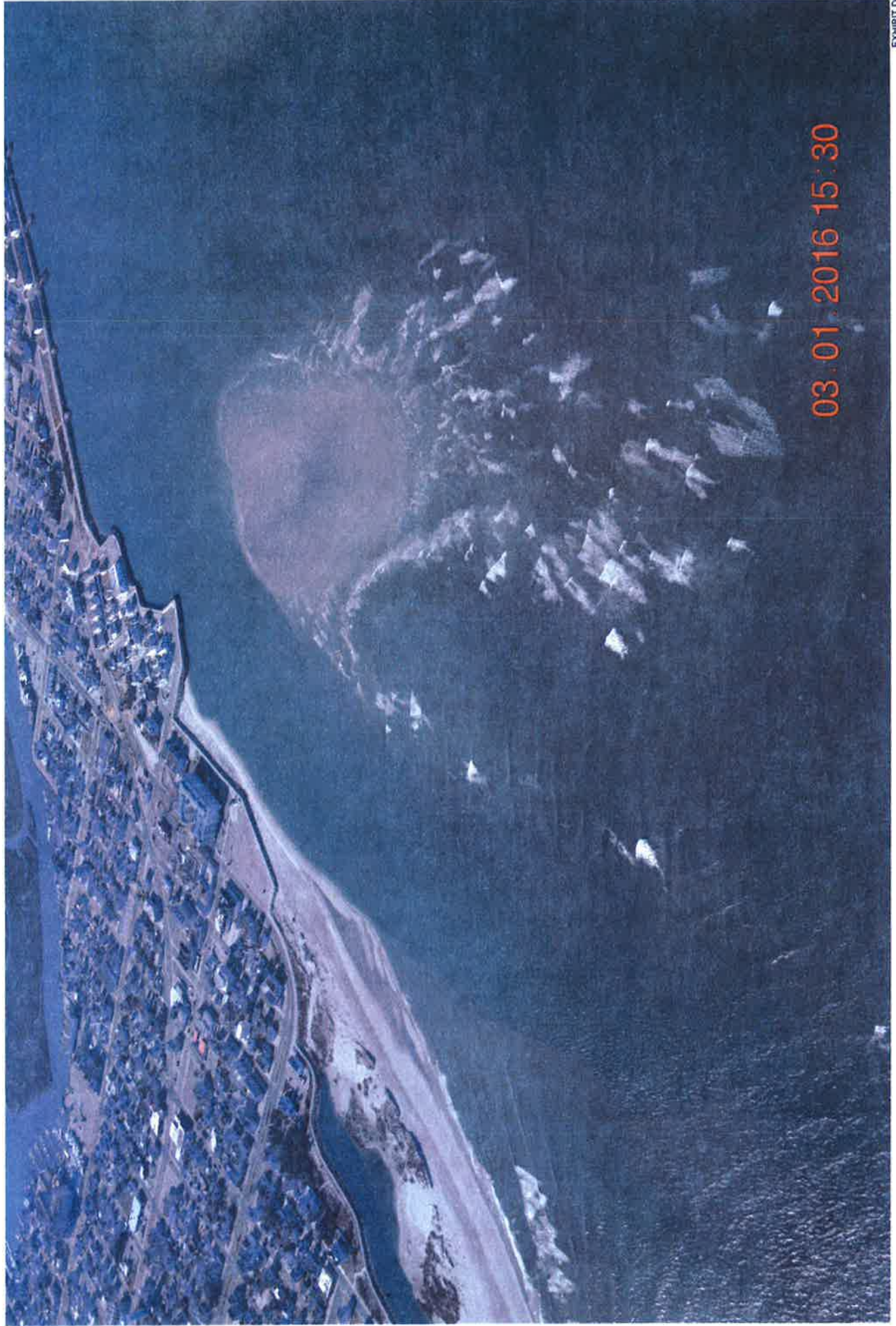
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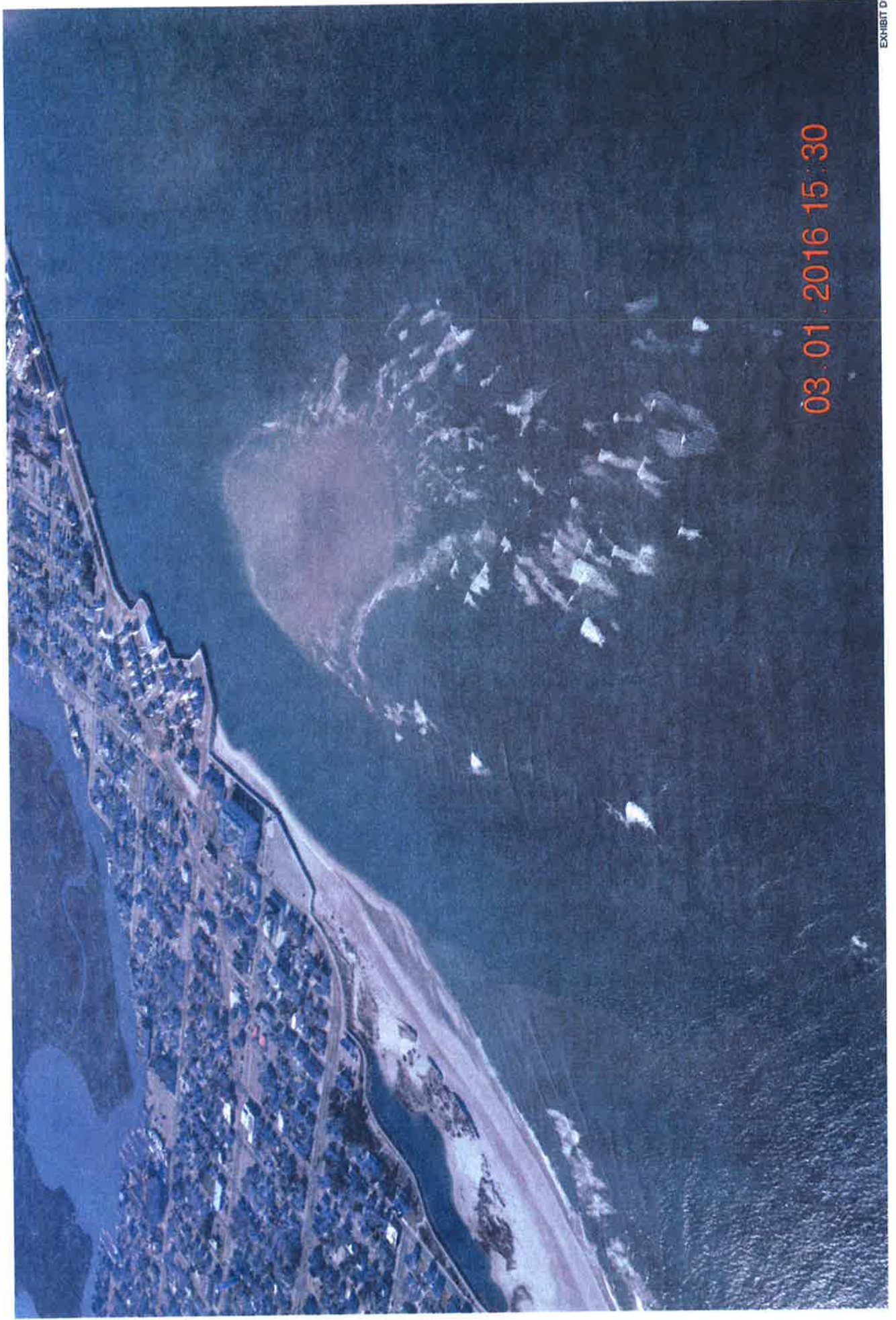
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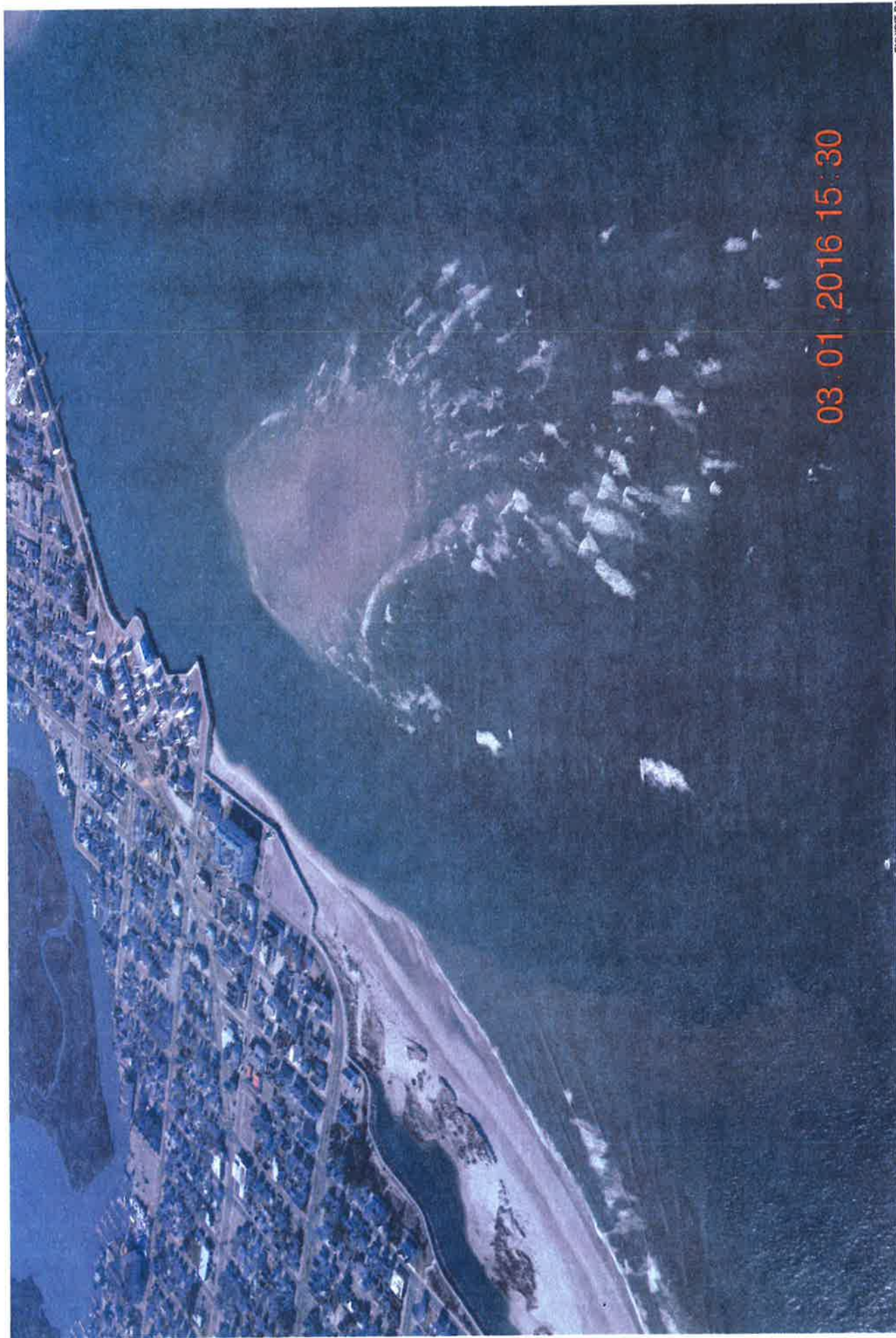
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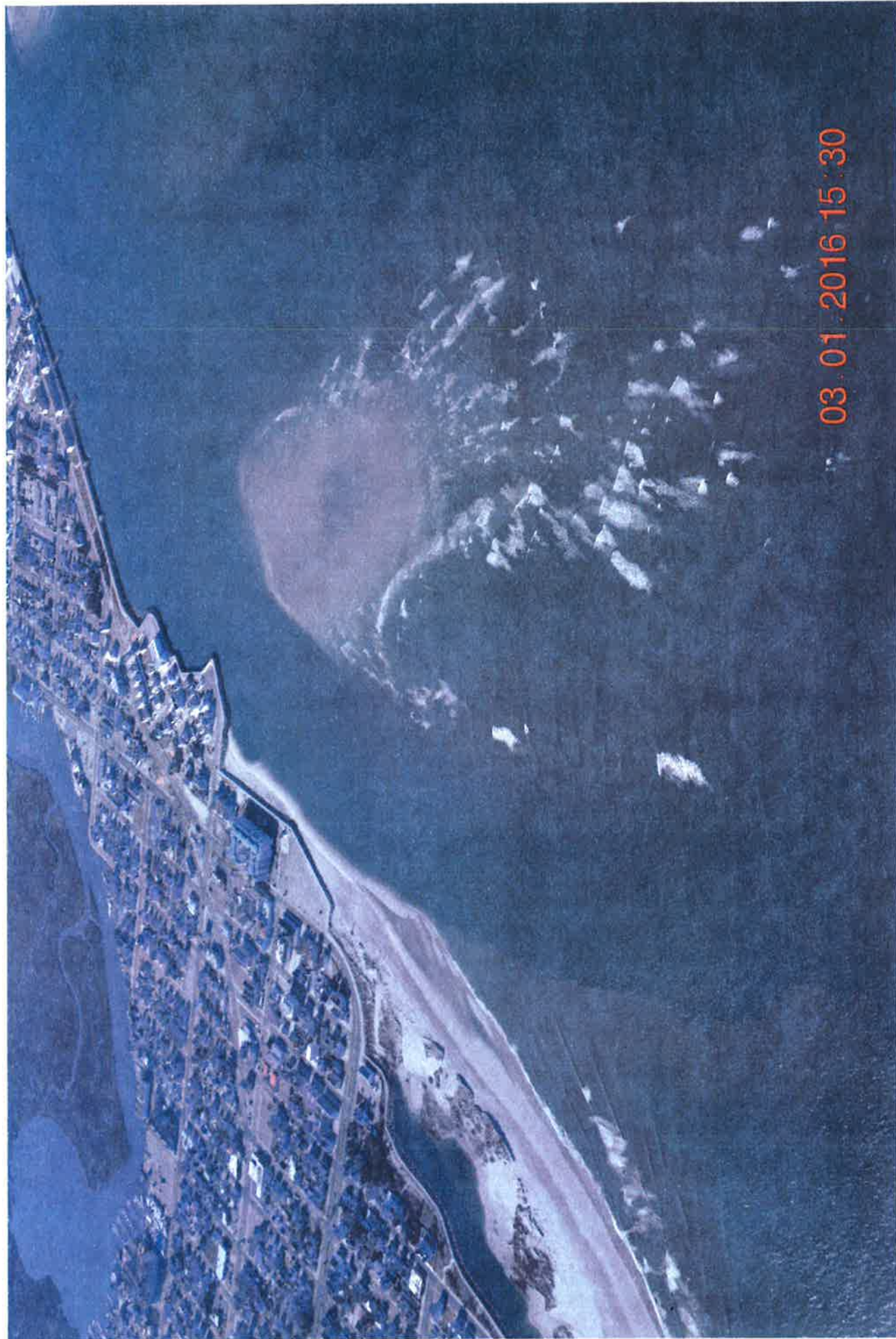
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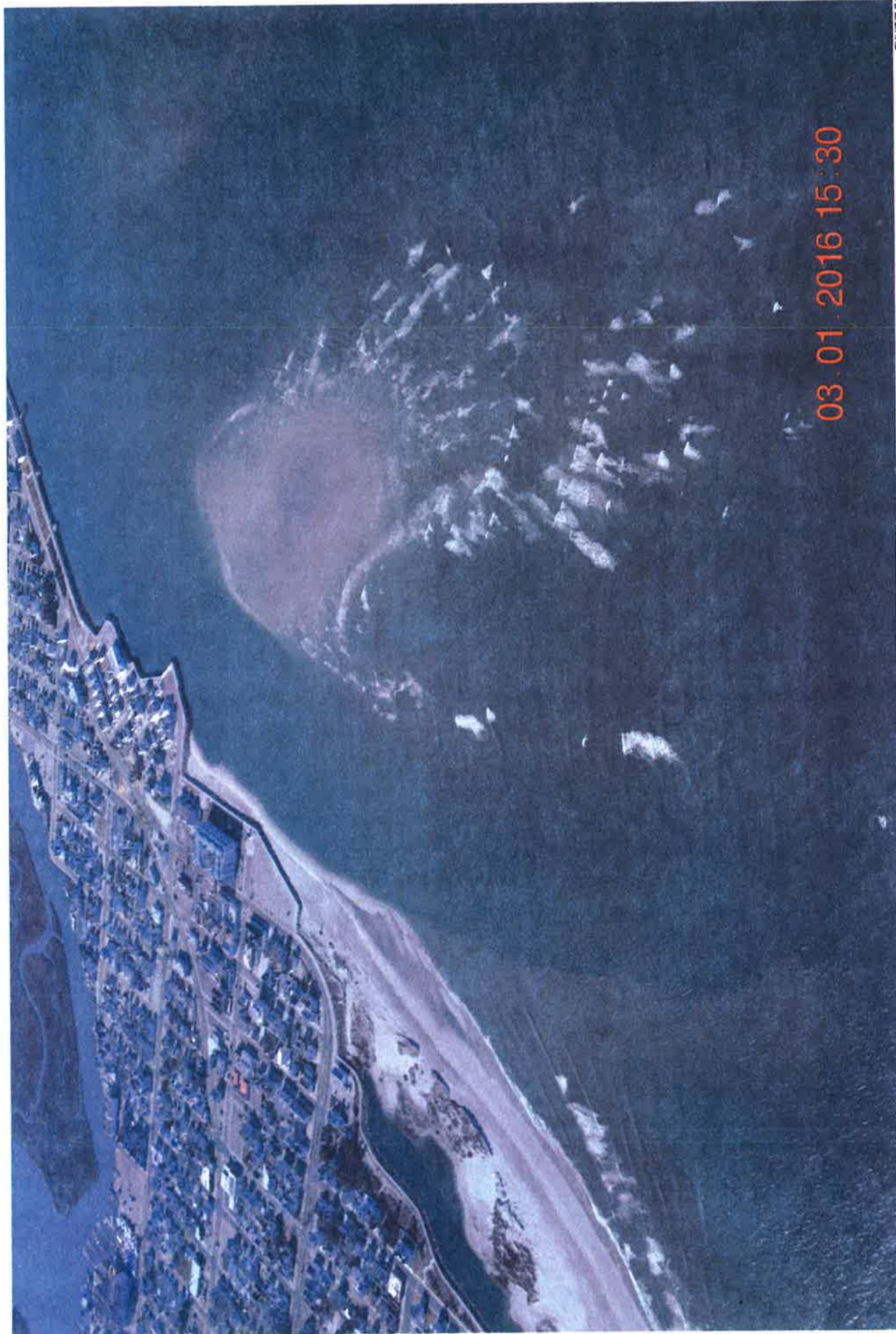
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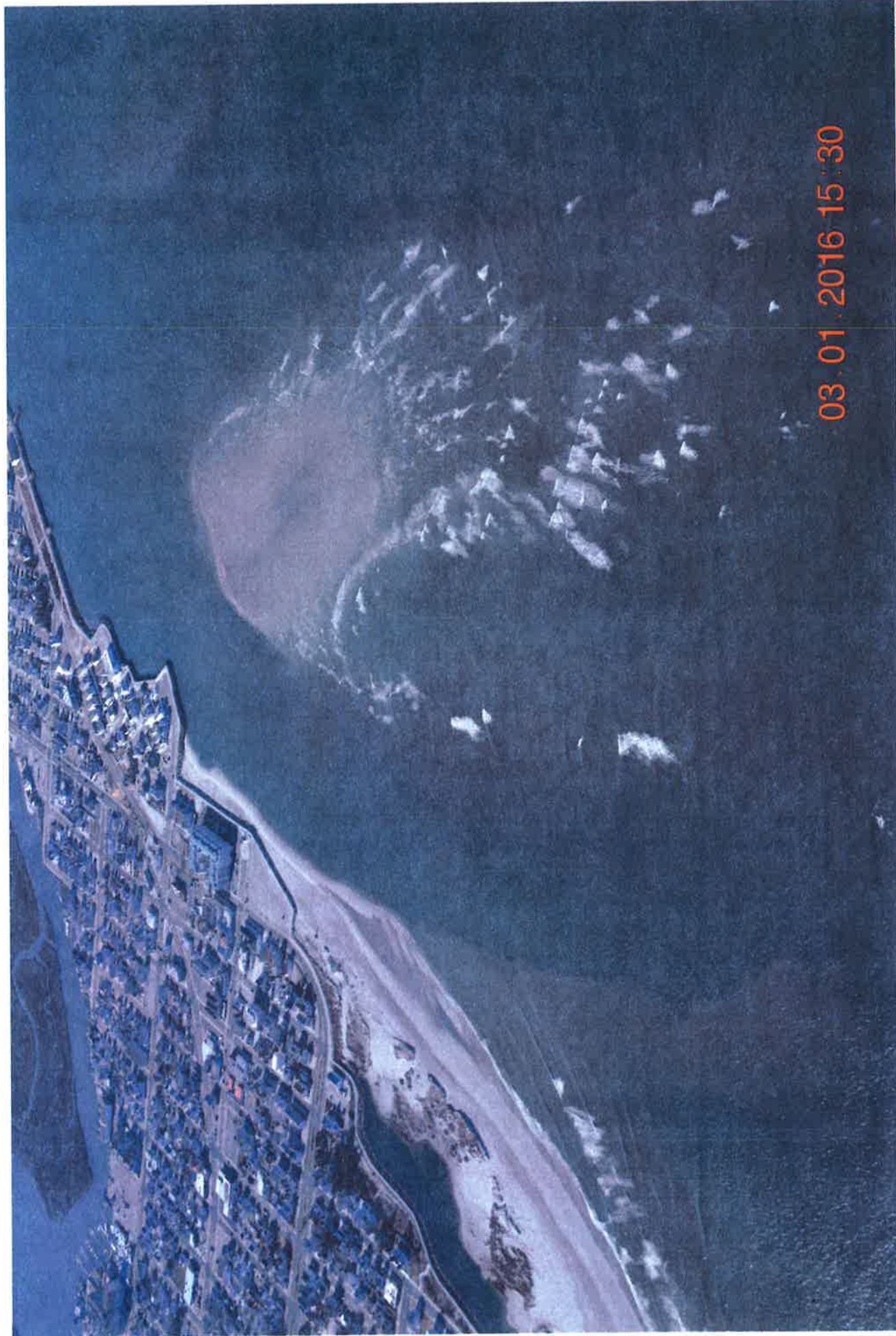
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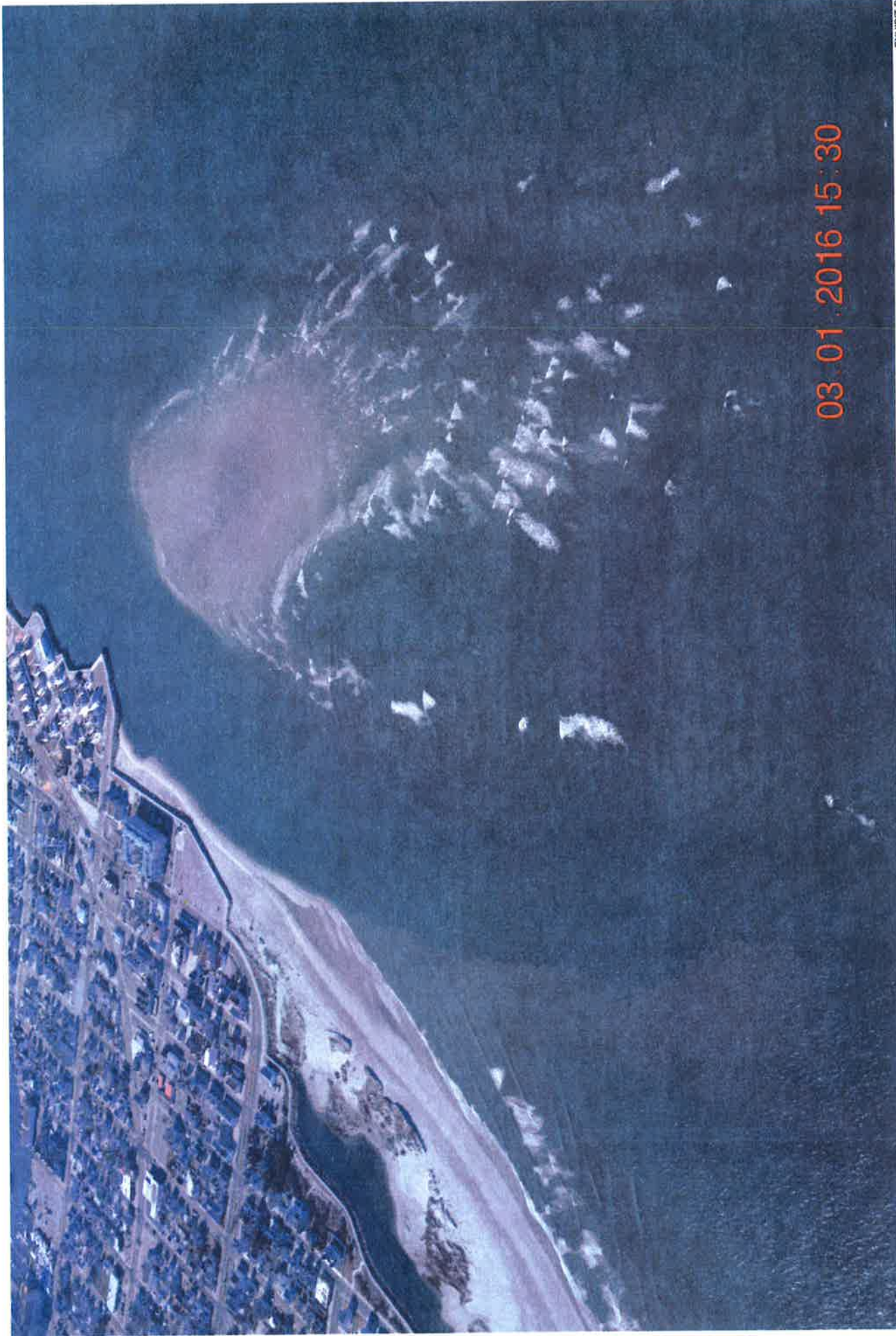
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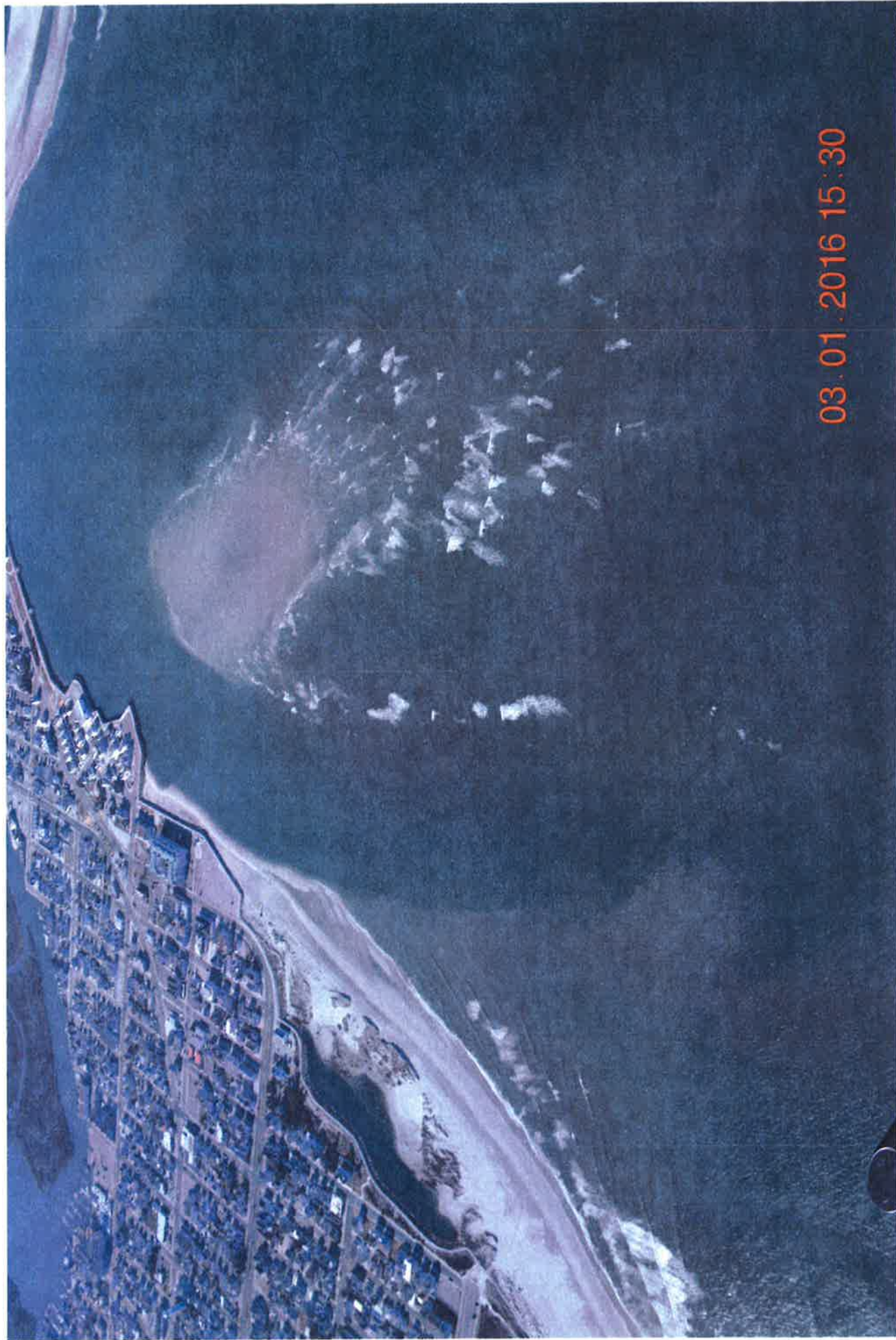
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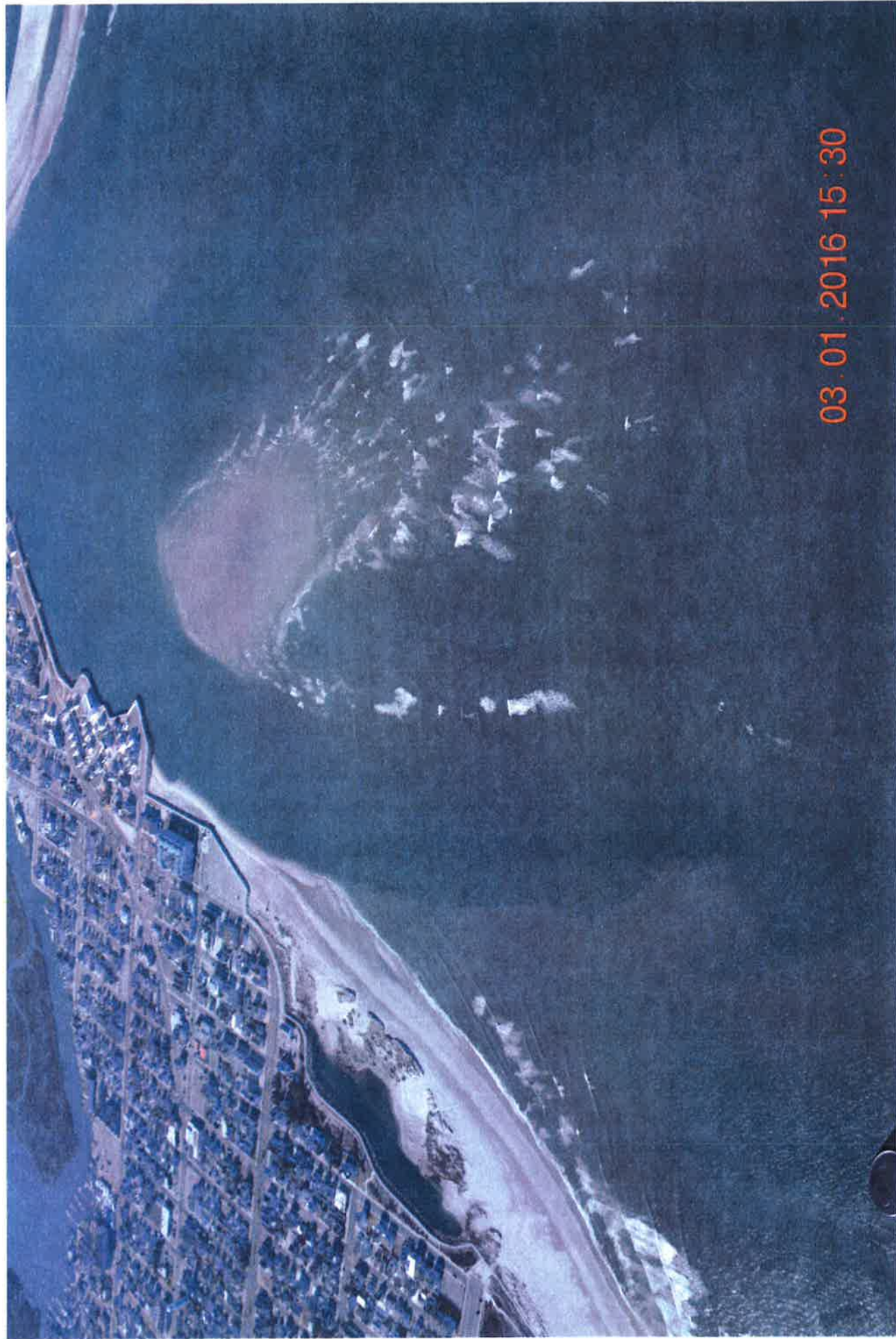
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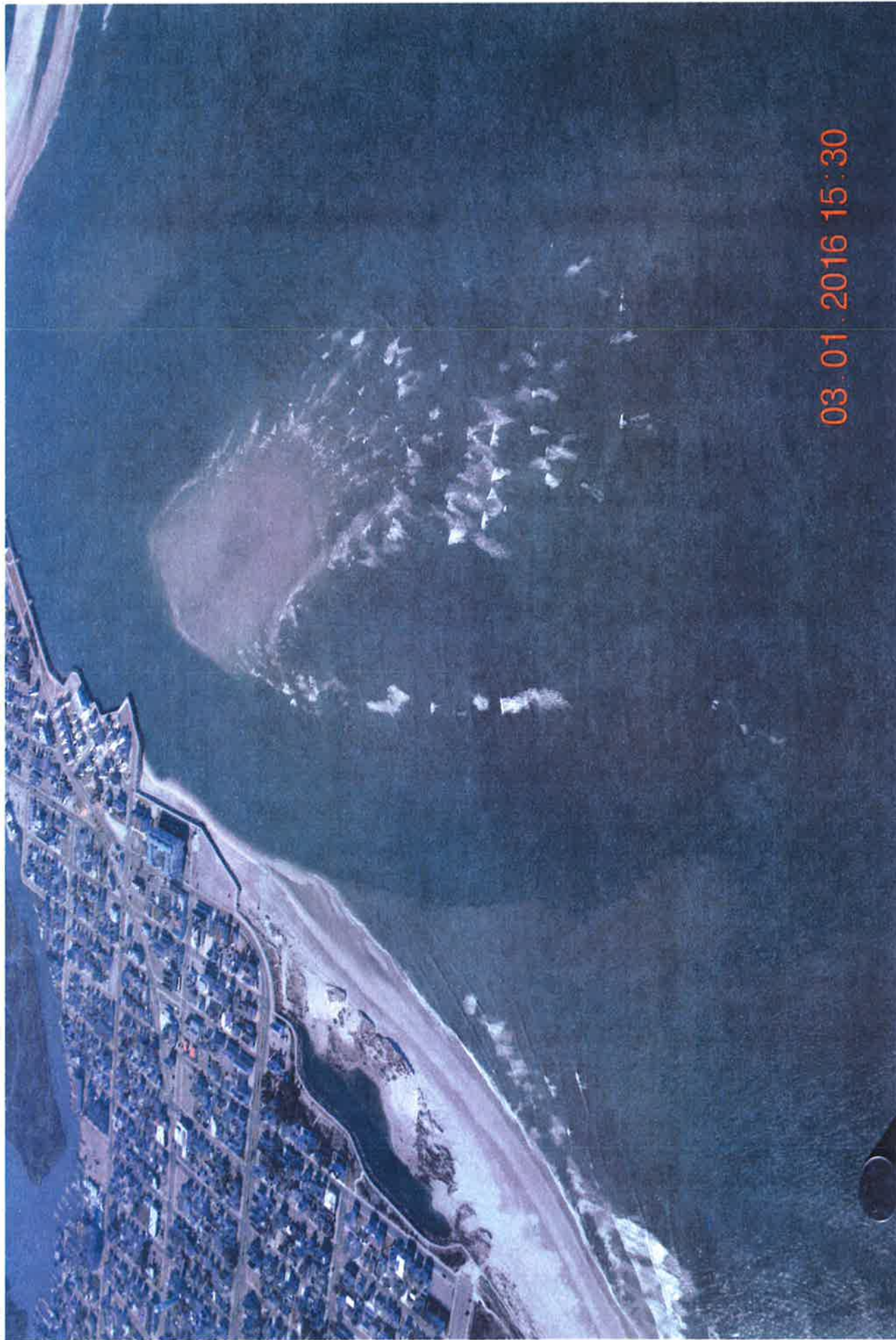
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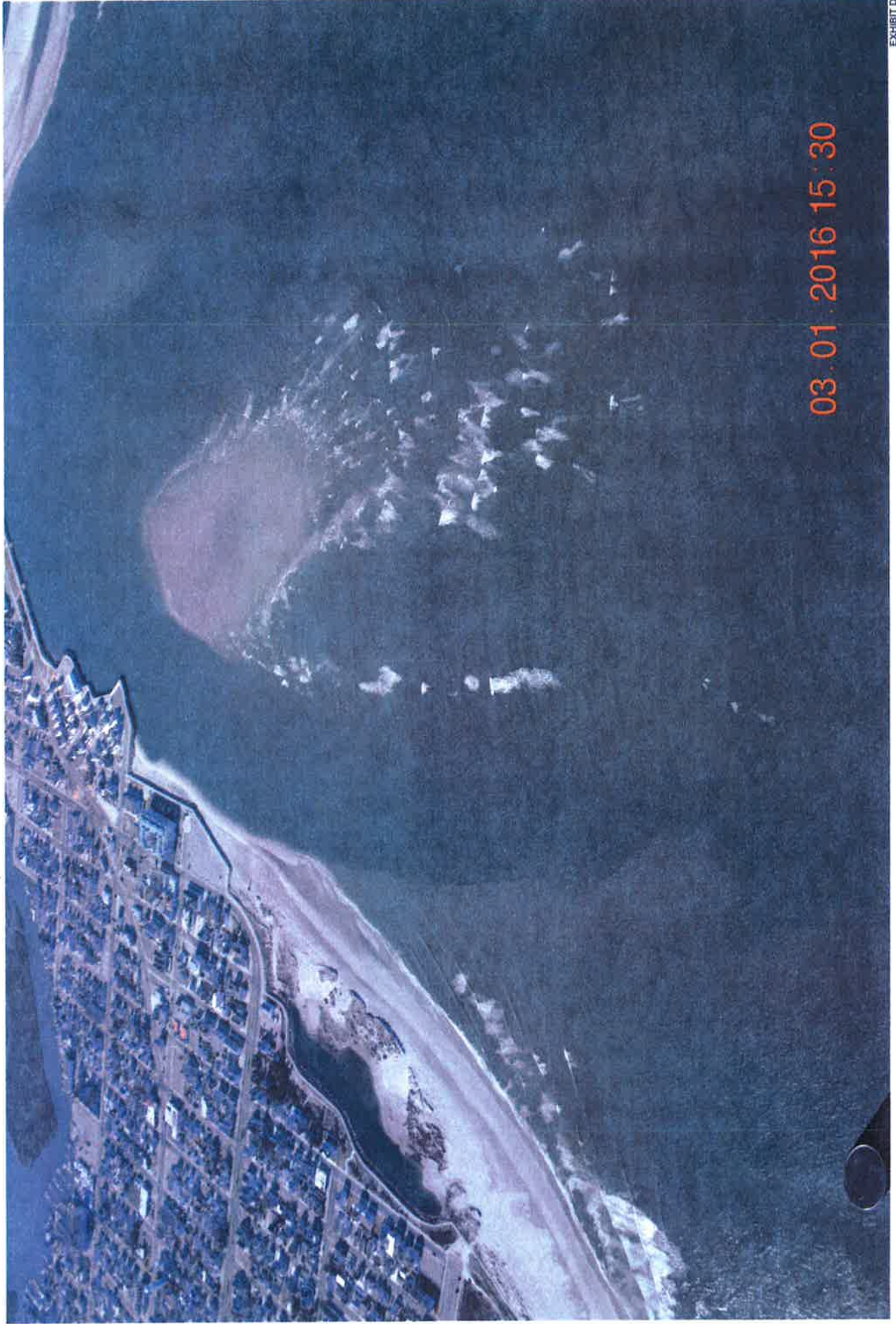
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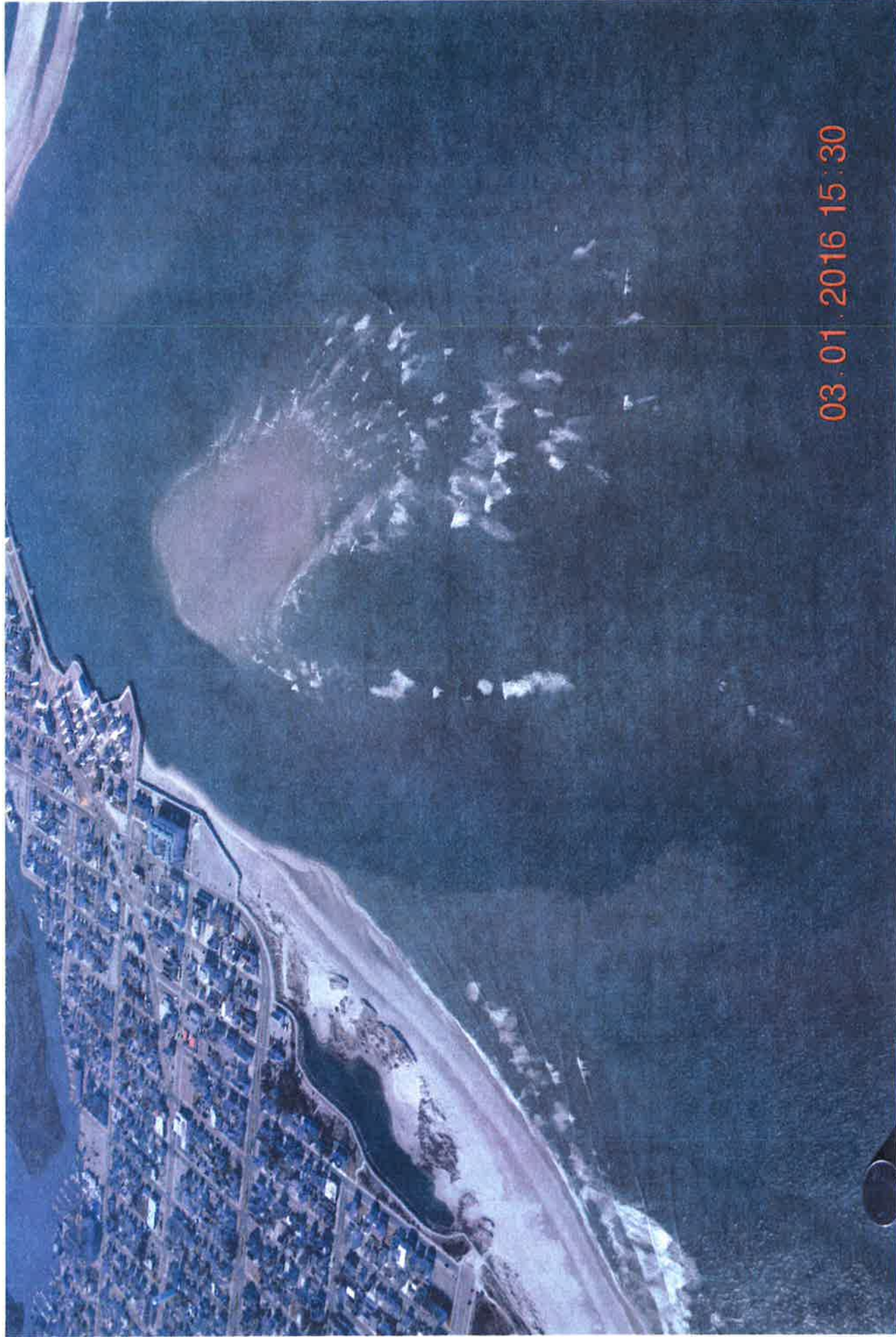
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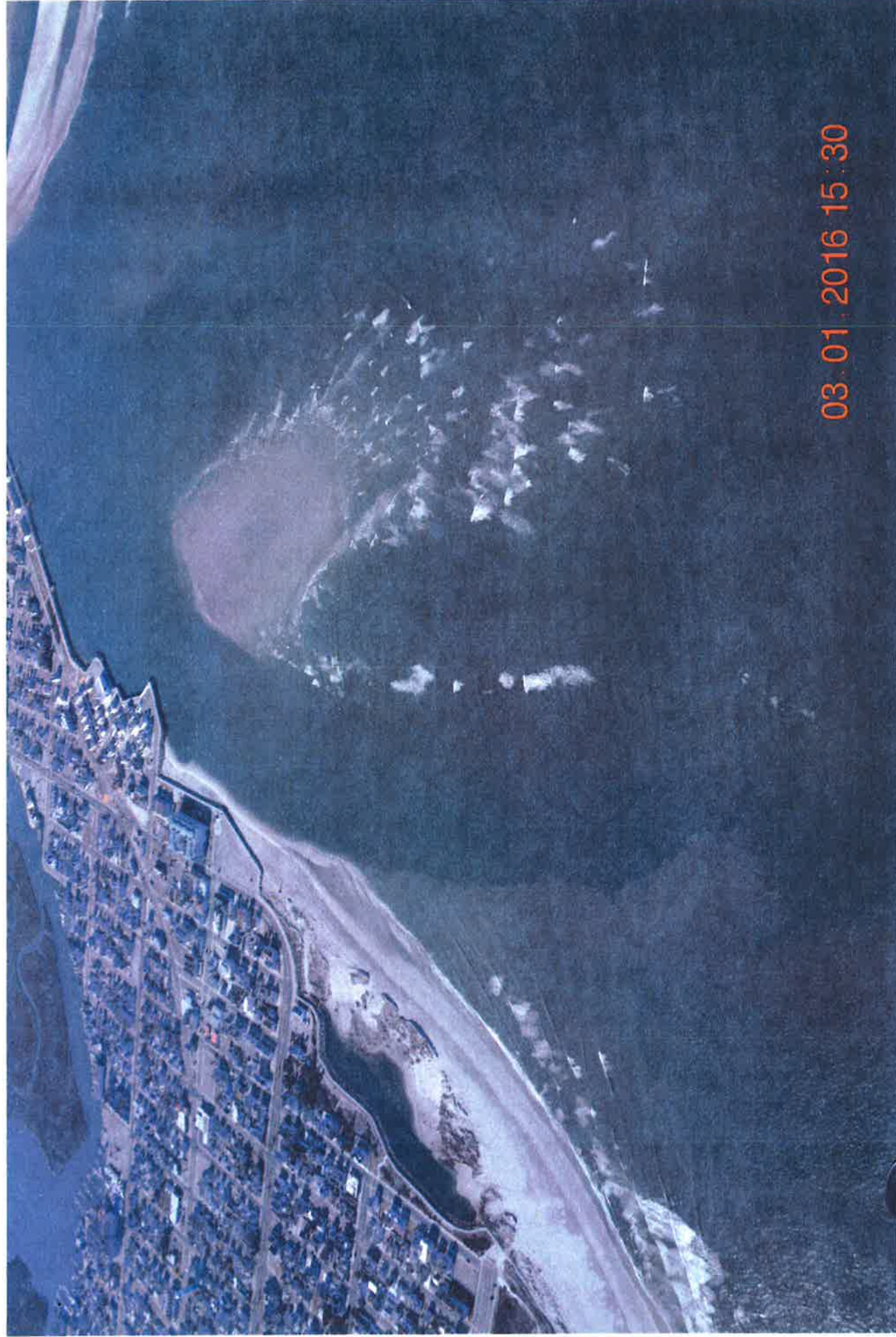
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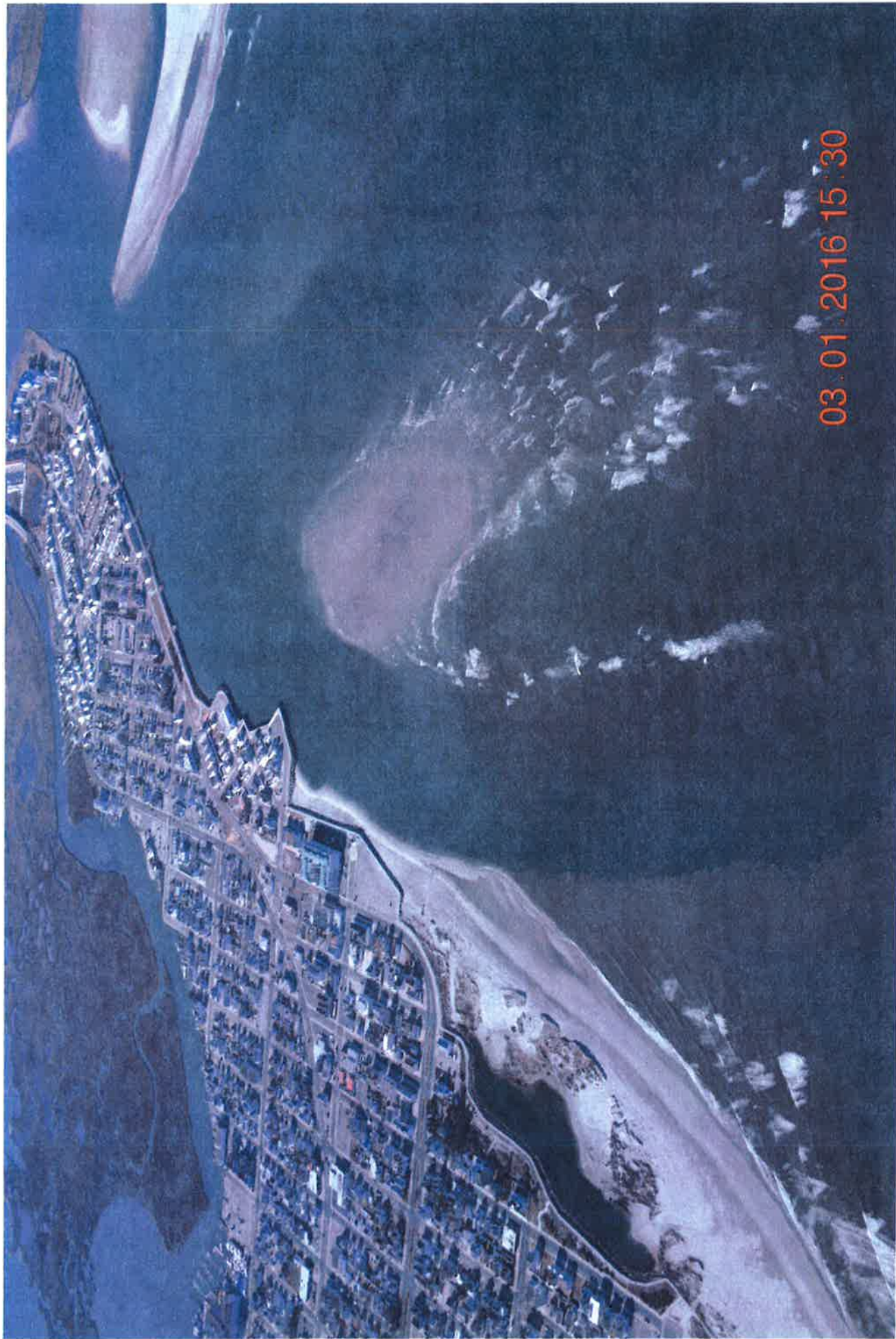
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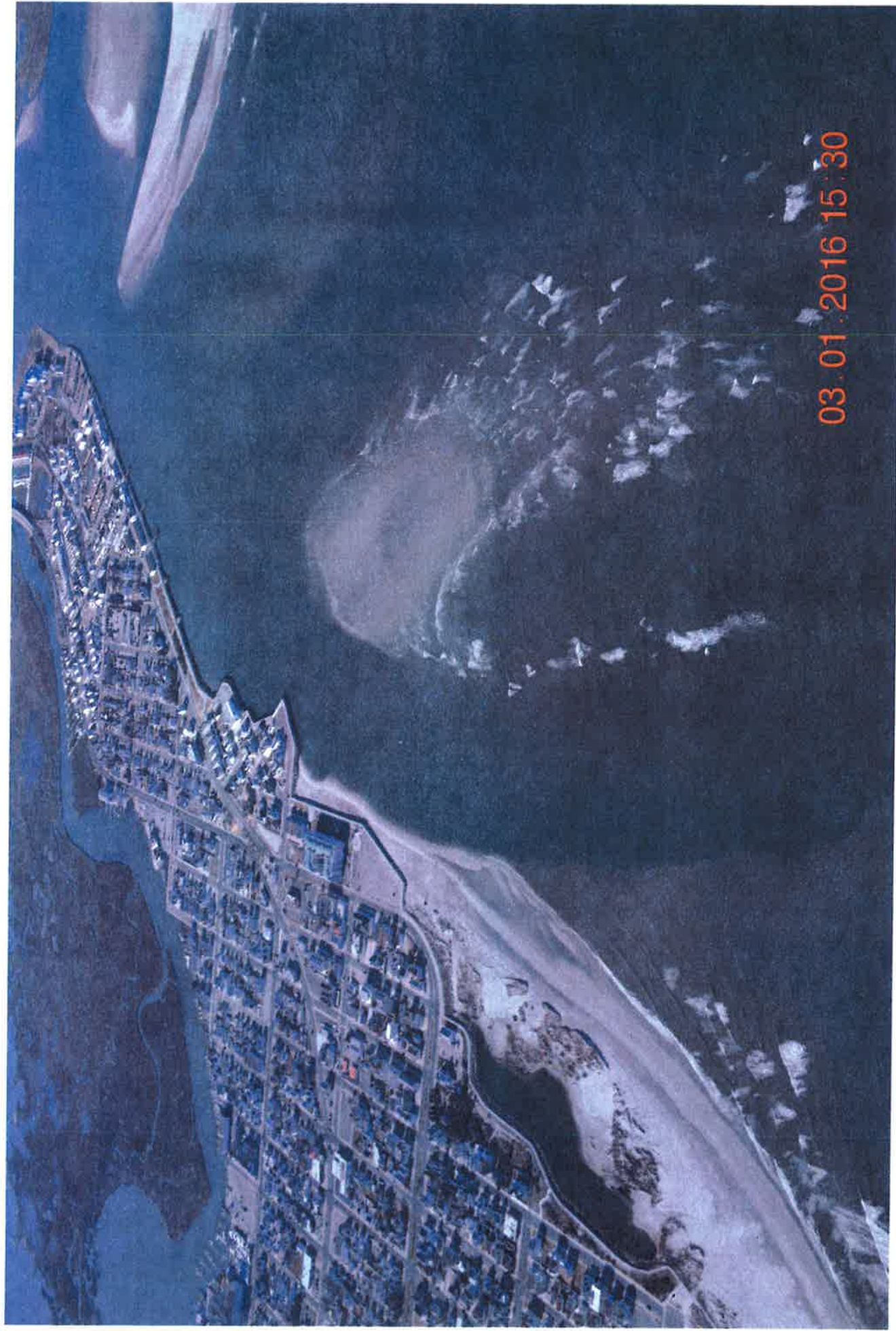
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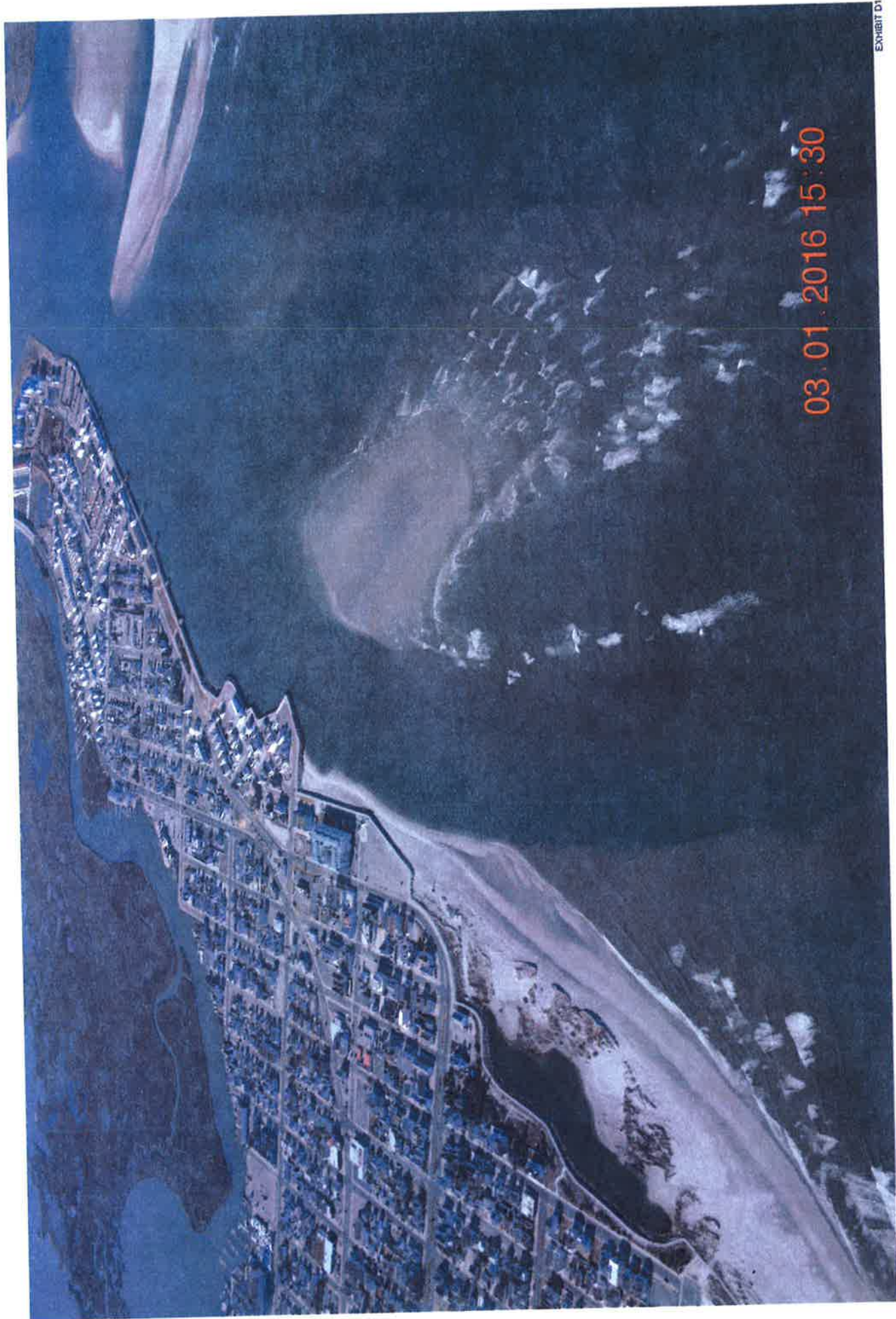
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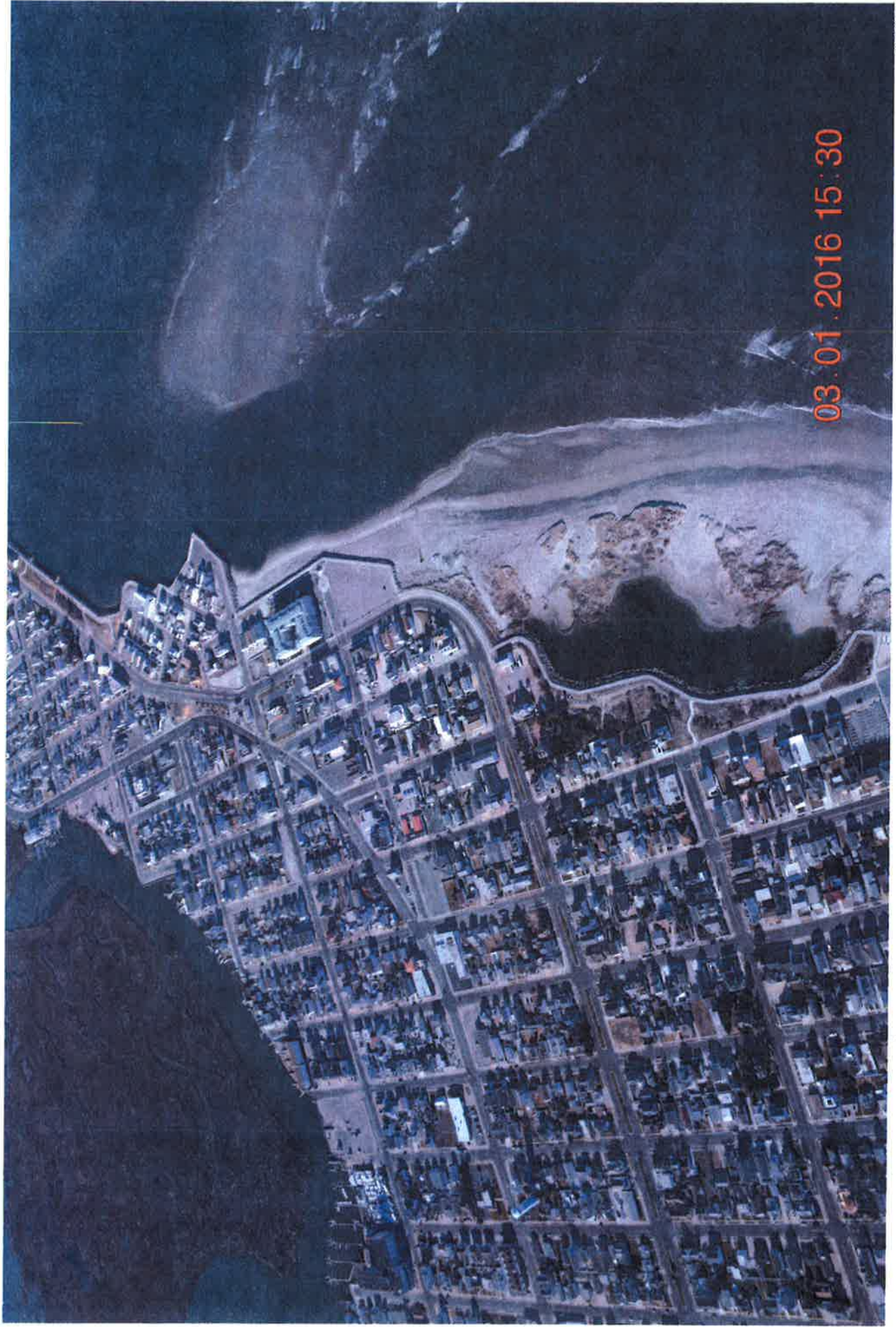
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Photograph #2 illustrates two City of NWW Police Officers patrolling the Inlet Beach on 6-20-2014 and conversing with beachgoers.



Photograph #3 illustrates City of NWW Public Works employees working on the Inlet Beach on 6-20-2014.



WHEREAS, Ordinance #1386, which is codified in the Code of the City of North Wildwood at § 138-31A provides that every year City Council, by way of Resolution approved by the Mayor, shall designate those areas of beach, as defined by § 138-1, which shall be subject to protection by the North Wildwood Beach Patrol; and

WHEREAS, the Chief of North Wildwood Beach Patrol has made written recommendations as to which beaches should be subject to protection by the North Wildwood Beach Patrol; and

WHEREAS, the recommendations of the Beach Patrol Chief have been duly considered as have other factors such as, but not limited to, staffing levels for the 2004 Summer season; and

WHEREAS, the Members of Council have made personal observations of presently existing conditions of the North Wildwood Beach and are familiar with conditions as have existed during recent years;

NOW, THEREFORE, BE IT RESOLVED, by the Members of Council of the City of North Wildwood, in the County of Cape May and State of New Jersey, as follows:

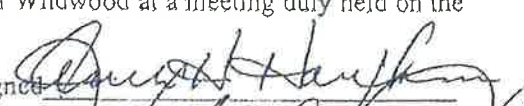
1. All of the allegations of the preamble are incorporated herein by this reference thereto as though the same were set forth at length.
2. Pursuant to § 138-31A of the Code of the City of North Wildwood, the following areas of the North Wildwood Beach be and hereby are designated for the 2004 Summer season as those areas of beach which are subject to protection by the North Wildwood Beach Patrol:
 - South Beach: 25th Avenue; 24th Avenue; 23rd Avenue; 22nd Avenue; 21st Avenue; 19th Avenue
 - Central Beach: 18th Avenue; 16th Avenue; 15th Avenue; 14th Avenue; 13th Avenue; 11th Avenue
 - North Beach: 9th Avenue (surfing beach); 8th Avenue; 7th Avenue; 6th Avenue; 5th Avenue; 3rd Avenue; 2nd Avenue
 - Inlet Beach: 2nd Avenue and John F. Kennedy Beach Drive; 2nd Avenue and Ocean Avenue; 2nd Avenue and Surf Avenue

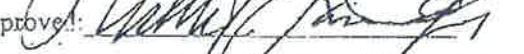
OFFERED BY Rosenello

SECONDED BY Martin

I, Janet H. Harkins, City Clerk of the City of North Wildwood, in the County of Cape May, State of New Jersey, do hereby certify that the foregoing is a correct and true copy of a Resolution adopted by the Mayor and Council of the City of North Wildwood at a meeting duly held on the 20th day of April, 2004.

Dated: April 20, 2004

Signed: 
Janet H. Harkins - City Clerk

Approved: 
Walter J. Larcombe - Council President

| | Aye | Naye | Abstain | Absent | | Aye | Naye | Abstain | Absent |
|-----------|-----|------|---------|--------|-----------|-----|------|---------|--------|
| McCullion | ✓ | | | | Rosenello | ✓ | | | |
| Henfey | | | | ✓ | Martin | ✓ | | | |
| Koehler | ✓ | | | | Larcombe | ✓ | | | |
| Rice | ✓ | | | | | | | | |

WHEREAS, Ordinance #1386, which is codified in the Code of the City of North Wildwood at § 138-31A provides that every year City Council, by way of Resolution approved by the Mayor, shall designate those areas of beach, as defined by § 138-1, which shall be subject to protection by the North Wildwood Beach Patrol; and

WHEREAS, the Chief of North Wildwood Beach Patrol has made written recommendations as to which beaches should be subject to protection by the North Wildwood Beach Patrol; and

WHEREAS, the recommendations of the Beach Patrol Chief have been duly considered as have other factors such as, but not limited to, staffing levels for the 2005 summer season; and

WHEREAS, the Members of Council have made personal observations of presently existing conditions of the North Wildwood Beach and are familiar with conditions as have existed during recent years;

NOW, THEREFORE, BE IT RESOLVED, by the Members of Council of the City of North Wildwood, in the County of Cape May and State of New Jersey, as follows:

1. All of the allegations of the preamble are incorporated herein by this reference thereto as though the same were set forth at length.
2. Pursuant to § 138-31A of the Code of the City of North Wildwood, the following areas of the North Wildwood Beach be and hereby are designated for the 2005 Summer season as those areas of beach which are subject to protection by the North Wildwood Beach Patrol:
 - South Beach: 25th Avenue; 24th Avenue; 23rd Avenue; 22nd Avenue; 21st Avenue; 19th Avenue
 - Central Beach: 18th Avenue; 16th Avenue; 15th Avenue; 14th Avenue; 12th Avenue (Surfing Beach);
 - North Beach: 9th Avenue; 8th Avenue; 7th Avenue; 6th Avenue; 5th Avenue; 3rd Avenue; 2nd Avenue
 - Inlet Beach: 2nd Avenue and John F. Kennedy Beach Drive; 2nd Avenue and Ocean Avenue; 2nd Avenue and Surf Avenue

OFFERED BY DUNCAN

SECONDED BY HENFEY

I, Janet H. Harkins, City Clerk of the City of North Wildwood, in the County of Cape May, State of New Jersey, do hereby certify that the foregoing is a correct and true copy of a Resolution adopted by the Mayor and Council of the City of North Wildwood at a meeting duly held on the 17th day of May, 2005.

Dated: May 17, 2005

Signed

Janet H. Harkins
Janet H. Harkins - City Clerk

Approved:

Aldo A. Palombo R.P.
Aldo A. Palombo, R.P. - Mayor

| | Aye | Naye | Abstain | Absent | | Aye | Naye | Abstain | Absent |
|-----------|-----|------|---------|--------|-----------|-----|------|---------|--------|
| Duncan | ✓ | | | | Henfey | ✓ | | | |
| Rice | ✓ | | | | Larcombe | ✓ | | | |
| Koehler | | | | ✓ | Rosenello | ✓ | | | |
| McCullion | ✓ | | | | | | | | |

WHEREAS, Ordinance #1386, which is codified in the Code of the City of North Wildwood at § 138-31A provides that every year City Council, by way of Resolution approved by the Mayor, shall designate those areas of beach, as defined by § 138-1, which shall be subject to protection by the North Wildwood Beach Patrol; and

WHEREAS, the Chief of North Wildwood Beach Patrol has made written recommendations as to which beaches should be subject to protection by the North Wildwood Beach Patrol; and

WHEREAS, the recommendations of the Beach Patrol Chief have been duly considered as have other factors such as, but not limited to, staffing levels for the 2006 summer season; and

WHEREAS, the Members of Council have made personal observations of presently existing conditions of the North Wildwood Beach and are familiar with conditions as have existed during recent years;

NOW, THEREFORE, BE IT RESOLVED, by the Members of Council of the City of North Wildwood, in the County of Cape May and State of New Jersey, as follows:

1. All of the allegations of the preamble are incorporated herein by this reference thereto as though the same were set forth at length.
2. Pursuant to § 138-31A of the Code of the City of North Wildwood, the following areas of the North Wildwood Beach be and hereby are designated for the 2006 Summer season as those areas of beach which are subject to protection by the North Wildwood Beach Patrol:
 - South Beach: 25th Avenue; 24th Avenue; 22nd Avenue; 21st Avenue; 19th Avenue
 - Central Beach: 18th Avenue; 16th Avenue; 15th Avenue; 14th Avenue; 12th Avenue (Surfing Beach); 11th Avenue.
 - North Beach: 9th Avenue; 8th Avenue; 7th Avenue; 6th Avenue; 5th Avenue; 3rd Avenue; 2nd Avenue
 - Inlet Beach: 2nd Avenue and John F. Kennedy Beach Drive; 2nd Avenue and Ocean Avenue; 2nd Avenue and Surf Avenue
3. Lifeguards on duty from 10:00 AM to 5:30 PM – Weather Permitting

OFFERED BY DUNCAN

SECONDED BY KOEHLER

I, Janet H. Harkins, City Clerk of the City of North Wildwood, in the County of Cape May, State of New Jersey, do hereby certify that the foregoing is a correct and true copy of a Resolution adopted by the Mayor and Council of the City of North Wildwood at a meeting duly held on the 2nd day of May, 2006.

Dated: May 2, 2006

Signed

Janet H. Harkins
Janet H. Harkins, City Clerk

Approved:

William J. Henfey
William J. Henfey, Mayor

| | Aye | Naye | Abstain | Absent | | Aye | Naye | Abstain | Absent |
|-----------|-----|------|---------|--------|-----------|-----|------|---------|--------|
| Duncan | ✓ | | | | Maschio | | | | ✓ |
| Rice | ✓ | | | | Larcombe | ✓ | | | |
| Koehler | ✓ | | | | Rosenello | ✓ | | | |
| McCullion | ✓ | | | | | | | | |

WHEREAS, Ordinance #1386, which is codified in the Code of the City of North Wildwood at § 138-31A provides that every year City Council, by way of Resolution approved by the Mayor, shall designate those areas of beach, as defined by § 138-1, which shall be subject to protection by the North Wildwood Beach Patrol; and

WHEREAS, the Chief of North Wildwood Beach Patrol has made written recommendations as to which beaches should be subject to protection by the North Wildwood Beach Patrol; and

WHEREAS, the recommendations of the Beach Patrol Chief have been duly considered as have other factors such as, but not limited to, staffing levels for the 2007 summer season; and

WHEREAS, the Members of Council have made personal observations of presently existing conditions of the North Wildwood Beach and are familiar with conditions as have existed during recent years;

NOW, THEREFORE, BE IT RESOLVED, by the Members of Council of the City of North Wildwood, in the County of Cape May and State of New Jersey, as follows:

1. All of the allegations of the preamble are incorporated herein by this reference thereto as though the same were set forth at length.
2. Pursuant to § 138-31A of the Code of the City of North Wildwood, the following areas of the North Wildwood Beach be and hereby are designated for the 2007 Summer season as those areas of beach which are subject to protection by the North Wildwood Beach Patrol:
 - South Beach: 25th Avenue; 24th Avenue; 22nd Avenue; 21st Avenue; 19th Avenue
 - Central Beach: 18th Avenue; 16th Avenue; 15th Avenue; 14th Avenue; 12th Avenue (Surfing Beach); 11th Avenue.
 - North Beach: 9th Avenue; 8th Avenue; 7th Avenue; 6th Avenue; 5th Avenue; 3rd Avenue; 2nd Avenue
 - Inlet Beach: 2nd Avenue and Ocean Avenue; 2nd Avenue and Surf AvenueInlet Beach hours from 10:00 AM to 5:00 PM – Weather Permitting
3. Lifeguards on duty from 10:00 AM to 5:30 PM – Weather Permitting

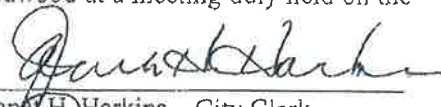
OFFERED BY DUNCAN

SECONDED BY KOEHLER

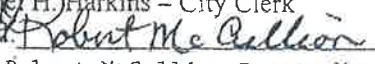
.....
I, Janet H. Harkins, City Clerk of the City of North Wildwood, in the County of Cape May, State of New Jersey, do hereby certify that the foregoing is a correct and true copy of a Resolution adopted by the Mayor and Council of the City of North Wildwood at a meeting duly held on the ____ 1st ____ day of ____ May ____, 2007.

Dated: May 1, 2007

Signed


Janet H. Harkins – City Clerk

Approved


Robert McCullion – Deputy Mayor

| | Aye | Naye | Abstain | Absent | | Aye | Naye | Abstain | Absent |
|-----------|-----|------|---------|--------|-----------|-----|------|---------|--------|
| Duncan | ✓ | | | | Maschio | ✓ | | | |
| Tolomeo | ✓ | | | | Larcombe | ✓ | | | |
| Koehler | ✓ | | | | Rosenello | ✓ | | | |
| McCullion | ✓ | | | | | | | | |

WHEREAS, Ordinance #1386, which is codified in the Code of the City of North Wildwood at § 138-31A provides that every year City Council, by way of Resolution approved by the Mayor, shall designate those areas of beach, as defined by § 138-1, which shall be subject to protection by the North Wildwood Beach Patrol; and

WHEREAS, the Chief of North Wildwood Beach Patrol has made written recommendations as to which beaches should be subject to protection by the North Wildwood Beach Patrol; and

WHEREAS, the recommendations of the Beach Patrol Chief have been duly considered as have other factors such as, but not limited to, staffing levels for the 2008 summer season; and

WHEREAS, the Members of Council have made personal observations of presently existing conditions of the North Wildwood Beach and are familiar with conditions as have existed during recent years;

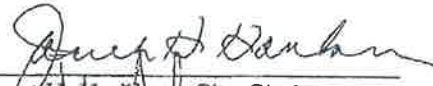
NOW, THEREFORE, BE IT RESOLVED, by the Members of Council of the City of North Wildwood, in the County of Cape May and State of New Jersey, as follows:

1. All of the allegations of the preamble are incorporated herein by this reference thereto as though the same were set forth at length.
2. Pursuant to § 138-31A of the Code of the City of North Wildwood, the following areas of the North Wildwood Beach be and hereby are designated for the 2008 Summer season as those areas of beach which are subject to protection by the North Wildwood Beach Patrol:
 - South Beach: 25th Avenue; 24th Avenue; 22nd Avenue; 21st Avenue; 19th Avenue
 - Central Beach: 18th Avenue; 16th Avenue; 15th Avenue; 14th Avenue; 12th Avenue (Surfing Beach); 11th Avenue.
 - North Beach: 9th Avenue; 8th Avenue; 7th Avenue; 6th Avenue; 5th Avenue; 3rd Avenue; 2nd Avenue
 - Inlet Beach: 2nd Avenue and Ocean Avenue; 2nd Avenue and Surf Avenue
3. Lifeguards on duty from 10:00 AM to 5:30 PM – Weather Permitting

OFFERED BY KOEHLER **SECONDED BY** McCULLION

I, Janet H. Harkins, City Clerk of the City of North Wildwood, in the County of Cape May, State of New Jersey, do hereby certify that the foregoing is a correct and true copy of a Resolution adopted by the Mayor and Council of the City of North Wildwood at a meeting duly held on the 20th day of May, 2008.

Dated: May 20, 2008

Signed 

Janet H. Harkins - City Clerk

Approved: 

William J. Henfey - Mayor

| | Aye | Naye | Abstain | Absent | | Aye | Naye | Abstain | Absent |
|-----------|-------------------------------------|------|---------|--------|-----------|-------------------------------------|------|---------|--------|
| Duncan | <input checked="" type="checkbox"/> | | | | Maschio | <input checked="" type="checkbox"/> | | | |
| Tolomeo | <input checked="" type="checkbox"/> | | | | Ogen | <input checked="" type="checkbox"/> | | | |
| Koehler | <input checked="" type="checkbox"/> | | | | Rosenello | <input checked="" type="checkbox"/> | | | |
| McCullion | <input checked="" type="checkbox"/> | | | | | | | | |

WHEREAS, Ordinance #1386, which is codified in the Code of the City of North Wildwood at § 138-31A provides that every year City Council, by way of Resolution approved by the Mayor, shall designate those areas of beach, as defined by § 138-1, which shall be subject to protection by the North Wildwood Beach Patrol; and

WHEREAS, the Chief of North Wildwood Beach Patrol has made written recommendations as to which beaches should be subject to protection by the North Wildwood Beach Patrol; and

WHEREAS, the recommendations of the Beach Patrol Chief have been duly considered as have other factors such as, but not limited to, staffing levels for the 2008 summer season; and

WHEREAS, the Members of Council have made personal observations of presently existing conditions of the North Wildwood Beach and are familiar with conditions as have existed during recent years;

NOW, THEREFORE, BE IT RESOLVED, by the Members of Council of the City of North Wildwood, in the County of Cape May and State of New Jersey, as follows:

1. All of the allegations of the preamble are incorporated herein by this reference thereto as though the same were set forth at length.
2. Pursuant to § 138-31A of the Code of the City of North Wildwood, the following areas of the North Wildwood Beach be and hereby are designated for the 2009 Summer season as those areas of beach which are subject to protection by the North Wildwood Beach Patrol:
 - South Beach: 25th Avenue; 24th Avenue; 22nd Avenue; 21st Avenue; 19th Avenue
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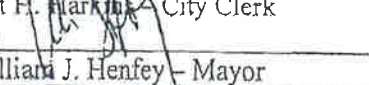
OFFERED BY McCullion

SECONDED BY Duncan

I, Janet H. Harkins, City Clerk of the City of North Wildwood, in the County of Cape May, State of New Jersey, do hereby certify that the foregoing is a correct and true copy of a Resolution adopted by the Mayor and Council of the City of North Wildwood at a meeting duly held on the 5th day of May, 2009.

Dated: May 5, 2009

Signed


Janet H. Harkins - City Clerk
Approved: 
William J. Henfey - Mayor

| | Aye | Naye | Abstain | Absent | | Aye | Naye | Abstain | Absent |
|-----------|-------------------------------------|------|---------|--------|-----------|-------------------------------------|------|---------|--------|
| Duncan | <input checked="" type="checkbox"/> | | | | Maschio | <input checked="" type="checkbox"/> | | | |
| Tolomeo | <input checked="" type="checkbox"/> | | | | Ogen | <input checked="" type="checkbox"/> | | | |
| Kochler | <input checked="" type="checkbox"/> | | | | Rosenello | <input checked="" type="checkbox"/> | | | |
| McCullien | <input checked="" type="checkbox"/> | | | | | | | | |

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WHEREAS, the Chief of North Wildwood Beach Patrol has made written recommendations as to which beaches should be subject to protection by the North Wildwood Beach Patrol; and

WHEREAS, the recommendations of the Beach Patrol Chief have been duly considered as have other factors such as, but not limited to, staffing levels for the 2010 summer season; and

WHEREAS, the Members of Council have made personal observations of presently existing conditions of the North Wildwood Beach and are familiar with conditions as have existed during recent years;

NOW, THEREFORE, BE IT RESOLVED, by the Members of Council of the City of North Wildwood, in the County of Cape May and State of New Jersey, as follows:

1. All of the allegations of the preamble are incorporated herein by this reference thereto as though the same were set forth at length.
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3. Lifeguards on duty from 10:00 AM to 5:30 PM – Weather Permitting

OFFERED BY KOEHLER SECONDED BY McCULLION

I, Janet H. Harkins, City Clerk of the City of North Wildwood, in the County of Cape May, State of New Jersey, do hereby certify that the foregoing is a correct and true copy of a Resolution adopted by the Mayor and Council of the City of North Wildwood at a meeting duly held on the 18th day of May, 2010.

Dated: May 18, 2010

Signed 
Janet H. Harkins – City Clerk

Approved: 
William J. Henley – Mayor

| | Aye | Naye | Abstain | Absent | | Aye | Naye | Abstain | Absent |
|-----------|-----|------|---------|--------|-----------|-----|------|---------|--------|
| Duncan | | | | ✓ | Koehler | ✓ | | | |
| Maschio | | | | ✓ | Ogen | ✓ | | | |
| Tolomeo | ✓ | | | | Rosenello | ✓ | | | |
| McCullion | ✓ | | | | | | | | |

WHEREAS, Ordinance #1386, which is codified in the Code of the City of North Wildwood at § 138-31A provides that every year City Council, by way of Resolution approved by the Mayor, shall designate those areas of beach, as defined by § 138-1, which shall be subject to protection by the North Wildwood Beach Patrol; and

WHEREAS, the Chief of North Wildwood Beach Patrol has made written recommendations as to which beaches should be subject to protection by the North Wildwood Beach Patrol; and

WHEREAS, the recommendations of the Beach Patrol Chief have been duly considered as have other factors such as, but not limited to, staffing levels for the 2011 summer season; and

WHEREAS, the Members of Council have made personal observations of presently existing conditions of the North Wildwood Beach and are familiar with conditions as have existed during recent years;

NOW, THEREFORE, BE IT RESOLVED, by the Members of Council of the City of North Wildwood, in the County of Cape May and State of New Jersey, as follows:

1. All of the allegations of the preamble are incorporated herein by this reference thereto as though the same were set forth at length.
2. Pursuant to § 138-31A of the Code of the City of North Wildwood, the following areas of the North Wildwood Beach be and hereby are designated for the 2010 Summer season as those areas of beach which are subject to protection by the North Wildwood Beach Patrol:
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 - North Beach: 9th Avenue; 8th Avenue; 7th Avenue; 6th Avenue; 5th Avenue
 - Inlet Beach: 2nd Avenue and Ocean Avenue; 2nd Avenue and Surf Avenue
3. Lifeguards on duty from 10:00 AM to 5:30 PM – Weather Permitting

OFFERED BY MCCULLION SECONDED BY KOEHLER

I, Janet H. Harkins, City Clerk of the City of North Wildwood, in the County of Cape May, State of New Jersey, do hereby certify that the foregoing is a correct and true copy of a Resolution adopted by the Mayor and Council of the City of North Wildwood at a meeting duly held on the 17th day of May, 2011.

Dated: May 17, 2011

Signed [Signature]
W. Scott Jett - Deputy City Clerk

Approved: [Signature]
William J. Henfey - Mayor

| | Aye | Naye | Abstain | Absent | | Aye | Naye | Abstain | Absent |
|-----------|-----|------|---------|--------|------------|-----|------|---------|--------|
| Ogen | X | | | | Koehler | X | | | |
| Tolomeo | | | | X | Bishop | X | | | |
| Zampiri | X | | | | Roscenello | X | | | |
| McCullion | X | | | | | | | | |

EXHIBIT

tabbies

Dehorsey-1
5-17-16

FREE Summer

CONCERTS UNDER THE STARS

| DAY | DATE | GROUP |
|----------|-----------|--|
| Saturday | July 2nd | Stan Wades "TRAMMPS" |
| Thursday | July 7th | No Show visit the BBQ Festival |
| Saturday | July 9th | No Show visit the BBQ Festival |
| Thursday | July 14th | Elvis Tribute (Jesse Garron) |
| Saturday | July 16th | Chicago 9 Tribute Band |
| Thursday | July 21st | Jimmy & the Parrots (Jimmy Buffet Tribute) |
| Saturday | July 23rd | Real Diamond (Neil Diamond Tribute) |
| Thursday | July 28th | The Diamonds |
| Saturday | July 30th | The Cameo's |
| Thursday | Aug. 4th | Lights Out (Frankie Valli Tribute) |
| Saturday | Aug. 6th | Wallstreet (Salute to Motown) |
| Thursday | Aug. 11th | George Young & Friends in Concert |
| Saturday | Aug. 13th | Robert Eric's (Billy Joel Tribute) |
| Thursday | Aug. 18th | The "B" Street Band (Bruce Springsteen Tribute) |
| Saturday | Aug. 20th | The Doveils |
| Thursday | Aug. 25th | The Bronx Wanderers |
| Saturday | Aug. 27th | Ladies of "Country" (Sara Spicer, Audra McLaughlin) |
| Saturday | Sept. 3rd | Beatlemania |

ALL CONCERTS WILL BE HELD AT LOW BOOTH AMPHITHEATER (2ND & OCEAN AVE) AND WILL BEGIN AT 8:00 PM. FOR MORE INFORMATION PLEASE CALL 609.532.7722 OR TOLL FREE 1.800.882.7787.
ALL CONCERTS ARE FREE.

North Wildwood New Jersey



2016

INFORMATION & RECREATION GUIDE

northwildwood.com



A Place in the Sun for Family Fun!





CONTENTS

| | |
|---------|--|
| 3 | Important Contact Information |
| 4 | Welcome Letter |
| 5 | North Wildwood City Council |
| 6 & 7 | History of North Wildwood |
| 8 & 9 | Beach & Fishing Information |
| 10 | Wildwoods Boardwalk |
| 11 | Hereford Inlet Lighthouse |
| 12 | North Wildwood City Attractions |
| 13 & 14 | Recreation & Tourism Facilities |
| 15 & 16 | Recreation Programs & Camp Info |
| 17 | 2016 Camp Info |
| 18 & 19 | Directions / Map |
| 20 - 30 | Schedule of Events |
| 31 | Fire, Police & Office of Emergency Management (OEM) |
| 32 | Public Works, Recreation & Tourism Dept., City Clerk & City Administrator |
| 33 | Buildings, Parks & Grounds, Treasurer's & Tax Collector, Municipal Courts |
| 34 | Tax Assessor, Construction, Land Use Board & Beach Patrol |
| 35 | Trash and Recycling Schedule |
| 36 | Concerts Under the Stars |



EMERGENCY PHONE NUMBERS POLICE, FIRE & EMS

9-1-1

NON-EMERGENCY PHONE NUMBERS

POLICE NON-EMERGENCY & Administrative Number
(609) 522-2411

FIRE NON-EMERGENCY & Administrative Number
(609) 522-5743

FOR UPDATED CITY INFORMATION

Website: northwildwood.com

Office of Emergency Management (OEM)

ready.northwildwood.com

Radio 1640 AM



FREQUENTLY CALLED NUMBERS

City Hall (General Info & Departments) 609 522-2030

Public Works Department 609 522-4646

Office of Emergency Management (OEM) 609 522-0191

Beach Patrol 609 522-7500

Recreation Department 609 522-2955

Senior Center 609 729-2090

Tourism & Special Events 609 522-7722

NJSP Marine Bureau 609 522-0393

MEDICAL

Cape Regional Medical Center 609 463-2000

Cape Regional Urgent Care 609 465-6364

Cape Urgent Care 609 884-4357

ANIMAL

Shore Animal Control 800 351-1822

(Call police non-emergency number) 609 522-2411

CMC Animal Shelter 609 465-8923

Marine Mammal Stranding Center 609 266-0538

UTILITY NUMBERS TO BE CALLED FOR OUTAGES

Atlantic City Electric 800-833-7476

Comcast 800-266-2278

Wildwood Water Company 609-889-6735

South Jersey 24-Gas Leak Hotline 888-766-9900

Verizon 800-837-4966





Dear Friend:

North Wildwood City Council and I are pleased to offer you this "Information Guide" containing our city directory of departments and services, calendar of events, history of the town, and a list of various City attractions and facilities.

From our beautiful beaches, to the lively boardwalk and historic Hereford Inlet Lighthouse, we cherish the uniqueness our City has to offer and the quality of life it supports. As Mayor of the City of North Wildwood, I am committed to preserving the hometown charm of our community, and I will continue to make decisions to enhance the quality of life for our residents, property owners and visitors.

Your government, which is always accessible to you, provides forward-thinking and proactive leadership day in and day out. All of our City employees work hard to protect and safeguard our homes, streets, beaches, parks, and recreational facilities in North Wildwood, and this guide will help you to learn more about those employees and municipal departments.

For more information on government meetings, news, schedule of recreational programs, and public announcements, please visit the City of North Wildwood website at northwildwood.com. Our website also offers forms for download such as applications for various licenses, passes, and even provides an option to pay your taxes online. Always remember, if the internet is not for you, we are only just a phone call away at (609)522-2030.

Very Sincerely,
Mayor
Patrick T. Rosenello

A handwritten signature in dark ink, appearing to read "Patrick T. Rosenello".



NORTH WILDWOOD CITY COUNCIL



Salvatore Zampirri

Email: szampirri@northwildwood.com
Council President, Second Ward



Edwin Koehler

Email: edkoehler@northwildwood.com
Council - At - Large



Margaret "Peggy" A. Bishop

Email: pbishop@northwildwood.com
First Ward



David DelConte

Email: ddelconte@northwildwood.com
First Ward



James Kane

Email: jkane@northwildwood.com
First Ward



Kelly Ann Tolomeo

Email: ktolomeo@northwildwood.com
Second Ward



Joseph Rullo

Email: jrullo@northwildwood.com
Second Ward



History of North Wildwood



Located at the north end of Five Mile Beach in Cape May County, the City of North Wildwood was originally formed as the Borough of Angelsea on June 2, 1885. The Hereford Inlet Lighthouse, built in 1874, was the first structure built on the island and soon afterwards fishermen's cottages dotted the vicinity. The name of the municipality was changed to North Wildwood in 1906. In 1917 voters approved a change in the form of government, and the Borough became the City of North Wildwood.

A link to the mainland had come in 1883 in the form of the Angelsea Railroad, which later came into possession of the West Jersey Railroad in 1888. With the Pennsylvania-Reading Seashore Lines merger in 1933, the tracks through North Wildwood were abandoned and New Jersey Avenue right-of-way was sold to the City in 1950. Population of the community increased from 161 in 1900 to a peak of 5,017 in 1990. Although the trains brought many tourists for day trips on the beach and on fishing vessels in Hereford Inlet, a bridge built over Beach Creek was completed in 1924 that allowed families to come in automobiles and enjoy extended stays at any of the increasing number of hotels in the City. The modern, four-lane highway with a new bridge was completed in the 1990s.

The first Boardwalk was built in the 1880s, with boards being laid on both the ocean front (Surf Avenue) and inlet sections of the Beach. The ocean front Boardwalk was moved out further towards the high water mark, and for a number years extended from the border with Wildwood all the way to 2nd Avenue. The current Boardwalk has ended at 16th Avenue since the late 1930s.



History of North Wildwood



Area children attended class in a house on 1st Avenue until a school was built at Chestnut and Central in 1887. In 1908 a new school was built on Central Avenue between 9th and 10th which was closed in 1940 and later became the North Wildwood Recreation Center. The Margaret Mace School on Atlantic Avenue, between 12th and 13th, was built in 1925 as a Junior High School and took in all grades after 1940. This school was named for Dr. Margaret Mace, whose hospital at 25th & Atlantic opened in 1915 and closed in 1950. The Mace Hospital was located in the building formerly owned by Mr. Frederick Sutton, who had perished on the Titanic in 1912. Expansion of residential areas continued towards the ever-widening beach and culminated with the completion of the John F. Kennedy Beach Drive in 1964.

The area which in many of the original hotels stood in the northern part of the City has evolved into a vibrant entertainment district on Olde New Jersey Avenue. This district is the home of a number of special festivals held throughout the year. The beaches and Boardwalk continue to attract thousands of visitors each year, providing fun and activities for all to enjoy. The Hereford Inlet Lighthouse and its award-winning Gardens will be a highlight of anyone's visit to North Wildwood. From fishing on the seawall in the north end to strolling on the beach or Boardwalk at the south end, North Wildwood continues to be a great place to live and that makes it a great place to visit, as it has been since 1885.



BEACH AND FISHING INFORMATION



BEACH INFORMATION

Lifeguards are on duty from 10 am - 5:30 pm weather permitting. Always swim near a lifeguard.

ACCESS TO THE BEACH

· **BEACH:** ADA compliant ramp access at: Inlet Beach (Off the seawall), 7th, 10th, 15th and 20th Avenues.



HANDICAP SURF CHAIRS

Please contact the North Wildwood Beach Patrol at **(609) 522-7500** to check availability, as it is a first come, first served basis. *Note that there is no charge for use of chairs.*

- There are a total of 22 chairs available.
- 15 are located at Beach Patrol Headquarters at 15th Avenue
- 4 are located at 5th Avenue & the beach
- 3 are located on Inlet Beach

ACCESSIBLE RESTROOMS

Public restrooms are located at 7th & 15th Avenues at the beach. During the summer months there are also portable restrooms stationed every other block along the beach.

SURFING BEACH

Our surfing beach will be designated annually by the city; please contact the beach patrol for more information. (609) 522-7500

PARKING

- Available parking along JFK, Surf, Ocean, Atlantic, Central, New Jersey and New York Avenues
- Municipal Parking Lots are available at 15th Avenue & the beach and 1st & Surf Avenues



BEACH AND FISHING INFORMATION

SURF FISHING SUMMER SCHEDULE

(May 21st, 2016 – September 18th, 2016)

Surf Fishing is permitted North of the 2nd Avenue Jetty while lifeguards are on duty (between the hours of 10am– 5:30 pm).

Surf fishing is permitted from Hereford Inlet – 26th Avenues any time before 10am or after 5:30pm, **when lifeguards are no longer on-duty.**

SURF FISHING WINTER SCHEDULE

(September 19th, 2016 – May 20th, 2017)

Surf fishing permitted 1st – 26th Avenues, curfew hours varie according to season. For hours and restrictions, please visit northwildwood.com for forms and registration information.

BEACH VEHICLE PERMITS

Permit: Police inspection required; Please visit the link referenced above for more information.

Fee \$20

Access available the Day after Labor Day to Monday before Memorial Day.

NORTH WILDWOOD FISHING

North Wildwood is a great locatlon for Back Bay saltwater fishing because of its close proximity to the Atlantic Ocean. Anglers can have their try at catching Flounder, Bluefish, Striped Bass, Sea Bass, Drum, Weakfish, and other species throughout designated fishing seasons. North Wildwood's Back Bay allows beginners as well as experienced anglers to navigate through beautiful scenic intracoastal waterways in search of that perfect catch. In the State of New Jersey, fishermen over the age of 16 are required to register with the Saltwater Recreational Registry Program. Fish caught must meet Recreational Minimum Size, Possession Limits & Season Standards. For further registration information and regulation requirements visit state.nj.us/dep/fgw/fishing.htm.



Wildwoods Boardwalk



The Wildwoods' award-winning Boardwalk features 38 blocks packed end to end with stores, shops, water parks, eateries, live entertainment and amusement piers with over 100 rides and attractions. The sights, sounds and smells of the Wildwoods Boardwalk are pure sensory overload! North Wildwood specifically offers 3 piers: Sportland Pier, Seaport Pier and Morey's Pier - located at 26th Ave. & the boardwalk, various shops, arcades, restaurants and several ocean view hotel/motel accommodations adjacent to the boardwalk. Are your legs getting tired from walking the boards? Don't worry! Wildwoods' boardwalk offers tram car services the entire length of the boardwalk, and can be boarded at any location. Whether you're out on a morning bike ride, taking in the carnival-like atmosphere or simply out for a stroll enjoying the refreshing salt air, there's always something happening on the boardwalk.

Ramp Access: Accessible ADA compliant ramps from street at: 15th Avenue, 16th Avenue, 17th Avenue, 18th Avenue, 19th Avenue, 24th Avenue, and 26th Avenue

Parking: Is available along JFK, Surf, Ocean, Central, Atlantic, New Jersey and New York Avenues. A parking lot is also available at 15th Avenue & the beach, right next to the boardwalk archway at 16th & the boardwalk.

Bicycles: Bicycles are allowed on the Boardwalk from 5 am to 12 pm daily. The Boardwalk stretches 1.85 miles north to a connecting ramp between 16th and 15th Avenues in North Wildwood. From there, cyclists can continue along a path on the beach along JFK Beach in North Wildwood. (See Map pg.18) A special "bikes only" lane is also dedicated throughout the length of North Wildwood, from 1st to 26th Avenues along Surf Avenue.



Accessible Restrooms: 2 Public restrooms at 22nd Avenue and the boardwalk & 25th Avenue and the boardwalk

Historic Hereford Inlet Lighthouse "Victorian Lighthouse"



Hereford Inlet Lighthouse, built in 1874, is the most important historic structure in the Wildwoods. It is still an active navigational aid as well as a museum, open to the public for guided and self guided tours. Visitors learn about the buildings history and get a glimpse of the life of a lighthouse keeper in the late 19th and early 20th century.

The park surrounding the lighthouse was designed with many different garden areas containing over 200 plant varieties. The Gardens are planted in the Victorian cottage style and extend right up to the ocean seawall. They have won several impressive awards and have been featured in many gardening books and magazines. The gardens and grounds are wheelchair accessible. A DVD tour is available upon request to those unable to climb the Lighthouse.

We welcome and can accommodate school trips, senior citizen groups and all other tour buses. Special rates are available for groups of 30 or more.

The Lighthouse also has a gift shop featuring lighthouse and nautical theme art work, books, miniatures, shirts, hats, mugs and much more. See separate listing for special events held here throughout the year.

LIGHTHOUSE ADMISSION FEES

Adults 12 yrs & up - \$5.00 • 11 and under - \$2.00

No charge for active military personnel

No charge to visit the gardens or to browse the gift shop

DAYS AND HOURS OF OPERATION

May 9th - Oct. 21st seven days per week, 9am to 5pm - last tour 4pm

Oct. 22nd to May 8th - call for days and hours

111 North Central Avenue, North Wildwood NJ 08260

609-522-4520 • HEREFORDLIGHTHOUSE.ORG

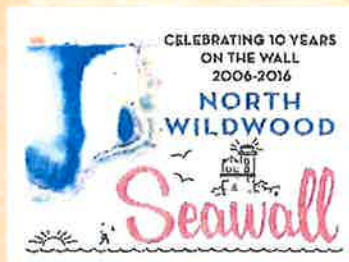


North Wildwood City Attractions



Veterans Monument

North Wildwood Veterans Monument is located at the corner of Spruce and New York Avenues in North Wildwood. There, visitors can honor those who have fallen in the line of duty and pray for those currently fighting overseas.



North Wildwood Seawall

The seawall was completed in 2006 and has not only protected the North end of the City during hurricanes and Nor'easters, but also functions as a walking and jogging facility, a popular fishing spot, and a place where residents and visitors can enjoy the wonderful views of Hereford Inlet. Since its completion, the City has added more access ramps and widened one section to make it safer. Due to safety concerns, no self-propelled devices, such as bicycles, skateboards, rollerskates, and the like, are permitted on the seawall. Beginning at 2nd & John F. Kennedy Beach Drive, the seawall runs in a northwesterly direction for 1.1 miles to the Anglesea Beach Colony. The seawall is known far and wide as a great place to exercise, fish or just relax, all year-round.



NORTH WILDWOOD RECREATION & TOURISM FACILITIES

Recreation Department Phone 609-522-2955



NORTH WILDWOOD COMMUNITY CENTER

Location: 900 Central Avenue

Amenities:

- Gymnasium
- Fitness Room
- Locker Rooms
- Meeting Rooms
- Game Room
- Kitchen
- Multipurpose Room
- Weight Room
- Offices

TOURISM INFORMATION OFFICE

Phone: 609-522-7722 or **Toll Free:** 800-882-7787

Location: 22nd & Boardwalk - Open May Thru September

Call for Specific Hours (609-522-7722)

Location: 900 Central Avenue - Open Year Round

PARK LOCATIONS & AMENITIES



ALBERT I. ALLEN MEMORIAL PARK

**Renovated in 2015 & 2016*

Location: 2200 Delaware Avenue

Amenities:

- Playground Equipment
- Shuffleboard Courts
- 6 Lighted Basketball Courts
- Lighted Street/Roller Hockey Rink
- Multipurpose Athletic Field
- Observation Pier
- 3 Tennis Courts
- 2 Private Practice Tennis Wall Areas
- Skate Park
- Restrooms
- Gazebo
- Picnic Areas



NORTH WILDWOOD RECREATION & TOURISM FACILITIES

DAYFRONT PARK

Location: 5th Avenue and the Bay

Personal Watercraft Seasonal Launch Fees

\$10.00 Per Launch at Kiosk

\$100.00 Yearly Permit Purchased Up To June 1st

\$150.00 Yearly Permit Purchased After June 1st

KAYAK STORAGE PERMITS

Seasonal Permit (April 1st - October 1st) Cost: \$75

Monthly Permit Cost: \$35

***Personal Watercraft and Kayak Storage Permits are sold at
the North Wildwood Recreation Center***

Location: 900 Central Avenue

Phone: 609-522-2955 for more info.

AMENITIES

| | |
|----------------|-----------------------|
| 2 Launch Ramps | Viewing Areas |
| Picnic Areas | Vending Machines |
| Restrooms | Fish Cleaning Station |



BILL HENFEY PARK

Location: 8th and Central Avenues

AMENITIES

| | |
|-----------------------------|----------------------|
| Softball Field | Playground Equipment |
| Basketball Court | Restrooms |
| Multipurpose Athletic Field | Gazebo |

OAK AVENUE PARK

Location: Oak Avenue (Anglesea Section in N. Wildwood)

PLAYGROUND ON THE BEACH

Location: 16th and the Beach in North Wildwood



RECREATION PROGRAMS

OPEN RECREATION

Children in grades 1st-6th, 7th-12th, and Adults

All participants must be registered and receive a membership card before attending the program.

Please check northwildwood.com Recreation Department monthly calendars for schedule times.

TOT TIME

Tuesdays & Thursdays 10:00am -- 12:00pm

October through April.

Parent supervised playgroup for children up to 5 yrs.

Held at North Wildwood Recreation Center.

EXERCISE CLASSES

A variety of fitness classes are offered throughout the year.

Please call Recreation Center for class schedule.

Fall/Winter/Spring classes are held at Recreation Center.

Location: 900 Central Avenue.

Summer Classes are held at the Lou Booth Amphitheater.

Location: 2nd & Ocean Avenue.

Visit northwildwood.com or call 609-522-2955

for class schedule.

SCRABBLE

Mondays 6:30-9:00pm

Play the world's best loved word game Open to **Adults only**.

No Fee

S C R A B B L E

FALL MEN'S FLAG FOOTBALL LEAGUE

League begins in October and plays on Sunday mornings.

Location: Bill Henfey Park.

Mandatory Captain's Meeting

Date: August 17th @ 6pm Team Registration Only

Cost Per Team \$1,200



RECREATION PROGRAMS & CAMPS

SUMMER BASKETBALL LEAGUES

Kindergarten - 2nd Grade League Plays Thurs. Evenings

Scheduled to begin 7/14

3rd-5th Grade League - Plays Mon. & Fri. Evenings

Scheduled to begin 7/1

6th-8th Grade League - Plays Mon. & Fri. Evenings

Scheduled to begin 7/1

High School Boys League - Plays Tues. & Thurs. Evenings

Scheduled to begin 7/5

Player Skill Evaluations will be held June 27th & 28th

Cost Per Player is \$30

Adult Men's League - Plays Sun. & Wed. Evenings

Mandatory Captains Meeting Date: June 8th @ 6pm

Team Registration Only, Must provide own sponsor

Cost Per Team \$800

FALL STREET AND ROLLER HOCKEY LEAGUES

North Wildwood Whalers Hockey Divisions

2nd-4th Grades · 5th-8th Grades · High School

Location: George D'Amico Hockey Rink · **Cost Per Player is \$60**

Registration opens in August

BUCKETS BASKETBALL CLINIC

Begins Saturday, January 7th, 2017

Boys and Girls Grades Kindergarten-2nd

Saturday Mornings 9am-10am; 6 sessions

Cost \$10.00 for all 6 sessions

Location: 900 Central Avenue, North Wildwood



2016 CAMPS



For Camp Information

Contact the Recreation Department

Phone: 609-522-2955 · **NORTHWILDWOOD.COM**

PLAY-WELL TECHNOLOGIES

***NEW 2016 - 2 Sessions Being Offered!**

Lego Inspired Engineering Camp for Children

June 27th - July 1st & August 8th - 12th

Cost \$145 per person / Ages 5-6 / 9am - 12pm

Cost \$145 per person / Ages 7-11 / 1pm - 4pm



2016 CAMP INFORMATION

BUCKETS BASKETBALL CAMP



July 4th-8th
9am-2pm
Ages 9-15

July 18th-22nd
9am-1pm
Ages 6-9

August 1st-5th
9am-2pm
Ages 9-15

Weeks 1 & 3: \$155 * Week 2: \$145

NORTH WILDWOOD SOCCER CAMP

July 11th-15th * July 25th-29th
Ages 5-16

Full Day \$190 / Ages 8-16 / 9am-3pm

Half Day \$150 / Ages 5-8 / 9am-12pm

DEAN RANDAZZO SURF SCHOOL

2nd Avenue Beach

Monday through Friday (Begins June 20th)

10am-1pm / Ages 5-16

5 Day Camp \$350 3 Day Camp \$250 1 Day Camp \$100

Group Lessons: \$60, 75 minutes

Private Lessons: \$75, 75 minutes

KITCHEN WIZARDS COOKING CAMP

July 11th-14th

Eat Like the Olympians

July 25th - 28th

Cupcake, Cookies, Candy Oh My

August 8th - 11th

Eat Like the Presidents

Cost \$155 / Boys & Girls Ages 6 & Up / 5:30pm-7:30pm

SCIENCE EXPLORERS

August 15th - August 19th

Junior Explorers / Ages 4-6 / 9am-12pm

Take a Dive / Ages 7-11 / 12:30pm-3:30pm

Cost \$245 per session



- | | |
|---------------------------|---------------|
| INFORMATION CENTER | BEACH PATROL |
| VETERANS MONUMENT | SURF BEACHES |
| SCENIC OVERLOOKS | BOAT RAMP |
| CONCERT VENUES | FIRE HOUSE |
| PUBLIC RESTROOMS | MARINE POLICE |
| PUBLIC PARKING | PUBLIC WORKS |
| POLICE STATIONS | DOG PARK |
| HEREFORD INLET LIGHTHOUSE | SEA WALL |
| HANDICAPPED BEACH ACCESS | BIKE PATH |
| TRASH & RECYCLING CENTER | |
| RECREATIONAL FACILITIES | |
| ENTERTAINMENT DISTRICT | |



2016 SCHEDULE of EVENTS

FEBRUARY

25th **Fallen Hero Polar Plunge** **2017 Upcoming Event*

Location: 15th & Beach, North Wildwood; 11am
fallenheroplunge.com | 215-990-8689

MARCH

12th **St. Patrick's Day Celebration & Parade**

Location: 10th & Atlantic Avenues (City Hall steps),
North Wildwood, Ceremony 11:30am; Parade 12noon
northwildwood.com | 609-522-2955



(Photo by George Capua)

19th **Greek Independence Day Celebration**

Location: 9th & Central Avenues, North Wildwood; 12noon
609-602-0056

20th **Ocean Drive Marathon and 10 Mile Race**

Location: Cape May to Sea Isle City;
10-Miler: Cape May to North Wildwood; 9am Start
odmarathon.org | 609-523-0880

26th **Elks Easter Egg Hunt**

Location: 19th Ave & Beach, North Wildwood;
Kids 11& Under; 12noon
elks1896.org | 609-729-5776

27th **Easter "Son" Rise Services**

Location: Lighthouse Gazebo, 1st & Central Avenue,
North Wildwood; 6:45am
fbcanglesea.com | 609-522-2951

27th **Ed's Funcade Easter Sunday Egg Hunt**

Location: 23rd Avenue on the Boardwalk, North Wildwood;
12noon-1:30pm | edsfuncade.com | 609-729-3223



2016 SCHEDULE of EVENTS Cont'd.

APRIL

9th - 10th Special Olympics NJ Spring Sports Festival Basketball Competition

Location: 9th & Central Avenues, North Wildwood and various locations in the Wildwoods, Sat. 10am-6pm; Sun. 9am-4pm | sonj.org | 609-896-8000

23rd Chrissy Tolomeo Memorial Walk

Location: Start at 15th & Beach, North Wildwood; Sign-In 9am, Start 10am | 609-602-3456

MAY

5th - 8th Spring Boardwalk Classic Car Show

Location: various locations, Thurs. 12-9pm, Fri. & Sat 8:30am-3pm, Sun. 9-11am
wildwoodmotorevents.com | 609-522-3644

6th - 8th Coast Guard Community Festival

Location: Saturday Festival at Training Center Cape May;
other events listed on website
coastguardcommunity.org | 609-429-0667

14th-15th The Wild Half Race Series 1/2 Marathon 8K & 5K

Location: Wildwoods Convention Center,
wildhalf.com | 609-846-1621

14th Captain Kidd Pirate Day Costume Parade check-in & judging 10am - 10:45 am at 26th & Boardwalk; Parade 11am
Treasure Hunt following parade at 19th & Beach, North Wildwood | northwildwood.com | 609-522-2955



(Photo by Nicole Dever)



2016 SCHEDULE of EVENTS Cont'd.

MAY

20th - 22nd Spring Beach Jam Scouting Adventure

Location: Beach camping between 18th & 22nd Aves., North Wildwood plus amusements on Morey's Piers;
Friday 10am - Sunday - 5pm
moreyspiers.com | 609-729-3700 ext.1195

21st - 22nd National MS Society "Coast to Coast" Bike Tour

Location: Bike tour throughout the Wildwoods | 732-660-1005
main.nationalmssociety.org

30th VFW Memorial Day Ceremony

Location: North Wildwood Veterans Memorial,
Spruce & New York Avenues, North Wildwood 10am
northwildwood.com | 609-729-5832

JUNE

4th New Jersey State Elks Parade

Location: 25th & Atlantic Avenues, North Wildwood, proceeds
South on Atlantic Avenue to Andrews Avenue in Wildwood;
12noon; Reviewing Stand - Memory Lane, Atlantic & Montgomery
Avenues in Wildwood | njelks.org | 609-585-3215

NEW EVENT

10th-11th New Years In North Wildwood *(Rain date - June 12th)*

Top Philly Mummers Brigades and String Bands recreate New Years
Day with a Parade and festivities

Location: Olde New Jersey Avenue, North Wildwood,
northwildwood.com | 609-522-2955

11th American Legion Parade

Location: 18th & Atlantic Avenues, North Wildwood, proceeds
South on Atlantic Avenue to Bennett Avenue in Wildwood; 2:00pm;
Reviewing Stand - American Legion Post 184, Atlantic & Baker
Avenues, Wildwood njamericanlegion.org | 609-695-5418

14th American Flag Day Ceremony

Location: North Wildwood Veterans Monument, Spruce & New
York Avenues, North Wildwood, 10am | 609-729-5832

18th ALS Express Bike Ride

Location: 4 start points, 7am-3pm | als-express.org | 215-643-5434



2016 SCHEDULE of EVENTS Cont'd.

JUNE

18th-19th Hereford Inlet Lighthouse Maritime Festival

Location: Hereford Inlet Lighthouse, 1st & Central Avenues, North Wildwood, Sat. 10am-5pm; Sun. 10am-4pm
herefordlighthousefestivals.org | 609-522-4520

18th NJ Veterans of Foreign Wars Parade

Location: 21st & Atlantic Avenues, North Wildwood, proceeds south on Atlantic Avenue to Andrews Avenue in Wildwood; 1:30pm; Reviewing Stand - American Legion Post 184, Atlantic & Baker Avenues, Wildwood | njvfw.com | 609-393-1929

24th-26th North Wildwood Italian American Festival

Location: Olde New Jersey Avenue, North Wildwood, Fri. 4pm-11pm; Sat. 10am-11pm, Sun. 10am - 6pm
kofc2572.org. | 609-408-5793



(Photo by Ann Devlin)

JULY

4th Independence Day Family Parade

Location: 9th & Atlantic Avenues, North Wildwood
Registration 8:15am, 9am start | northwildwood.com | 609-522-2955

4th Pooch Parade

Location: 8th & Atlantic Avenues, North Wildwood
Registration 8:15am, 9am start | northwildwood.com | 609-374-0562



2016 SCHEDULE of EVENTS Cont'd.

JULY

8th - 10th NJ State BBQ Championship & Anglesea Blues Festival

Location: Olde New Jersey Avenue, North Wildwood,
Fri. 4pm - 11pm; Sat. 10 am - 11pm; Sun. 10am - 6pm
angleseablues.com | njbbq.com | 609-523-6565

9th Sidewalk Chalk Competition

Location: 8th & Central Avenues, North Wildwood, Competition
begins at 9am; Judging begins at 10:45am; Awards 11am
northwildwood.com | 609-522-2955



(Photo by Ann Devlin)

9th Alexander's Little Run That Could 5k Run/Walk

Location: 15th Avenue Beach, North Wildwood,
Pre Registration: 8am; 5k Beach Run/Walk: 8:30am
littlerunthatcould.org

13th - 14th Miss North Wildwood Competition

Interviews Wed 10am - North End American Grill;
Crowning Thurs. 6:30pm - Lou Booth Amphitheater
Location: 2nd & Ocean Avenues, North Wildwood
northwildwood.com | 609-522-2955

15th Beschen-Callahan Memorial Lifeguard Races

Location: 15th Avenue Beach, North Wildwood, 6pm
northwildwood.com | 609-522-7500

16th Boogie Board Races

Location: 15th Avenue Beach, North Wildwood
Registration 9am; Contest 10am
northwildwood.com | 609-522-2955



2016 SCHEDULE of EVENTS Cont'd.

JULY

16th Mid Atlantic Police/Fire Survivors 5k Race & 1 Mile Walk

Location: 1st & Olde New Jersey Avenue, North Wildwood,

Registration 7:45am; Race 9am

facebook.com/NorthWildwoodPD | 609-522-2030 X 1503



21st Anglesea Nightmarket and Mobile Food Night

Location: Olde New Jersey Avenue, North Wildwood 4pm - 9pm

angleseanightmarket.com | 609-318-4504

23rd Christmas in July

Location: Along the beach in North Wildwood, 1pm

northwildwood.com | 609-522-7500

23rd Antique Car Show

Location: between 16th - 26th Avenues on the boardwalk,

North Wildwood, 10:30am-3pm | 609-522-6442

AUGUST

2nd National Night Out

Location: Bill Hentley Park, 8th & Central Avenues,

North Wildwood, 5:30pm-10pm

nwpd.org | 609-522-2030 X 1503



2016 SCHEDULE of EVENTS Cont'd.

AUGUST

3rd Wildwoods Baby Parade (Rain Date – August 4th)

Location: WW Convention Center to 16th Ave. on Boardwalk,
5pm Registration; 6pm Parade Step-off
wildwoodsnj.com | 609-729-4000

7th National Lighthouse Day

Location: Hereford Inlet Lighthouse, 1st & Central Avenues,
North Wildwood, 9am-5pm
herefordlighthouse.org | 609-522-4520

14th 42nd Annual North Wildwood Flea Market

Location: JFK Blvd. from 2nd-13th Avenues, North Wildwood,
8am-4pm | 609-408-6819

16th Around the Island Row

Location: 15th Avenue Beach, North Wildwood, 7:30am
northwildwood.com | 609-522-7500

NEW EVENT

18th Anglesea Nightmarket and Mobile Food Night

Location: Old New Jersey Avenue, North Wildwood 4pm - 9pm
angleseanightmarket.com | 609-318-4504

26th 13th Annual Tri the Wildwoods Triathlon Health & Wellness Expo

Location: North Wildwood Recreation Center, 900 Central
Avenue, North Wildwood, 10am-6pm
delmosports.com/wildwood-jersey-shore-triathlon
609-849-8908

27th 13th Annual Tri the Wildwoods Triathlon, 5K & Kids Race

Location: 15th Avenue Beach, North Wildwood, 6:30am
delmosports.com/wildwood-jersey-shore-triathlon | 609-849-8908

SEPTEMBER

NEW EVENT

9th-10th Waves and Wheels Festival

Location: Old New Jersey Avenue, North Wildwood
Fri. 3pm-10pm; Sat. 10am-10pm
wavesandwheelsfest.com | 609-770-8839



2016 SCHEDULE of EVENTS Cont'd.

SEPTEMBER

9th - 11th North Wildwood Rec. Dept. Surf Fishing Tournament

Location: 3rd and JFK Blvd., North Wildwood,
Fri. & Sat. 7am - 5pm, Sun. 7am - 11am
northwildwood.com | 609-522-2955

11th September 11th Commemoration

Location: 15th & Central Avenues, North Wildwood, 8:40am
northwildwood.com | 609-522-2955



(Photo by Ann Devlin)

15th - 18th Fall Beach Jam Scouting Adventure

Location: Beach camping between 18th & 22nd Aves., North Wildwood plus amusements on Morey's Piers;
Friday 10am - Sunday 5pm
moreyspiers.com | 609-729-3700 ext. 1195

16th - 17th Boots at the Beach Country Festival

Location: Olde New Jersey & Chestnut Avenues, North Wildwood, Fri. 3pm - 10pm, Sat. 10am - 10pm
bootsatthebeach.com | 609-770-8839



(Photo by Jan Marra courtesy of the Wildwood Leader)



2016 SCHEDULE of EVENTS Cont'd.

SEPTEMBER

17th NJ State Firemen's Parade

Location: Cresse & New Jersey Avenues in Wildwood Crest, proceeds north to 20th Avenue in North Wildwood; 2pm
njfireexpo.com | 856-433-0386

22nd-25th Irish Fall Festival

Location: Olde New Jersey Avenue & surrounding pubs, North Wildwood, Friday 8am-8:30pm, Saturday 8am-10:30pm, Sunday 8am-7pm
cmcaoh.com | 609-729-0075

22nd-25th Fall Boardwalk Classic Car Show

Location: Various locations, Thurs. 12-9pm, Fri. & Sat. 8:30am-3pm, Sun. 9-11am
wildwoodmotorevents.com | 609-522-3644

30th-1st Mid-Atlantic Police & Fire Survivors Weekend

Location: Various locations throughout North Wildwood; for event listings go to facebook.com/NorthWildwoodPD
609-522-2030 X 1503

OCTOBER

1st Ed's Funcade Boardwalk Treasure Hunt

Location: 23rd Avenue on the Boardwalk, North Wildwood, 12 noon-2pm | edsfuncade.com | 609-729-3223

8th 62nd Annual Pennsauken Surf Fishing Tournament

Registration – Anglesea Firehouse, 6am
Location: 2nd & New Jersey Avenues, North Wildwood
Surf Fishing 7:30-1pm | asaonline.org | 856-231-9110

15th Great Fall Classic Fishing Tournament

Registration – Anglesea Firehouse, 5am
Location: 2nd & New Jersey Avenues, North Wildwood
Surf Fishing 6am-2pm | njbba.org | 856-228-2642

15th-16th Lighthouse Challenge of New Jersey

Location: Hereford Inlet Lighthouse, 1st & Central Avenues, North Wildwood, 8am-6pm
lighthousechallengenj.org | 609-522-4520



2016 SCHEDULE of EVENTS Cont'd.

OCTOBER

22nd 9th Annual Pumpkin Run

Registration – 8am, | Race 10am

Location: Wildwoods Convention Center on Boardwalk to 21st Avenue and return to Wildwoods Convention Center, Wildwood
boardwalkpumpkinrun.com | 609-849-8887

31st 8th Annual Halloween Trunk or Treat Block Party

Location: Olde New Jersey Avenue, North Wildwood,
Vehicle check-in 5pm, Event 5:30-7pm
northwildwood.com | 609-522-2955



(Photo by Ann Devlin)

31st Greater Wildwood Elks Halloween Haunted House

Greater Wildwood Elks Lodge

Location: 1st & New Jersey Avenues, North Wildwood,
5pm-8pm | 609-729-2170

NOVEMBER

5th Elk's Hoop Shoot

Location: North Wildwood Rec Center, 900 Central Avenue,
North Wildwood,
Registration 12pm-1pm; Contest begins at 1pm
609-729-2170

11th Veteran's Day Services

Location: North Wildwood Veterans Memorial, Spruce &
New York Avenues, North Wildwood 10am | 609-729-5832



2016 SCHEDULE of EVENTS Cont'd.

DECEMBER

2th Hereford Inlet Lighthouse Christmas Tree Lighting

Location: Hereford Inlet Lighthouse Courtyard 1st & Central Avenues, North Wildwood, 5:30pm
herefordlighthouse.org | 609-522-4520

7th Pearl Harbor Remembrance Day

Location: St. Demetrios Church, 321 St. Demetrios Avenue, North Wildwood, 12 noon | northwildwood.com | 609-729-5832

9th Greater Wildwood Jaycees Christmas Parade

(Rain Date - December 11th)

Location: Begins at 15th & Central Avenues, North Wildwood proceeds south through Wildwood and Wildwood Crest,

Participant Registration 5pm-5:30pm; Parade begins 6pm
wildwoodholiday.com | 609-729-5501



(Photo by Jen Marra courtesy of The Wildwood Leader)



FIRE DEPARTMENT FIRE PREVENTION BUREAU

Fire Chief: Chief Jeffrey B. Cole, Sr.

Email: firechief@northwildwood.com

Deputy Fire Chief: Dominick McClain

Phone: (609) 522-5743 • **Fax:** (609) 729-0722

Location: 400 New Jersey Avenue

Administration Hours: 9am – 4pm Monday thru Friday

Fire and Housing Official: Lewis Ostrander

Email: lostrander@northwildwood.com

Location: 400B New Jersey Avenue

Phone: (609) 522-2160 • **Fax:** (609) 522-1952

Hours: Monday thru Friday, 8:30am – 4:00pm

Administrative Staff: Kathy Mandell ext. 6100

POLICE DEPARTMENT

Police Chief: Chief Matthew T. Gallagher, CPM

Email: mgallagher@nwpd.org • **Website:** nwpd.org  

Phone: (609) 522-2030 ext. 1503 • **Fax:** (609) 522-2531

Location: 901 Atlantic Avenue (*behind City Hall*)

Administrative Staff: Captain Totan, CPM,

Captain Stevenson, CPM & Lieutenant Etsell

Dispatch Center: (609) 522-2411



NORTH WILDWOOD COMMUNITY MEETING

Meets on the second Tuesday of each month, from September to June, at 7:00pm at the North Wildwood Community Center, 900 Central Avenue. The Public is invited

OFFICE OF EMERGENCY MANAGEMENT (OEM)

Emergency Management Coordinator:

Chief Robert Matteucci (Ret.)

Deputy Emergency Management Coordinators:

**Michael Dowling, Thomas Fox, Gary Sloan
and Dominick McClain**

Location: 400C New Jersey Ave.

Phone: (609) 522-0191 • **Fax:** (609) 522-0120

Website: ready.northwildwood.com

Tide schedules and other useful information is available via links on the OEM Website at ready.northwildwood.com



DEPARTMENT OF PUBLIC WORKS

Director of Public Works: Gary Sloan

Email: gsloan@northwildwood.com

Phone: (609) 522-4646 • **Fax:** (609) 522-1141

Location: 511 West Oak Avenue

Office Hours: Mon thru Friday 7am to 2:30pm

After Hour Emergencies: Contact the North Wildwood
Police Department at **(609) 522-2411**

RECREATION & TOURISM DEPT.

Superintendent of Recreation: Rick Haas, R.S.   

Email: rhaas@northwildwood.com

Assistant Superintendent of Rec. & Director of Tourism:

Steve DeHorsey, Jr, C.P.M., R.A.

Email: sdehorsey@northwildwood.com

Phone: (609) 522-2955 • **Fax:** (609) 522-0402

Location: 900 Central Avenue

Recreation Program Coordinator: Liz Golden

Email: lgolden@northwildwood.com

Office Manager: Ann Devlin

Email: adevlin@northwildwood.com

OFFICE OF CITY CLERK

City Clerk & Registrar of Vital Statistics:

W. Scott Jett, RMC, CMR ext.1400

Email: sjett@northwildwood.com

Phone: (609) 522-2030

Location: City Hall 1st floor

Deputy City Clerk & Deputy Registrar:

Jennifer VanSant, RMC, CMR ext.1410

Email: jvansant@northwildwood.com

Senior Clerk & Alternate Deputy Registrar:

Diane McCullion ext.1460

CITY ADMINISTRATOR

City Administrator: Kevin Yecco

Email: kyecco@northwildwood.com

Phone: (609) 522-6464 • **Fax:** (609) 523-8502



Location: City Hall 2nd floor

BUILDINGS, PARKS & GROUNDS DEPT.

Superintendent: Doug Ford

Email: dford@northwildwood.com

Phone: (609) 522-1638 • **Fax:** (609) 522-1141

Office Location: 513 W. Oak Avenue

Department Hours: Monday thru Friday 7:00am – 3:00pm

TREASURER'S & TAX COLLECTOR OFFICE

Treasurer & Tax Collector: Todd N. Burkey, CFO, CTC

Email: tburkey@northwildwood.com

Phone: (609) 522-2030 • **Fax:** (609) 523-8502

Location: City Hall 1st Floor

Business Hours: Monday thru Friday, 8:30am – 4:30pm

Assistant to the Treasurer: Nic Long ext.1240

Email: nlong@northwildwood.com

Assistant to the Collector: Cheryl Guarinello ext.1330

Email: cguarinello@northwildwood.com

Finance Clerk: Jeanette Axelsson ext. 1245

Email: jaxelsson@northwildwood.com

Principal Payroll Supervisor, HR: Barbara Boyle ext.1230

Email: bboyle@northwildwood.com

NORTH WILDWOOD MUNICIPAL COURT

Municipal Judge: Louis J. Belasco, Jr., PJMC

Court Administrator: Angela Flynn, C.M.C.A.

Deputy Court Administrator: Theresa Viall, C.D.M.C.A.

Phone: (609) 729-3818 • **Fax:** (609) 729-6392

Location: 901 Atlantic Avenue, (Behind City Hall)

Business Hours: Monday – Friday 9:00AM to 4:00PM

(Excluding Holidays)

Court Sessions: Summer – Tuesdays at 10:00AM, 1:00PM,
2:00PM, 3:00PM

Winter – Tuesdays at 1:00PM, 2:00PM and 3:00PM

For ONLINE payments go to: NJMCDIRECT.COM



OFFICE OF THE TAX ASSESSOR

Tax Assessor: Jason Hesley

Email: jhesley@northwildwood.com

Tax Assessor Clerk: Patricia Bowman ext. 1340

Email: pbowman@northwildwood.com

Phone: (609) 522-2030 • **Fax:** (609) 846-9995

Location: City Hall 2nd Floor

Business Hours: 8:30am – 4:30pm, Monday thru Friday

CONSTRUCTION, LAND USE BOARD

Construction Official: Patrick Malia

Email: pmalia@northwildwood.com

Asst. to the Construction Official: Maureen Olney ext.1560

Phone: (609) 522-2030 • **Fax:** (609) 846-9995

Location: City Hall 2nd Floor

LAND USE BOARD

Board Secretary/Admin. Officer: Eric Gundrum ext.1280

Zoning Officer: Larry Booy ext.1270

Meeting: 2nd Wednesday of every Month, 6:30pm

(Council Chambers, Courts, Public Meeting Room)

BEACH PATROL

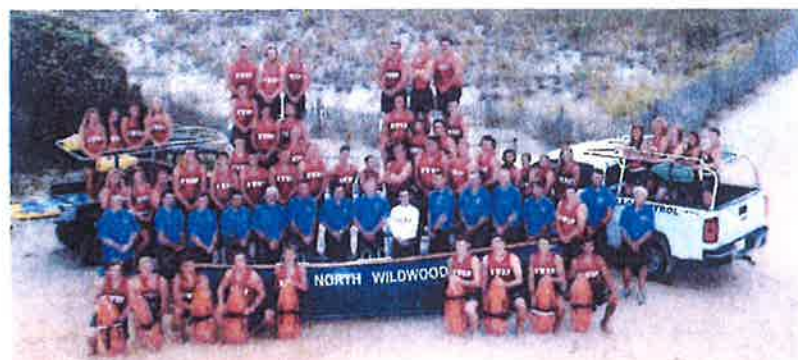
Beach Patrol Chief: Tony Cavalier



Email: tcavalier@northwildwood.com

Phone: (609) 522-7500 • **Fax:** (609) 522-6531

Location: 15th Avenue and the Beach



(Photo by Yary Photography)



TRASH & RECYCLING SCHEDULE

WINTER SCHEDULE
10/01/16 THROUGH 5/29/17

WINTER TRASH SCHEDULE

Anglesea – 8th Ave (Monday)
9th Ave – 17th Ave (Tuesday)
18th Ave – 26th Ave (Wednesday)

WINTER RECYCLING SCHEDULE



Anglesea – 10th Ave (Thursday)
11th Avenue – 26th Ave (Friday)



SUMMER SCHEDULE

5/30/16 THROUGH 9/30/16

**TRASH AND RECYCLING
WILL BE COLLECTED 2 DAYS A WEEK**

Anglesea – 8th Ave (Monday and Thursday)
9th Ave – 17th Ave (Tuesday and Friday)
18th Ave – 26th Ave (Wednesday and Saturday)

CONVENIENCE CENTER

512 WEST OAK AVENUE

Open Tuesday through Friday 10 a.m. to 2 p.m.
Saturday, Sunday, and Monday 8 a.m. to 4 p.m.

****ONLY HOUSEHOLD TRASH & RECYCLABLES
WILL BE ACCEPTED**

****DO NOT LEAVE TRASH AFTER CLOSING**
Violators will be prosecuted!

BULK TRASH

One (1) bulk item may be put out for collection on
each scheduled trash day.

1 piece of furniture, or 1 room's worth of carpet, rolled
and bound not more than 4' long,
or 1 set of box spring and mattress

QUESTIONS? Call the Department of Public Works at
609-522-4646 or visit northwildwood.com

