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DEPARTMENT OF ENVIRONMENTAL QUALITY

Public Hearing  
(Q & A Format)

On Proposed Consent Decrees Related to  
Marine Shale Processors, Inc. and  
Southern Wood Piedmont Co. in  
St. Mary Parish

The public hearing in the above titled  
matter was taken at the Morgan City  
Municipal Auditorium, 705 Myrtle Street,  
Morgan City, Louisiana, beginning at  
7:00 p.m. on July 19, 2006.

BEFORE: R. Aaron Palmer, Certified Stenomask  
Reporter In and For the State of  
Louisiana

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MR. RATCLIFF:

Good afternoon, everyone. I'm Chris Ratcliff. I'm an attorney with the Louisiana Department of Environmental Quality, and I want to thank everyone for coming tonight.

Tonight's public hearing is being held for the purpose of receiving your comments and answering your questions about two proposed settlements in the federal court litigation that's relating to the facilities formerly operated by Marine Shale Processors, Incorporated and Recycling Park, Incorporated.

Those of you who have attended DEQ public hearings in the past on permits may notice that tonight's agenda is a little different in that we are going to try to answer any questions that you may have. In addition to staff members from Louisiana DEQ, we also have a representative of the United States EPA with us tonight and are expecting a representative from the U.S. Department

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of Justice any minute now. He's on his way.

Our agenda will start with a brief history of the case presented by Terry

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5 Sykes with the U. S. Environmental  
6 Protection Agency. After that, I will  
7 summarize the proposed settlement with  
8 Marine Shale Processors and Recycling  
9 Park, and then Richard Gladstein with  
10 the U. S. Department of Justice will tell  
11 you about the proposed settlement with  
12 Southern Wood Piedmont Company.

13 At that point, we will begin  
14 receiving questions and comments from  
15 those members of the audience who have  
16 signed up at the registration table to  
17 speak tonight. And when everyone who  
18 has signed up has had a chance to  
19 present their questions or comments,  
20 then we will take questions and comments  
21 from anyone else in the audience. If  
22 you prefer to submit your comments in  
23 writing, you can leave them with the  
24 folks at the registration desk tonight  
25 or you can mail them to my attention at

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1 the address at the Department of  
2 Environmental Quality that is given in  
3 the Public Notice or you may send them  
4 directly to the Environmental Protection  
5 Agency or the Department of Justice.

6 I'd like to remind you that the  
7 official public comment periods for the

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8 United States closes on Friday, July  
9 28th, and DEQ's official public comment  
10 period closes on Monday, July 31st. The  
11 United States as well as the Department  
12 of Environmental Quality will consider  
13 all comments that are received before  
14 deciding whether to finalize the  
15 proposed settlements in their current  
16 form.

17 At this point, I will turn it over  
18 to Terry Sykes with the Environmental  
19 Protection Agency, who will give you a  
20 brief history of the case.

21 MS. SYKES:

22 As Chris said, we're just going to  
23 run through a brief chronology of the  
24 events in this case and not go through  
25 too much detail, because if we did, we'd

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1 be here all night. So let's just look  
2 at what's happened over the past twenty  
3 years.

4 As you recall, Marine Shale started  
5 processing hazardous waste in 1985. And  
6 at that time they had no incinerator  
7 permit, and they didn't think they  
8 needed a permit because they claimed to  
9 be an aggregate kiln and aggregate kilns  
10 at that point in history were not

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11 regulated. So in 1986 EPA began a  
12 criminal case against the company for  
13 storing hazardous waste on the ground.  
14 The waste they were burning out there  
15 was creosote contaminated soil. They  
16 were storing it on the ground and they  
17 did not have a permit to so. The  
18 company pled guilty and then paid a  
19 million dollar fine.

20 As that case was wrapping up, we  
21 began looking at civil violations. And  
22 in 1990 EPA and LDEQ filed suit against  
23 Marine Shale claiming that it was  
24 operating an unpermitted incinerator and  
25 not an aggregate kiln, and that they had

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1 also violated the Clean Water Act and  
2 the Clean Air Act on numerous occasions.  
3 At that point in time, Marine Shale was  
4 selling the ash that it claimed to be  
5 aggregate for one dollar a ton. In 1991  
6 we obtained an injunction that forbid  
7 the company from selling that material.  
8 And as a result of that, the court  
9 allowed Marine Shale to start moving  
10 that ash over to the Recycling Park  
11 facility. Right after that aggregate  
12 kilns became regulated, so Marine Shale  
13 applied for a permit as an aggregate

14 kiln.  
15 In 1994 we went to trial on our  
16 lawsuit. The court split it into  
17 several different trials based on the  
18 various issues that the court was to  
19 hear. The first trial was a jury trial,  
20 as you'll remember, and the jury was  
21 hung on that key issue of whether or not  
22 Marine Shale was a legitimate recycling  
23 facility or a legitimate aggregate kiln.  
24 The court heard the other trials; we did  
25 not have those before a jury. And at

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1 the end of it, the court made certain  
2 findings and both parties appealed  
3 issues to the Fifth Circuit. Southern  
4 Wood Piedmont had also intervened into  
5 the lawsuit. So they were an active  
6 litigant at that point as well. They  
7 were one of the key generators sending  
8 waste to Marine Shale.

9 Right after the 1994 trials, EPA  
10 denied Marine Shale's permit application  
11 as an aggregate kiln. And when all the  
12 issues that were appealed went to Fifth  
13 Circuit, the permit denial was included  
14 in those issues. The court then found  
15 primarily in favor of the government and  
16 it also remanded certain issues back

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down to the trial court. And, of  
18 course, that issue of whether or not  
19 Marine Shale was a legitimate aggregate  
20 kiln was still out there because the  
21 jury was hung on that issue and it was  
22 never determined.

23 During the appeal process, the Fifth  
24 Circuit also affirmed EPA's denial of  
25 Marine Shale's aggregate permit

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1 application or aggregate kiln permit  
2 application. And once they affirmed  
3 that denial, EPA was able to issue a  
4 closure order and force the facility to  
5 close down because they had no permit at  
6 all.

7 In 1998 along came a company called  
8 GTX. They decided they were going to  
9 try to take over the facility, clean it  
10 up, apply for the proper permits, and  
11 operate the facility as a legitimate  
12 incinerator. The consent decree that  
13 they entered into with all the parties  
14 had an opt out provision, and in 2002  
15 they exercised their option to opt out  
16 of that consent decree and we were back  
17 to square one.

18 It was just as if we were right back  
19 to the period after the appeals court

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20 had made its determinations. So the  
21 district court rescheduled all those  
22 issues for trial and we were supposed to  
23 be going to trial in 2006. Rather than  
24 try those issues, the parties decided to  
25 settle the lawsuit, and that's what

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1 we're going to talk about tonight.  
2 MR. RATCLIFF:  
3 Okay. As I mentioned earlier, there  
4 are two settlements that are proposed at  
5 this point in time. I'm going to tell  
6 you about the one that would be between  
7 the United States, the Louisiana  
8 Department of Environmental Quality,  
9 Marine Shale Processors, Inc., Recycling  
10 Park, Inc., and John M. "Jack" Kent, Sr.  
11 First of all, what do the  
12 plaintiffs, the United States and the  
13 DEQ, get out of this proposed deal? We  
14 would get a judgment in our favor and  
15 against Marine Shale Processors and  
16 Recycling Park on two claims for relief  
17 for violations of the hazardous waste  
18 laws. And for those two claims for  
19 relief, Marine Shale Processors is  
20 agreeing to pay and will be ordered to  
21 pay a civil penalty of approximately 3.3  
22 million dollars to be split equally

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between the United States and the  
24 federal government - I mean the United  
25 States and the Louisiana DEQ.

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1 We would also get a judgment in  
2 favor of the United States and DEQ and  
3 against Marine Shale Processors on two  
4 claims for relief for violations of the  
5 Clean Water Act. For those violations,  
6 Marine Shale is agreeing to pay a civil  
7 penalty of 1.7 million dollars to the  
8 United States, and we would get a  
9 judgment in favor the United States and  
10 the State and against Marine Shale on  
11 claims for relief for - two claims for  
12 relief for violations of the Clean Air  
13 Act. And for those, Marine Shale is  
14 going to pay a civil penalty of 1.2  
15 million dollars to be split between the  
16 State and the federal government. The  
17 proposed judgment would order that Jack  
18 Kent must refrain from ever owning,  
19 controlling, or managing any waste  
20 treatment, storage, disposal, or  
21 recycling business.

22 There's approximately 6.2 million  
23 dollars that is currently held in the  
24 registry of the federal court, which was  
25 put there several years ago by Marine

1 Shale as security for it's appeal. That  
2 money would be paid to the State DEQ for  
3 the exclusive use for closing and  
4 remediating contamination at the Marine  
5 Shale and Recycling Park facilities.  
6 This payment would not satisfy the  
7 judgment for penalties that I mentioned  
8 earlier.

9 The settlement would order that  
10 Marine Shale, RPI, and Mr. Kent will  
11 provide reasonable access and will allow  
12 the Department of Environmental Quality,  
13 EPA, and its contractors to investigate  
14 and clean up the facilities in any  
15 manner that complies with applicable  
16 laws. And it would order that  
17 institutional controls deemed necessary  
18 by DEQ and EPA, which may include  
19 restrictions on the uses of the property  
20 to industrial or commercial use only -  
21 no residential use; maintenance and  
22 repair of concrete in the process area  
23 at Marine Shale Processors; and a cap,  
24 which is going to be installed at the  
25 Recycling Park facility - and Mr.

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1 Gladstein will tell you about that  
2 shortly; that those - that the cap and  
3 the concrete shall not be disturbed, and  
4 if they are, they must be repaired.

5 It would order that ash at Marine  
6 Shale Processors, if removed, must be  
7 disposed of in a permitted hazardous  
8 waste landfill, and that ash at the RPI  
9 facility, if removed, must be disposed  
10 of in a permitted industrial solid waste  
11 landfill. It would also order that the  
12 defendants, Marine Shale, RPI, and Mr.  
13 Kent - well, Mr. Kent's not technically  
14 a defendant, but he's a party to the  
15 agreement - shall execute any documents  
16 that are deemed necessary and  
17 appropriate to implement institutional  
18 controls such as the ones I just  
19 mentioned such as conveyance notices,  
20 easements, covenants, et cetera. That  
21 they must execute those and file them in  
22 the property records of St. Mary Parish.

23 Furthermore, in any future act of  
24 sale of these properties, that the  
25 institutional controls that I mentioned

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1 must be included in the act of sale so  
2 that they are binding upon the  
3 purchaser. Title to the properties will

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4 be addressed in this way. The  
5 defendants must pay the property taxes  
6 on the properties through the year 2008,  
7 they may not transfer any interest in  
8 the facilities without the consent of  
9 DEQ and EPA, and they shall give DEQ and  
10 EPA a renewable option to require that  
11 the ownership of the properties be  
12 transferred to a trust for purposes of  
13 the sale of the properties for benefit  
14 of DEQ and EPA after the cleanup. The  
15 principle here is that we do not want  
16 the defendants to benefit from the  
17 cleanup of their properties in any way.

18 Furthermore, there is a letter of  
19 credit in favor of the Department of  
20 Environmental Quality posted by Marine  
21 Shale Processors years ago as financial  
22 security for a permit application. It's  
23 worth approximately \$800,000. That  
24 money will also be available to DEQ for  
25 closure and remediation of the

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1 facilities. The defendants are not  
2 allowed to purchase these properties if  
3 they are sold at auction by the trustee  
4 unless the full penalty judgment is  
5 paid, which is again over six million  
6 dollars worth.

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7                   That is what the United States and  
8                   the DEQ would get under this settlement.  
9                   So what do Marine Shale, Recycling Park,  
10                  and Mr. Kent get? Well, the two  
11                  corporations essentially get nothing.  
12                  As I mentioned, the court is going to  
13                  render judgment in favor of the State  
14                  and the United States on almost all of  
15                  the claims that we brought in the  
16                  lawsuit. Mr. Kent, himself, is  
17                  receiving a release from personal  
18                  liability for civil liability generally  
19                  for all the claims that are being  
20                  resolved in these proposed settlements.  
21                  Those would be claims related to past  
22                  operation of these facilities. But the  
23                  United States and the DEQ are reserving  
24                  our right to sue for certain other  
25                  things such as response actions or cost

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1                   recovery for work that we do or pay for  
2                   if those are related to unknown  
3                   conditions which are discovered or new  
4                   information which indicates that  
5                   contamination is of a greater type or a  
6                   different magnitude than was known to  
7                   exist at the time we entered into these  
8                   settlements.

9                   We're also reserving rights to sue  
                    Page 13

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10 under federal law for any disposal  
11 release or threat of release of waste  
12 material outside these facilities.  
13 Also, reserving the right to sue for  
14 natural resource damages, reserving the  
15 right to bring criminal prosecution if  
16 appropriate, and reserving rights to sue  
17 for operation of facilities or the  
18 treatment or disposal of waste after the  
19 entry of these settlements.

20 And, finally, the agreements also  
21 address the public notice and comment  
22 provisions, which require that we accept  
23 and consider public comments, both the  
24 federal and state governments, before we  
25 finalize these agreements.

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1 So that is the proposed settlement  
2 with Marine Shale, Recycling Park, and  
3 Mr. Kent. And now I will turn it over  
4 to Richard Gladstein with the U.S.  
5 Department of Justice. He's going to  
6 tell you about the other document that  
7 we are proposing.

8 MR. GLADSTEIN:

9 Good evening, how are you? I came  
10 down from D.C. today; it was a little  
11 bit hard. The flight I was going to  
12 take was cancelled, so I'm glad I'm able

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13 to be here and say a few things.  
14 I want to talk both about the other  
15 settlement and I want to talk to you a  
16 little bit more about why we are  
17 proposing the settlements that we're  
18 proposing from my perspective. The  
19 other settlement is with a company  
20 called Southern Wood Piedmont and their  
21 parent. They were one of the largest  
22 customers of Marine Shale. I don't know  
23 if you remember, but in the early  
24 nineties a large amount of the ash, the  
25 residue from the incineration, was moved

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1 to an offsite location called Recycling  
2 Park, which I'll point to it but not  
3 precisely. It's right over (indicating  
4 area on map) right over there.  
5 Now, that ash has been there, and if  
6 you by it on Highway 90, you wouldn't  
7 know it's there. The vegetation has  
8 grown over it. When I was there maybe  
9 six to nine months ago, the only thing  
10 that people who were with me were  
11 concerned about were the snakes. We had  
12 to watch out for the snakes. But it's  
13 elevated and what Southern Wood Piedmont  
14 is going to do is - they did quite an  
15 extensive risk assessment looking at the

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16 contaminates that were there and  
17 determined that - Most of you know the  
18 incineration process, that basically the  
19 process destroyed the organics. So what  
20 was left was metals. And his intent -  
21 Mr. Kent's intent was to bind up the  
22 metals, and most of you probably know  
23 this better than I do. And when they  
24 did the analysis, the sampling, at this  
25 offsite location, Recycling Park, most

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1 of the metal levels were quite low and  
2 their risk assessors determined this  
3 place was not good for residential use,  
4 but it was okay for industrial use.  
5 And, you know, this is a copy of the  
6 risk assessment that was done, and if  
7 any of you would like to see it, you're  
8 welcome to take a look at it.

9 Based on that, we concluded -  
10 that's the Department of Justice, the  
11 EPA, and the LDEQ - that it was  
12 reasonable for Southern Wood Piedmont to  
13 put a clay cap, two foot clay cap, over  
14 those contaminants. And one area there  
15 is sort of uneven, so they are going to  
16 be leveling that out. And then soil,  
17 six inches of soil, over that. So they  
18 will have - Once this consent decree is

19 entered, assuming that the court enters  
20 the consent decree after considering any  
21 public comments, then Southern Wood  
22 Piedmont will hire contractors that need  
23 to be approved by the government. We  
24 will oversee that, and they will do that  
25 work. They estimate that including the

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1 investigatory work that they've done,  
2 we're looking at a couple of million  
3 dollars worth of work. And that's what  
4 they are going to do.

5 So what I wanted to go back to was  
6 why - especially with the Marine Shale  
7 settlement, why are we willing to do  
8 this settlement? The main reason that  
9 I'm willing to recommend it is that -  
10 You know, Terry and I first started in  
11 this case back in 1991, and I got off  
12 the case about a year later. But I was  
13 very surprised when I got back on the  
14 case about, you know, nine months ago to  
15 go out to the plant and see that there's  
16 still, you know, quite a bit of ash in  
17 these open bins that are near the bayou.  
18 I was quite concerned about that. And  
19 there's liquids and ash that are in  
20 those tanks that are closed and I'm  
21 quite concerned about that. So we hired

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22 contractors who went out and assessed,  
23 you know, from a chemical standpoint  
24 what was in those open bins. And this  
25 is the report that they did, and so we

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1 now know what's in those bins. And not  
2 surprisingly it's, you know, heavy  
3 metals that, you know, need to be, you  
4 know, gotten out of there as soon as we  
5 can get them out of there. And so, you  
6 know, when I say, "as soon as we can get  
7 them out of there," I don't mean  
8 tomorrow, but, you know, they've been  
9 there for fifteen years. What I mean is  
10 that that's why we decided that rather  
11 than fight, you know, Marine Shale and  
12 Mr. Kent for another, you know, five to  
13 ten years in the appellant process, you  
14 know, go to trial, you know, get maybe  
15 more than we would have gotten with this  
16 - You know, we got a six million dollar  
17 judgment. Maybe if we'd gone to trial  
18 we could have gotten ten, but then he  
19 would have appealed it and that money in  
20 the registry would probably still be  
21 sitting there. What this settlement  
22 does is that it allows us, you know, the  
23 governments, to get that money out of  
24 the registry as soon as the settlement

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is entered - that six million dollars

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1 - plus the over \$800,000 that LDEQ has,  
2 and to be used directly for that  
3 cleanup. So we received resolutions  
4 last December from the Parish Council  
5 and from the City Council asking that  
6 that money come out of the registry and  
7 be used for this cleanup, and that's  
8 what we're doing with this settlement.

9 Now, that six million is going to  
10 take care of the - what we consider to  
11 be the most pressing problems: the waste  
12 that's in the bins, the waste that's in  
13 those tanks. We're going to send it to  
14 a subtitle C landfill just like it  
15 should have been done a long time ago.

16 Now, in addition to that, you know,  
17 depending upon how familiar you are with  
18 the site, you know that Marine Shale  
19 built up a lot of that site with residue  
20 from the kiln, they used it as fill.  
21 Now that fill is underneath the concrete  
22 in the processing area. So we did  
23 analysis of what's the chemical  
24 composition of that fill underneath the  
25 concrete in the processing area. We

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1 also did - and, again, this depends on  
2 how familiar you are with what's over  
3 there, but there's what's called the  
4 creosote pad. It's near the white house  
5 that's there. It's this - There's a  
6 concrete pad, and above the pad there's  
7 some water. In the very beginning back  
8 in '80, '85 - well, back in '86, Marine  
9 Shale put the creosote type material on  
10 that pad before they processed it. Now,  
11 LDEQ said, "No, you can't do that," and  
12 by the beginning of '87, most of the -  
13 before that, it was all gone.

14 So the question is, has any of that  
15 creosote type material gotten into the  
16 ground water? So we also did an  
17 analysis on that. Now, what we found on  
18 that is that there is a little bit of  
19 pentachlorophenol still in the ground  
20 water, and we don't know at this point  
21 whether that has gotten into the bayou.  
22 When I say a little bit, I mean that  
23 it's gone down substantially from where  
24 it was over the years. And -  
25 MR. PRICE:

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1 Because it's all in the bayou now.

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MR. GLADSTEIN:

Hmm?

MR. PRICE:

Because it's all in the bayou now.  
Go ahead, I'm sorry.

MR. GLADSTEIN:

So what we're proposing here really  
is a three stage cleanup at Marine  
Shale. The first stage is to get rid of  
the surface waste, and that's what we  
use that six million plus for.

The second stage is to do a more  
thorough analysis of what's there than  
we were able to do in the last six  
months. Now, that thorough analysis may  
tell us, well, you know, look, with  
what's under the concrete processing  
area, it's not going anywhere. You  
know, it may be safer to just leave it  
under there than to dig it up. But we  
haven't reached that conclusion yet. So  
what we're going to need to do, is to  
start to look at other customers of  
Marine Shale after we get these

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settlements taken care of. After we get  
them hopefully approved by the court,  
we're going to start looking at other  
customers and say to them, "Look, you

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5 know, you've got some responsibility  
6 here too. Either you pay for a more  
7 comprehensive, you know, sampling  
8 effort, or we'll do it and then we're  
9 going to come after you to get  
10 reimbursed." So that's the second  
11 stage, is that we need to do the more  
12 comprehensive sampling. That more  
13 comprehensive sampling will include  
14 looking at, you know, the bayou, what's  
15 in the bayou near the former creosote  
16 pad. If it turns out that there's a  
17 significant amount of, you know,  
18 pentachlorophenol that is - that we can  
19 trace to that creosote pad, then we're  
20 going to have to do some cleanup of  
21 that. Now, we don't know that yet, but  
22 that will be part of this future  
23 analysis.

24 The third step is to dismantle the  
25 facility there, the kiln. And, again,

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1 that's going to take contributions from  
2 other customers. Now, once we do that,  
3 we believe that the facility will be  
4 able to be back - put back into  
5 commercial use, not residential use.  
6 And, as you know, that's a very  
7 commercial area.

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8                   So that's basically what our plan is  
9                   and, you know, we would like your  
10                  support, you know, as much as you feel  
11                  you can give it.

12                 Now, in terms of what Chris, Mr.  
13                 Ratcliff, was saying related to the  
14                 releases with, especially with Mr. Kent,  
15                 I just want to clarify that the releases  
16                 that the United States and the State are  
17                 giving to Mr. Kent, first of all, it's  
18                 civil, it's not criminal. But I think  
19                 more importantly for you, these releases  
20                 have nothing to do with claims by  
21                 private parties. The United States and  
22                 the State did not say, you know, "Mr.  
23                 Kent, private parties cannot sue you if  
24                 a private party believes that they have  
25                 a personal injury claim." Our

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1                 settlements have nothing to do with  
2                 that.

3                 The other thing that our settlements  
4                 have nothing to do with is whether if we  
5                 sue another customer of Marine Shale,  
6                 whether that customer can sue Marine  
7                 Shale or Mr. Kent in contribution. The  
8                 only claims we have settled with Marine  
9                 Shale and Mr. Kent are these federal  
10                 cleanup and penalty type claims that the

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government has. And that's basically  
12 it.

13 MR. RATCLIFF:

14 Thank you, Richard.

15 At this point, we are going to open  
16 it up to comments from anyone who has  
17 signed up to speak. At this point, we  
18 only have three people who have signed  
19 up. The first is Wilma Subra.

20 MS. SUBRA:

21 I'll wait until last.

22 MR. RATCLIFF:

23 Okay.

24 Evelyn Broussard, I believe?

25 MS. BROUSSARD:

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1 Yeah, I have some questions.

2 MR. RATCLIFF:

3 Yes, ma'am.

4 MS. BROUSSARD:

5 Okay, my first question is, I read  
6 your entire consent decree online, and  
7 in one part it says that it's safe for  
8 adults to walk and work on the RPI land  
9 after it has been capped. But it states  
10 that it's good that no children will  
11 walk - will be on it because it's  
12 industrial. What's the difference  
13 between a child walking on it or an



17 de.txt  
- with two feet of clay and then  
18 the soil. More than likely, not. It's  
19 just that that land is being designated  
20 for use for industrial purposes.

21 MS. BROUSSARD:

22 Right.

23 MS. SUTHERLIN:

24 And what we've done is, because  
25 there's that differences in exposure,

□

29

1 the regulations require if you don't  
2 cleanup to residential levels, say, for  
3 children, then you're required to put a  
4 notice on the property saying it will  
5 only be used for industrial commercial  
6 purposes just as a safety precaution.  
7 That way, anyone who has that property  
8 knows that the levels that it's been  
9 cleaned up to are safe for commercial  
10 industrial.

11 Also, too, residents are assumed to  
12 be at home 365 days a year. For  
13 commercial purposes, we work Monday  
14 through Friday, so it's, like, 250 days  
15 a year of exposure. So there's a lot  
16 more intense exposure assumed to be  
17 associated with a child in a residential  
18 scenario.

19 So those are the differences. Would

de.txt  
20 it truly be unsafe with a clay cap and  
21 that covering of dirt and vegetation?  
22 More than likely, not. But it's more -  
23 We tend to always protect on the safer  
24 side rather than to take any chances  
25 with decisions like that.

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1 MS. BROUSSARD:  
2 So a worker wouldn't be bringing  
3 anything dangerous home on his clothing  
4 or -  
5 MS. SUTHERLIN:  
6 There would really - If there's  
7 going to be a two foot clay cap and the  
8 soil top, it would be almost impossible  
9 to have direct contact with those  
10 materials, which is the purpose of the  
11 cap.  
12 MS. BROUSSARD:  
13 I also read about a plastic liner.  
14 How long will this plastic liner  
15 underneath the material last? Anybody  
16 know?  
17 MR. FULTON:  
18 My name is Gary Fulton.  
19 I'm not sure. It doesn't degrade,  
20 so it will probably last a lot longer  
21 than you and I.  
22 MS. BROUSSARD:

de. txt  
23 What about my grandchildren and  
24 their children?  
25 MR. FULTON:

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1 I can't say for sure, but it's  
2 probably going to be there for a couple  
3 hundred years.

4 MS. BROUSSARD:

5 Okay. Good to know plastic lasts  
6 that long.

7 I looked everywhere. I read in the  
8 newspaper and I also read on the - in  
9 the EPA site a quote by - let me see,  
10 what was his name - Richard Greene.

11 MS. BROUSSARD:

12 "We bring to the area residents what  
13 they've been waiting for: a cleanup that  
14 will demolish the old facility,  
15 including the kiln, and put the property  
16 back into productive use."

17 We were just told by y'all that the  
18 kiln won't be demolished until y'all sue  
19 somebody else. Right?

20 MR. GLADSTEIN:

21 Yeah, that -

22 MS. BROUSSARD:

23 Yep, that's right.

24 MR. GLADSTEIN:

25 So what the EPA Region 6

1 Administrator said is that this is what  
2 is going to happen, and that's the same  
3 thing that I said. I'm giving you more  
4 detail in terms of when it's going to  
5 happen.

6 MS. BROUSSARD:

7 Right.

8 MR. GLADSTEIN:

9 Yeah.

10 MS. BROUSSARD:

11 So we've been living with this  
12 twenty years now and -

13 MR. GLADSTEIN:

14 Right.

15 MS. BROUSSARD:

16 - live with it longer. Okay.

17 MR. GLADSTEIN:

18 Well, the first step is to get the  
19 most immediate problem taken care of.

20 MS. BROUSSARD:

21 Okay, which leads me to the  
22 bulkhead. I haven't heard anything  
23 about the bulkhead that's made out of  
24 the aggregate on Marine Shale property.  
25 There is a bulkhead and it is leaching

de. txt

1 into the intercoastal waterway, and you  
2 can find that in the violations that  
3 were found in the original Marine Shale  
4 Process thing.

5 MR. GLADSTEIN:

6 Yeah, and so what the second step,  
7 after we get rid of the ash that's  
8 currently there, is to do this  
9 comprehensive assessment, and that will  
10 be looked at as part of the  
11 comprehensive assessment. Whatever  
12 needs to be done -

13 MS. BROUSSARD:

14 Okay.

15 MR. GLADSTEIN:

16 - for public health and  
17 environmental purposes, that's what  
18 we're going to do.

19 MS. BROUSSARD:

20 Because it was already found in  
21 violation to have it leaching into the  
22 intercoast. Okay.

23 Mr. Ratcliff, you told us what the  
24 EPA and the DEQ were going to get from  
25 this decree. And what we're going to

□

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1 get is the stuff remaining in our back  
2 yard, basically.

3 That's my questions and that's my

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4 comment. Y'all get money; we get to  
5 suffer. Thank you.

6 MR. RATCLIFF:

7 Well, thank you, Ms. Broussard. I  
8 would like to respond to your last  
9 comment by saying that what the agencies  
10 get is all going directly to do as much  
11 remedial work at the sites as we can  
12 with that money, followed by, as Mr.  
13 Gladstein said, further procedural work  
14 toward getting money from other  
15 responsible parties. Every cent of the  
16 money that's coming to the agencies is  
17 dedicated directly to these sites, which  
18 is, in fact, an unusual thing because in  
19 most cases penalty money goes into the  
20 general fund and the agency only gets it  
21 back indirectly through the budgetary  
22 process. In this case, we are fortunate  
23 that every cent of money that's coming  
24 from these settlements can be dedicated  
25 to these sites.

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1 MS. BROUSSARD:

2 And that is good. I forgot one  
3 question I had. When it has to do about  
4 the - Oh, excuse me.

5 MR. RATCLIFF:

6 Ms. Broussard, excuse me just a  
Page 31

de.txt

7 second. I'm getting a signal from the  
8 reporter. All right, he just needs you  
9 to use the microphone.

10 MS. BROUSSARD:

11 Okay. When we talked about Marine  
12 Shale, the property being closed and  
13 cleaned up, there was on page 6 of  
14 Article D ordering that John Kent shall  
15 refrain from owning the controlling  
16 interest and all this stuff, but then it  
17 says, "including but not limited to any  
18 entity that takes over the operation of  
19 Marine Shale facility. It shall not  
20 prohibit John Kent from providing, for a  
21 period for up to one year, consulting  
22 services to an entity that takes over  
23 operation of Marine Shale."

24 If there is no Marine Shale, how can  
25 he be a consultant to this facility?

□

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1 That's my question.

2 MR. RATCLIFF:

3 That's a very good question.

4 MS. BROUSSARD:

5 Thank you.

6 MR. RATCLIFF:

7 I'll try to explain it. It's the  
8 result of the complicated history of  
9 this lawsuit. That language is actually

de. txt

10 a vestige of a previous deal with GTX.

11 MS. BROUSSARD:

12 I remember. I remember.

13 MR. RATCLIFF:

14 Yeah, and we really didn't need it  
15 in this case because the facility is  
16 going to be dismantled and there won't  
17 be another operator of that facility.  
18 We hope to get the property, the land,  
19 back into commerce, but that facility is

20 -

21 MS. BROUSSARD:

22 But not as a incinerator?

23 MR. RATCLIFF:

24 Right, not as a hazardous waste  
25 facility, correct.

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1 MS. BROUSSARD:

2 Thank you.

3 MR. RATCLIFF:

4 Okay, next on the sign in sheet is  
5 Merlin Price.

6 MR. PRICE:

7 You'll have to bear with me, I have  
8 plenty of questions.

9 The first one, I want to read a  
10 letter for - a statement from my mother  
11 who could not attend tonight. But she  
12 has a few questions that I'd like to put

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13 in the record, please.

14 Her comments are: "Why wasn't the  
15 people of St. Mary Parish involved in  
16 any decision as to what went into the  
17 consent decree? It is our present and  
18 our future to determine what and how" -  
19 excuse me with her writing - "what and  
20 how the eradication of Marine Shale  
21 Processors comes about. What stands  
22 there today is a constant reminder of  
23 the last twenty plus years of exposed  
24 to the contamination of the land,  
25 air, and water in our parish. All the

□

sic

1 places where the aggregate is buried, is  
2 that an approved landfill for hazardous  
3 waste? We all know it's not. What  
4 about the ballpark and the playground in  
5 Amelia?"

6 I don't know for sure if that's a  
7 fact or not, but that's her statement.

8 And she says, "How safe is the land  
9 it was built on? The plant itself is no  
10 danger to us at the moment, but the  
11 ground in and around the plant contained  
12 and absorbed and leached toxin into the  
13 water supply on the intercoastal  
14 waterway. Let's clean up the air, the

de.txt  
15 water, and the soil first, then dispose  
16 of the plant, assuring the community  
17 that it will never again be used to  
18 recycle, burn, or incinerate any type of  
19 waste.

20 We can't go back and change the  
21 past. You must learn from your  
22 mistakes. Never again should the  
23 community be threatened or put at risk  
24 by the delay and apathy of your  
25 agencies. You cannot afford to respect

□

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1 - You cannot afford to respect the  
2 mistakes of the past. What happened  
3 cannot be repeated on us again. This is  
4 the time to do your job and do it right.  
5 We know Jack Kent doesn't care less  
6 about cleaning up his plant, nor does he  
7 care of you" -

8 I'm sorry, I can't make this out.  
9 - "nor does he care of you do  
10 it right or not. You owe us that much.  
11 Listen to those here tonight. Believe  
12 that this is a community who wants to  
13 breathe clean air, work and play in  
14 clean land - on clean land, and eat and  
15 drink from clean water. MSP didn't care  
16 about us. Now it's your turn to care.  
17 Do it right, do it now, and don't let



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21 Is it the opinion of the United  
22 States Environmental Protection Agency  
23 and the Louisiana Department of EPA that  
24 the former MSP plant be demolished  
25 versus the removal of the aggregate

□

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1 stockpiled on the property owned by  
2 Earthlock Technologies? That is one of  
3 my questions.

4 MR. RATCLIFF:

5 Before you go to another question,  
6 can I -

7 MR. PRICE:

8 Go ahead.

9 MR. RATCLIFF:

10 - can I ask you to clarify that.  
11 Are you asking are we choosing one over  
12 the other?

13 MR. PRICE:

14 Correct. I think most of us here  
15 tonight want more than having the plant  
16 demolished. We want, or I want, the  
17 hazardous material that is stored on-  
18 site at the plant and the aggregate  
19 removed from our community versus  
20 tearing the plant down. I think the  
21 priorities ought to be the removal of  
22 the hazardous material first, then the  
23 demolition of the plant.

24

MR. GLADSTEIN:

25

Can I respond to that?

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1

MR. PRICE:

2

Yes, sir.

3

MR. GLADSTEIN:

4

Yeah, and let's respond to your questions as you go.

5

6

MR. PRICE:

7

Okay.

8

MR. GLADSTEIN:

9

I agree with you totally. That's

10

what we're trying to do. The - As I

11

said, we did sampling in January and

12

February of this year, and the most

13

obvious problem there is that there is,

14

you know, ash that has heavy metals in

15

it in these open bins that are near the

16

bayou. That is the top priority, to get

17

that disposed of properly in a subtitle

18

C landfill. And that's why we're

19

getting that six million.

20

Now, in addition to that, we've got,

21

you know, waste, several different types

22

of hazardous material - some liquid,

23

some solid - enclosed in tanks. That

24

needs to also go to subtitle C, and

25

that's part of what we're going to be

1 using the six million for.

2 Now, as you say, there is other  
3 aggregate there. Most of it is  
4 underneath the concrete processing area  
5 that was used as fill to build up the  
6 plant. We did analysis of that and it's  
7 not showing very high metal or organic  
8 levels. They're, frankly, quite low.

9 The other thing that I wanted to say  
10 related to what your mother was saying,  
11 is in terms of the ground water  
12 conditions, we did - There are ground  
13 water monitoring wells there, and we  
14 looked at, you know, the constituents in  
15 those wells and we also dug our own  
16 wells, you know, in different places in  
17 the plant. And we're going to do that  
18 more comprehensively, you know, as part  
19 of this process. But based on what we  
20 did, the - what we showed was  
21 basically, relatively speaking, a small  
22 amount of this pentachlorophenol in the  
23 former creosote pad area. That's what  
24 we showed. Nothing, you know, else.  
25 So, you know, we are trying to approach

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1 this in terms of what's the most  
2 hazardous material and getting that  
3 disposed of first.

4 MR. PRICE:

5 Well, I think you're on the right  
6 track. I heard you the first time when  
7 you was at the podium you said that.

8 Our biggest concern is getting  
9 material removed first - getting it all  
10 removed. No matter what the ground  
11 water testing shows or whatever, I think  
12 it should be remediated to the fullest  
13 extent. You know, you say you've got  
14 six million dollars in the bank. What  
15 happens if this project goes to twenty  
16 or forty million dollars? Okay?

17 Has anyone done a thorough risk  
18 assessment on this property - on both  
19 pieces of property to find out the exact  
20 cost instead of just saying, "Okay,  
21 Jack, we'll settle with you for six,"  
22 and here it is twenty years down the  
23 line and it's costing the federal  
24 government and us a hundred million  
25 dollars? Has that risk assessment been

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1 done?

2 MR. GLADSTEIN:

3 Well, I do believe that we have done

4 de.txt  
a thorough risk assessment on the  
5 offsite, the RPI location. And that's,  
6 you know, that's right here and, you  
7 know, you're welcome to a copy of that.

8 In terms of, you know - The problem  
9 with the Marine Shale property is that  
10 various solutions have been tried. You  
11 know, the GTX was going to come in, they  
12 were going to set it up, and they were  
13 going to remove whatever needed to be  
14 moved and do whatever assessments needed  
15 to be done. And it didn't work.

16 So, you know, the approach here is  
17 rather than trying to find the perfect  
18 solution, what we're trying to do is a  
19 phased solution. And I do believe that,  
20 you know, MSP had a large number of  
21 customers. We're only proposing to  
22 settle with one of those customers. And  
23 there - I believe that, you know, these  
24 are a number of large corporations and  
25 that there are the dollars out there

□

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1 that we need to do whatever additional  
2 cleanup needs to be done.

3 MR. RATCLIFF:

4 And a thorough assessment will be  
5 done including an assessment of the risk  
6 before the final remedy is approved for

7 that site.  
8 MR. PRICE:  
9 Why at the time y'all - I think it  
10 was Southern Piedmont. Why at the time  
11 y'all went against Southern Piedmont  
12 y'all did not go against the other  
13 customers at the same time? Why - It  
14 has taken five or six years to get to  
15 this point now. And now you're going to  
16 go after another customer; it's going to  
17 take another five years. And then  
18 another customer and another five years.  
19 We're going to be looking at this for  
20 150, 200 years if y'all keep going the  
21 way you're going. What don't you just  
22 do like other people do and do a class  
23 action lawsuit and get it over with? If  
24 once you have your thorough risk  
25 assessment, you say it's going to cost a

□

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1 hundred million dollars, go after these  
2 hundred customers, make them each pay  
3 and put up.  
4 MR. GLADSTEIN:  
5 Well, that goes back to the history.  
6 The reason that Southern Wood Piedmont  
7 was involved is because they involved  
8 themselves in the case that we had  
9 against Marine Shale. They were looking

de.txt  
10 for a declarati on that what they sent  
11 was not hazardous. So what we ended up  
12 with is they're taking responsibility  
13 for the off-site cleanup. We are in the  
14 process - The Justice Department is in  
15 the process of getting a referral from  
16 EPA Region 6 for a very large number of  
17 generators. So we're not going to be,  
18 you know, piecemealing this. We're  
19 going to give them an opportunity to do  
20 the cleanup themselves and whatever, you  
21 know - and that's the second stage, the  
22 comprehensive assessment. And whatever  
23 that comprehensive assessment shows  
24 needs to be done, it's going to be done.  
25 MR. PRICE:

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1 Okay, thank you.  
2 Have y'all or - And, once again, I  
3 think our biggest concern is getting the  
4 hazardous waste and material removed.  
5 Has an assessment been done on moving  
6 the aggregate from where it's at, which  
7 is not an approved landfill, to a  
8 subtitle C landfill? If you have  
9 considered removing it, what is your  
10 estimated cost of doing that? I'm  
11 talking about the aggregate stored on  
12 the Recycling Park property.

13 MR. GLADSTEIN: de.txt  
14 Oh, Recycling Park?  
15 MR. PRICE:  
16 Yeah.  
17 MR. GLADSTEIN:  
18 You're talking about the off-site  
19 location?  
20 MR. PRICE:  
21 Correct.  
22 MR. GLADSTEIN:  
23 Okay. In terms of the off-site  
24 location this risk assessment was done.  
25 Based on that risk assessment, EPA,

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1 LDEQ, and the Justice Department have  
2 concluded that from a public - And, you  
3 know, you have the LDEQ toxicologist  
4 here, Dr. Sutherlin, and you can ask her  
5 directly as the other lady did. But our  
6 conclusion is, based upon the sampling  
7 results from this risk assessment, that  
8 assuming a two foot clay cap along with  
9 top soil and vegetation is placed over  
10 this material, that there is not a  
11 public health risk. With the caveat  
12 that in the future the property only be  
13 used for industrial purposes.  
14 MR. PRICE:  
15 Are y'all aware this property is

de.txt  
16 within 200 to 300 feet of residential  
17 homes? Are y'all aware that people hunt  
18 on top of this property? There's no  
19 fence around it. I mean, the rainwater  
20 that drains off it - off the property  
21 goes into the public drainage system and  
22 is pumped overboard into the bayous. I  
23 mean, y'all are putting y'all's faith  
24 and trust in this liner that's in there,  
25 but there's nothing to collect - as far

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1 as I know and I've seen, there's nothing  
2 to collect the water that comes off of  
3 this property as with any other. I  
4 mean, the landfill over here in Berwick,  
5 which is a commercial - I mean, a  
6 residential landfill, y'all make them  
7 take the water off that and treat it  
8 first. But here it is with this  
9 aggregate and this heavy metal sitting  
10 there, the water runs off, gets into the  
11 drainage system, and just gets pumped  
12 out into the water - in the bayous, you  
13 know. I don't think the job that the  
14 LaDEQ and the EPA has done was thorough  
15 enough on the site of this hazardous  
16 waste sitting out there in this field.  
17 I think there should be more protection.  
18 I think there should be treatment of the

de.txt  
19 water that goes onto this land just as  
20 it is with the Marine Shale property  
21 that y'all made them take all the  
22 groundwater that - all the rainwater  
23 that went on that site, y'all made them  
24 treat it before it was disposed of. I  
25 think the same thing should be done

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1 here.  
2 Really and truly, I think the damn  
3 thing ought to be moved out of here. We  
4 don't want it. You know, let me bring  
5 it to your yard versus - Better yet,  
6 ship it to Jack Kent's property in  
7 Wyoming up there. We've got rail.  
8 We've got water. We've got highways.  
9 We can ship it. It can be done. Don't  
10 say it can't.

11 And my biggest thing is the  
12 hazardous waste. I don't care about the  
13 plant. I don't give a damn what you do  
14 with the plant. I just don't want it  
15 back again. But my biggest thing is the  
16 hazardous waste and the hazardous  
17 material that's on-site. Okay?

18 I think the aggregate needs to go.  
19 And what is your time - This is the  
20 question. What is your time frame, or  
21 is there a time frame for ever, for



25

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site location, the surface material,

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1 we're going to get rid of that ASAP, and  
2 that's the whole thrust of what we're  
3 trying to do. In terms of the other  
4 aggregate that's there, that we're going  
5 to do -

6 MR. PRICE:

7 On the plant site?

8 MR. GLADSTEIN:

9 Yes. That, we're going to do a  
10 comprehensive assessment on. And  
11 whatever the public health risks tell us  
12 need to be done, will be done with that.

13 MR. RATCLIFF:

14 Mr. Price, I would also like to  
15 respond to something you said a minute  
16 ago.

17 MR. PRICE:

18 Go ahead.

19 MR. RATCLIFF:

20 We agree that it's not acceptable to  
21 have rainwater coming in contact with  
22 that ash, which is why that we're  
23 requiring a clay cap - a two foot clay  
24 cap with the topsoil and grass seed on  
25 top of it. That will prevent rainwater

□

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1 from coming in contact with it, and you  
2 will have essentially uncontaminated  
3 storm water at that point once this cap  
4 is in place.

5 MR. PRICE:

6 I know - I'm very familiar with the  
7 landfill in Berwick over here, and you  
8 know, y'all made them go and dig around  
9 the whole entire mountain over there and  
10 put this - I forget what they call it.  
11 It's, like, a cement slurry type mixture  
12 in there. It's more like a wall to  
13 where the water does rain on the  
14 mountain of trash and does seep through  
15 the clay - that, that water is pumped  
16 out and treated. Why doesn't the same  
17 principles and the same whatever apply  
18 to this site?

19 MS. SYKES:

20 (To Mr. Radcliff) It's not a risk.  
21 It's just not necessary based on the  
22 risks.

23 MR. RATCLIFF:

24 Yeah, the risk assessment shows that  
25 that's just not necessary.

1 MR. PRICE:

2 All right.  
Page 49

de.txt

3 I would like to know - Another  
4 question is, why wasn't the public -  
5 before the consent decree was settled  
6 upon, why wasn't the public of this  
7 community involved in portions of this  
8 consent decree to try to - Don't wait  
9 until the public hearing now to try to  
10 get our comments. And is the consent  
11 decree set in stone? Is this a done  
12 deal?

13 MR. RATCLIFF:

14 It is not a done deal.

15 MR. PRICE:

16 Okay.

17 MR. RATCLIFF:

18 The purpose for this is to receive  
19 your comments. They will be considered  
20 before the agencies make a decision on  
21 whether to proceed with it as proposed  
22 or not.

23 MR. PRICE:

24 Okay.

25 MR. GLADSTEIN:

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1 But what I'd like to add to that is  
2 that part of the reason that we're  
3 proposing that we proceed the way we're  
4 proceeding is that at the end of last  
5 year we received resolutions from the

de. txt

6 Parish Council and the City Council  
7 asking us to get that money in the  
8 registry and apply it toward cleanup.  
9 And that's the core of what we're doing  
10 here.

11 MR. PRICE:

12 I'm just going through some of my  
13 notes I was taking when you all were  
14 reading. Excuse me just a minute.

15 Mr. Ratcliff, you mentioned that in,  
16 I guess, the litigation or court hearing  
17 or whatever, y'all sought or the  
18 determination was made to not bring  
19 charges against Jack Kent. Why?  
20 Criminal charges.

21 MR. RATCLIFF:

22 Criminal charges?

23 MR. PRICE:

24 Correct.

25 MR. RATCLIFF:

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1 I can't answer that question.

2 MR. PRICE:

3 Who can?

4 MR. RATCLIFF:

5 Possibly one of the other speakers  
6 here; I'm not sure. None of us was  
7 involved at the time that decision was  
8 made.

de. txt

9 MR. PRICE:  
10 I know if I violate the law, I go to  
11 jail.  
12 MS. SYKES:  
13 Well, first of all, I mean, we  
14 looked at criminal violations at the  
15 facility from the start, and criminal  
16 violations have a different standard.  
17 They have to be willful, knowing  
18 violations of the law. And so we  
19 prosecuted for that first violation of  
20 operating without a permit and storing  
21 that waste without a permit. But, as I  
22 spoke about earlier, because the law was  
23 at the state it was at, where  
24 incinerators were regulated and  
25 industrial furnaces including aggregate

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1 kilns were not regulated, there was a  
2 very gray area there. And you certainly  
3 couldn't prove a willful violation of  
4 the law when the law, in fact, had this  
5 gap in it. And so, we started down the  
6 civil path and that was, in fact, the  
7 only alternative left to us.  
8 And why we didn't bring Mr. Kent in  
9 personally -  
10 MR. PRICE:  
11 Money.

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MS. SYKES:

No. Well, the fact is, is that he's the sole shareholder of Marine Shale Processors. So as a practical matter, every dollar that comes out of Marine Shale comes out of Mr. Kent's pocket. He's the owner.

MR. PRICE:

That doesn't answer my question or I don't think that's what I want to hear. If he knowingly -

STAFF MEMBER:

Can we time so he can replace the recording.

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MR. PRICE:

It is my opinion that if he knowingly bought this hazardous material to turn it into a material and use it for profit, that is criminal intent. He violated the law. He's a criminal. He did it on purpose with a gain of money. And I personally think criminal charges should have been brought against him. I won't expect an answer for that; I'm just going to state my opinion, okay. I personally think criminal charges should have been brought against him.

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15 A few more questions. You know, Mr.  
16 Gladstein, you mentioned something about  
17 y'all was more concerned about the  
18 snakes at the off-site aggregate storage  
19 facility versus the aggregate itself.  
20 That's your opinion. I'll eat a snake,  
21 but I won't eat that aggregate, okay.

22 We - I just can't stress to you  
23 enough to all of y'all: we want the  
24 stuff removed from the property - all  
25 of it. He put it there. He should be

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1 responsible. The companies that put it  
2 there, they should be responsible.  
3 Somebody has got to pay.

4 I'm twenty-six years in the safety  
5 industry. I know a lot about hazardous  
6 materials. It's from cradle to grave, I  
7 believe is the saying, right? You're  
8 responsible for it. There's plenty of  
9 people that did business with Marine  
10 Shale; there's plenty of companies that  
11 did business there. They should all be  
12 held responsible.

13 MS. SYKES:

14 And we absolutely agree with you.  
15 And let me just say that when you look  
16 at Superfund sites today and when you  
17 look at other hazardous waste sites

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18 today, cleanups are based on risk. And  
19 we do risk assessments and if they fall  
20 within a certain acceptable risk range,  
21 the material is allowed to be kept in  
22 place as we're doing at Recycling Park.

23 It would - I don't know what legal  
24 method we could use to force a cleanup  
25 that would be more stringent at this

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1 site than we would have at any other  
2 site.

3 MR. PRICE:

4 Because it's on our property.

5 MR. SYKES:

6 Well, I understand your concern, but  
7 just as a legal matter I don't know how  
8 you would do it.

9 MR. PRICE:

10 Well, has an analysis been done on  
11 the cost of putting a two foot cap with  
12 another six inches of soil on top of  
13 this aggregate off-site versus the  
14 actual removal of all that aggregate?  
15 Has that been done?

16 MR. GLADSTEIN:

17 Yeah. We have looked at the  
18 differences in cost. That was done  
19 before I got involved about, you know,  
20 nine months ago. But it was definitely

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21 much more expensive to remove it, you  
22 know - put it off-site.

23 MR. PRICE:

24 How much was it?

25 MR. GLADSTEIN:

□

62

1 I don't remember. Do you know,  
2 Terry?

3 MS. SYKES:

4 It seems like when we looked at this  
5 under the GTX consent decree that it was  
6 somewhere around between 30 and 40  
7 million dollars to move that ash to a  
8 subtitle C.

9 MR. PRICE:

10 And why didn't we go after that kind  
11 of money in the consent decree?

12 MS. SYKES:

13 Well, once again, because the -

14 MR. PRICE:

15 I see where we asked for eight  
16 million and we got six. Why didn't we  
17 go after fifty and get thirty?

18 MS. SYKES:

19 Well, I think you're asking a couple  
20 different questions.

21 MR. PRICE:

22 Probably.

23 MS. SYKES:

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24 But if you're asking why we then  
25 allowed the ash to remain in place, it

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1 goes back to the risk issue and because  
2 cleanups are done under risk assessments  
3 these days. If it - if you - If it  
4 falls within a certain acceptable risk  
5 range, you can leave (inaudible) in  
6 place.

7 MR. PRICE:

8 That's unacceptable to us.

9 MR. RATCLIFF:

10 The other issue too is just the  
11 money that's available. Marine Shale  
12 Processors, Inc. and Recycling Park,  
13 Inc. are both insolvent entities. The  
14 only assets they have are these  
15 properties. The only money that was  
16 available was the money that in the  
17 registry of the court and we're getting  
18 it all.

19 The liability of Southern Wood  
20 Piedmont was, you know, limited in some  
21 respect, and it was the determination of  
22 the agencies that the proposal that they  
23 have made is a reasonable settlement of  
24 their liability. And as Mr. Gladstein  
25 said, we aren't stopping with these

1 companies though. We will be seeking  
2 contributions from other responsible  
3 parties as well.

4 MR. PRICE:

5 In the Southern Piedmont settlement,  
6 what - was it \$800,000? Was it?

7 MR. GLADSTEIN:

8 No, no, no. The \$800,000 is the  
9 letter of credit that Marine Shale had  
10 to give LDEQ. That's not going to be  
11 applied. It's whatever the cleanup  
12 costs - the expense. A couple hundred  
13 thousand on their investigation and risk  
14 assessment, and in - the addition -  
15 the cost of the cleanup, you know, it's  
16 we're estimating it's anywhere - I  
17 don't know exactly what it's going to  
18 be, but total we're estimating around  
19 two.

20 MR. PRICE:

21 Just for their share? Southern  
22 Piedmont?

23 MR. GLADSTEIN:

24 No, for everything that's over at  
25 RPI.

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MR. PRICE:

Okay. You said -

MR. GLADSTEIN:

In addition to that they're putting a couple hundred thousand into what - you know, into Marine Shale in cash.

MR. PRICE:

Okay, Mr. Gladstein, you had stated that where the creosote storage area was, a slab was there. When y'all first did the testing, the levels were up here.

MR. GLADSTEIN:

Right.

MR. PRICE:

And when y'all did the last testing the levels were down here -

MR. GLADSTEIN:

Right.

MR. PRICE:

- in the groundwater.

MR. GLADSTEIN:

Right.

MR. PRICE:

Where to you think them high levels

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went?

MR. GLADSTEIN:

That's part of what we're going to

4 de.txt  
be doing with the - You know, they  
5 could have gone down.  
6 MR. PRICE:  
7 Or it could have went that way.  
8 MR. GLADSTEIN:  
9 Or they could have gone out, and  
10 that's part of what we're going to be  
11 doing with the comprehensive testing.  
12 MR. PRICE:  
13 Okay.  
14 MR. GLADSTEIN:  
15 Now, the main reason that they were  
16 at the levels they were at is because  
17 they were - there was - the creosote  
18 material on top of it. Once you remove  
19 the creosote material that was on top of  
20 it, it wasn't getting, you know,  
21 recharged so to speak.  
22 MR. PRICE:  
23 I understand that. I understand.  
24 But still the levels that were there had  
25 to go somewhere, and where they're at we

□

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1 just don't know. And that's what  
2 concerns us. We want to know where  
3 they're at.  
4 MR. GLADSTEIN:  
5 When I say it was higher, I'm  
6 talking about the difference of a couple

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7 hundred parts per billion. Per billion  
8 versus in between 10 and 24 parts per  
9 billion.

10 MR. PRICE:

11 Okay. In closing I want to say I  
12 speak for myself, but I think I speak  
13 for some of the people that's here and  
14 some of the people in this community  
15 tonight.

16 It's in my opinion that the meeting  
17 that you're having tonight is a pain in  
18 the butt for all us, including the U.S.  
19 Environmental Protection Agency, the  
20 Louisiana Department of Environmental  
21 Quality. If this meeting was not  
22 required by Congress, we would not be  
23 having this meeting - or congressional  
24 legislation, I should say. If it wasn't  
25 part of the rules of which you operate

□

68

1 by, we wouldn't have this. We wouldn't  
2 have the input that we're getting  
3 tonight. So, like I say, that's my  
4 opinion.

5 I further think it's a joke that you  
6 have a settlement or a partial  
7 settlement in courts and then you come  
8 to us and ask us what do we think. How  
9 should y'all go about settling this case

10 per say. I think that should be done on  
11 the front hand - on the front work, not  
12 on the back end.

13 Further, we have this meeting and  
14 the public comment expires in twelve  
15 days. I work off-shore. I've been off-  
16 shore for three weeks to a month, and I  
17 haven't had time or access to the  
18 Internet or a newspaper or a telephone,  
19 you know. And it's not your fault; it's  
20 not my fault. But I got in last night  
21 and I did all my research in a day to  
22 get prepared for this meeting tonight.  
23 So I don't think it's fair that y'all  
24 open the public comment period and then  
25 15, 20 days down the line hold it in the

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1 community where it's involved. I think  
2 the public comment period ought to be  
3 first and then you open your 45 day  
4 comment period after that, after you get  
5 the community's response. Maybe it's a  
6 technicality. Maybe it's the way you  
7 operate, but I think you need to change  
8 the way you operate. So that's an  
9 opinion of mine.

10 I have a plan and it should have  
11 been discussed with the people before we  
12 went to the consent decree. Before we

13 de. txt  
got here, it should have been discussed  
14 with the people.

15 I think that the monies received  
16 from the consent decree should be put  
17 towards first, as I said before, the  
18 removal of all the hazardous material,  
19 and second, the plant and the property.  
20 When I say "all the material," I mean -  
21 I even mean the aggregate on the Park  
22 property.

23 I further feel that the property  
24 should become the property for all of  
25 us. The property should be turned over

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1 to the parish with the stipulation that  
2 the plant be demolished, the areas  
3 cleaned up totally, and that it's put  
4 back into commerce.

5 I feel that for all the hardships,  
6 all the pain and suffering, and finally,  
7 the loss of the loved ones that we have  
8 incurred, the plant should be demolished  
9 without the possibility of anyone buying  
10 any component of that property - any  
11 component - from the fence down to the  
12 office chairs. I think it all should be  
13 destroyed or recycled.

14 I along with others do not have  
15 trust in the United States Environmental

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16 Protection Agency or the Louisiana  
17 Department of Environmental Quality, who  
18 are supposed to be the truly protectors  
19 of the environment. If you are as you  
20 say you are, then do just that. Protect  
21 the environment, protect the people.

22 Thank you.

23 MR. RATCLIFF:

24 Thank you, Mr. Price.

25 Ms. Subra, are you ready to take

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1 your turn? Give this lady a microphone.

2 MS. SUBRA:

3 Thank you. How's this?

4 First, I'd like to thank DEQ, EPA,  
5 Department of Justice for coming to  
6 Morgan City one more time. You came a  
7 while back and Terry, you and I, went to  
8 the site and looked it over. One other  
9 recent time we had the hearings on the  
10 permit revoking. I didn't hear you,  
11 Chris, say anything about the permits  
12 are no longer in effect. Are they?

13 MR. RATCLIFF:

14 Technically, yes, but that will be  
15 - they will be terminated after these  
16 consent - if these consent decrees are  
17 finalized.

18 MS. SUBRA:

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19                   Because that was one of the issues  
20 of holding GTX - quote, the company,  
21 GTX - liable, and that's why you had -  
22 were reluctant to get rid of the  
23 permits.

24                   Terry, when you did the history, it  
25 really brought back what this community

□

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1                   has suffered. And you heard it. You  
2 heard it from Merlin. You heard it from  
3 Ms. Broussard.

4                   When I came in tonight, a number of  
5 people came up to me and said, "So and  
6 so can't be here because they're sick or  
7 someone in their family is sick." It  
8 has been 22 years that this community  
9 has dealt with this facility. And, as  
10 you're aware, it has torn the community  
11 apart. It has torn the community in  
12 half; not saying that the two halves are  
13 equal. And so when you were talking  
14 about - I don't know how much you know  
15 about the site or remember. This  
16 community knows the site. This  
17 community has lived and died with this  
18 site 22 years.

19                   And when you started off, Terry, you  
20 talked about the early regulations and  
21 how they weren't there, but this is

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22 truly a sin of today. The Superfund  
23 sites that we deal with all the time are  
24 sins of the past that we're having to  
25 either clean up or contain. But this

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1 one went into effect when most of the  
2 regulations were there. New regulations  
3 have come since then, but this is a  
4 really a sin of today and the problems  
5 that have arisen. And I think it's  
6 really ironic that we sit here in July  
7 2006, exactly ten years after Judge  
8 Duplantier ordered the site shut down  
9 and gave them time - gave Marine Shale,  
10 Jack Kent time to burn out the waste or  
11 remove and dispose of it off-site.

12 So when you were talking about the  
13 waste that's still on-site, they had  
14 been ordered by the federal judge to  
15 burn it out or properly dispose of it.  
16 And yet ten years later, we're still  
17 sitting here.

18 You held up a report. The  
19 consultants had done a report previous  
20 to this and estimated the cleanup cost  
21 of just the waste on the site that had  
22 been manifested in before the 1996  
23 shutdown was six-point-something  
24 million. That report that you have, I

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have been asking everybody at both

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1 agencies, state and federal, for a copy  
2 of it. Is it now publicly available,  
3 and can you leave one copy with the  
4 community that we can share?

5 MR. GLADSTEIN:

6 Are you talking about the report for  
7 RPI, the off-site location?

8 MS. SUBRA:

9 No, I have those. The report of the  
10 assessment of the waste on-site that  
11 y'all have done recently.

12 MR. GLADSTEIN:

13 Okay. Well, I don't know what  
14 happened because I got a call, it could  
15 have been almost a month ago that you  
16 were interested in that. I faxed it the  
17 next day to EPA Region 6. So, if that's  
18 what you're talking about, I don't know  
19 whether you got it or not.

20 MS. SUBRA:

21 I haven't received it and I haven't  
22 had any word of it. Terry, could you  
23 check on it?

24 MS. SYKES:

25 Yes.

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1 MS. SUBRA:

2 Thank you.

3 MR. GLADSTEIN:

4 As soon as I heard you were  
5 interested I got it out the next day.

6 MS. SUBRA:

7 Thank you. And, again, I will share  
8 it with the community. So if you give  
9 us one copy we're good as opposed to not  
10 having any copies.

11 Out on the desk there were two  
12 copies of this proposed settlement. It  
13 would be great if one of those copies  
14 could stay in the community so they  
15 didn't have sit in front of their  
16 computer forever and read it.

17 MR. GLADSTEIN:

18 Ms. Subra, let me just tell you that  
19 I have several copies with me. I will,  
20 you know, put them wherever you'd like  
21 them to be put. I have this, you know,  
22 RPI assessment. I'm happy to give it to  
23 you or to anybody else. I have part of  
24 the assessment that was done. I'd be  
25 happy to give that to you or anybody

□

1 else, you know, before we leave.

2 MS. SUBRA:

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3 We would appreciate it.

4 So here we sit ten years later, and  
5 we're talking about the first priority  
6 is taking the six million and using it  
7 to dispose of the waste. The question  
8 is, when you talk about it going to a  
9 subtitle D industrial waste landfill -  
10 the aggregate to the D, but you can send  
11 the waste to the C? On-site, I'm  
12 talking.

13 MR. GLADSTEIN:

14 The surface waste is going to  
15 subtitle C, the most restrictive  
16 landfill, yeah.

17 MS. SUBRA:

18 And have you chosen a location?

19 MR. GLADSTEIN:

20 Not yet, no.

21 MS. SUBRA:

22 We'd like to be notified when you  
23 do. The aggregate on-site, is that  
24 going to a D?

25 MR. GLADSTEIN:

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1 Now -

2 MS. SUBRA:

3 You said - Someone up there said an  
4 industrial waste landfill.

5 MR. GLADSTEIN:

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6                   What we're talking about  
7 immediately, you know, in the very short  
8 term with the \$6 million is the ash that  
9 is in the bins -

10 MS. SUBRA:

11                   The bins, right.

12 MR. GLADSTEIN:

13                   - and the liquid and solids that's  
14 in the closed tanks, that's going to  
15 subtitle C, yes. Now, beyond that,  
16 we're talking about a comprehensive  
17 assessment with what's left. What's  
18 left is basically what's under the  
19 concrete processing area and near the  
20 white house. Once we do that concrete  
21 assess - that comprehensive assessment,  
22 we'll figure out, you know, from a risk  
23 standpoint where it needs to go.

24 MS. SUBRA:

25                   Okay, we would like to know before

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1 and not after the trucks are rolling out  
2 and we find out which landfill C and D  
3 you're using. We'd really appreciate  
4 knowing that.

5 MR. GLADSTEIN:

6                   That would be fine.

7 MS. SUBRA:

8                   Chris, when you were talking about

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9 dates of the consent decree, we've  
10 reviewed all the various documents,  
11 permits and consent decrees over the  
12 years and submitted substantive comments  
13 and very few, if any, changes have been  
14 made, particularly when the substantive  
15 comments we submitted would require  
16 additional resources. So I just want  
17 the people here to understand that you  
18 can ask a lot of this and it may not get  
19 in the consent decree. To be really  
20 clear, that even though you may give us  
21 more time to do it, the chances are  
22 major things won't happen, minor changes  
23 may happen, so that the people don't  
24 hold their breath and then get all upset  
25 again when there's not a greater

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1 protectiveness.  
2 The clause that you had about Jack  
3 Kent not owning the business at all,  
4 that really struck home because that's  
5 what happened when the Judge Dougherty  
6 in Lafayette did in the case against  
7 Broussard Chemical. And EPA had gone in  
8 and cleaned up a lot of the Broussard  
9 Chemical sites in Vermillion. And on  
10 Sunday, I was in Vermillion and went  
11 past those sites, and they have all been

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12 put into productive use. There all the  
13 surface and shallow subsurface waste was  
14 attended to. Taken off, Merlin, not  
15 capped over. Ground water wasn't  
16 addressed there, but the waste issues  
17 were addressed there, and they're all  
18 back into productive use. So it can be  
19 done.

20 The bottom line here is that the  
21 property, both where Marine Shale is and  
22 where Recycling Park is, is going to be  
23 dirtier than it was before, quote,  
24 Marine Shale, Recycling Park, GTX, and  
25 any of those people came to town. So

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1 the reality is, they're dirtier than  
2 they were before, but we really  
3 appreciate you taking the money and  
4 coming to town and addressing the waste  
5 issues, because we've been waiting for  
6 this a long, long time. It's just the  
7 community doesn't think it's enough.  
8 They want it all attended to. But the  
9 primary thing, getting rid of that waste  
10 on the site is really, really critical.  
11 So I don't want you feel that we don't  
12 want you to do it. We want you do it  
13 and a lot of the community members want  
14 you to do even more.

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15                   The time period for removal of the  
16 kiln, we'd like notice before that. We  
17 would like to be standing out there  
18 watching the kiln finally come down.  
19 And Merlin doesn't have a real burning  
20 need for that kiln to come down; there  
21 are a lot of people in this community  
22 that have a real burning need, so would  
23 you please let us know with enough time  
24 that we will be there when the kiln and  
25 when the major stack also come down.

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1                   And I understand you have to get the  
2 money for the generators to do this.  
3                   And then the other part is sort of  
4 echoing what Merlin said, we really want  
5 to be part of the process. We don't  
6 want to find out after; we want to be a  
7 part. And y'all are going to be making  
8 decisions as you work through this  
9 process. This consent decree isn't  
10 going to be all the decisions that  
11 you're going to be making on a regular  
12 basis on how you proceed. And we would  
13 like to be part of that process. We  
14 would like the documents to be put in  
15 the repository, we'd like to be notified  
16 when they're there, and we'd like to be  
17 given an opportunity to review them,

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18 talk to the community, and then give you  
19 input. We're not trying to be  
20 obstructionists, we're just trying to be  
21 part of the process, because, as I said,  
22 this community has suffered for 22  
23 years. This community would like to be  
24 sure as you go through this process,  
25 it's done and done right. And we don't

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1 want to find out after the fact, like  
2 after Judge Duplantier told them burn it  
3 out or properly dispose of it, that  
4 there's still all this waste left on  
5 top.

6 MR. GLADSTEIN:

7 Can I -

8 MS. SUBRA:

9 Let's move to - Okay, go ahead.

10 MR. GLADSTEIN:

11 Can I comment on what you just said.  
12 I definitely agree with you. What we  
13 are - Where we are is that I believe we  
14 have a milestone here, just like the GTX  
15 settlement was a milestone, just like  
16 Judge Duplantier's 1996 order was a  
17 milestone. These consent decrees are a  
18 milestone, but they're definitely not  
19 the end. And if - From my standpoint  
20 as a representative of the Justice

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21 Department, I would like continued  
22 community involvement. And if there is  
23 a way that we can structure that, you  
24 know, as we go forward, I think that  
25 would be helpful

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1 MS. SUBRA:

2 That would be great and we'd  
3 appreciate it.

4 One of the restrictions that were  
5 put in a lot of the regular decision on  
6 the Superfunds in Vermillion were that  
7 people who made money from the site or  
8 companies that made money from the site  
9 - and it was both people and companies  
10 - could not profit by the activities  
11 that will go on at these two locations.  
12 Because we had a lot of people who had  
13 made money with improper handling and  
14 disposal of waste that were standing in  
15 line waiting to get the contracts when  
16 the wastes were being addressed. So if  
17 you could include something like that in  
18 these two agreements, I think that would  
19 go a long way to giving this community a  
20 little bit of comfort that people who  
21 made the money before are not going to  
22 be standing in line to the money again.

23 Can the property where Recycling  
Page 75

de. txt

24 Park is located be sold?  
25 MR. RATCLIFF:

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1 Yes.

2 MS. SUBRA:

3 Who will maintain the cap?

4 MR. RATCLIFF:

5 The owner. Whoever owns it is  
6 responsible for that.

7 MS. SUBRA:

8 And what can be constructed on top  
9 of a mere two feet of clay?

10 MR. RATCLIFF:

11 I don't know the answer to that. I  
12 suspect nothing very substantial.

13 MS. SUBRA:

14 Because I'm working on a number of  
15 sites right now and we've actually moved  
16 it to six feet of clay, because they  
17 want to redevelop on top of it,  
18 commercial and industrial, and they need  
19 enough soil on top for their  
20 foundations. So if you put two feet of  
21 clay and six inches of soil, and then  
22 somebody comes along, buys it, and  
23 starts putting in foundations, they've  
24 just disrupted everything you required  
25 Southern Wood Piedmont to put on there.

1 So my suggestion is they can't penetrate  
2 the two feet of clay. If they want to  
3 put foundation, they need to put soil on  
4 top in which to anchor their foundation  
5 and not disrupt the cap.

6 MR. RATCLIFF:

7 Yeah, the proposed settlements both  
8 require that the integrity of the cap be  
9 maintained, and that if it is damaged in  
10 any way, it must be repaired.

11 MS. SUBRA:

12 But you know what will happen. As  
13 soon as you turn your back, somebody's  
14 going to go in there and put a  
15 foundation and then go like, "Oh, we  
16 didn't know." I mean, it needs to be -  
17 It's not protective enough, and the  
18 community's not happy with it. But if  
19 you're going to do it, it needs to be  
20 protected. Okay?

21 MR. GLADSTEIN:

22 Ma'am, Ms. Subra, can I also respond  
23 that. As part of the consent decree for  
24 both the off-site location and for the  
25 plant, we are going to have deed

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1           restrictions, conveyance notices that  
2           are in the Recorder's Office. So  
3           anybody who wants to purchase will see  
4           this deed restriction. And, you know,  
5           the deed restriction is part of the  
6           consent decree, and it will be filed in  
7           the Recorder's Office. And it says this  
8           site can only be used for industrial  
9           purposes, the cap material shall not be  
10          disturbed or removed. If any cap  
11          material is disturbed or removed, it's  
12          got to be repaired and restored  
13          immediately, you know, et cetera. So  
14          the - Whoever purchases will be on  
15          notice of this and subject to liability  
16          if they don't comply.

17          MS. SUBRA:

18                 Okay, disposed or removed. That  
19                 doesn't say they can't put a foundation  
20                 in it and disrupt it. They're not  
21                 disposing or removing it. They put in a  
22                 foundation.

23          MR. GLADSTEIN:

24                 It says the cap material at the site  
25                 shall not be disturbed or removed.

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1          MS. SUBRA:

2                 Okay. And you know who's going to  
3                 enforce this?

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MR. GLADSTEIN:

Well, I think you and your -

MS. SUBRA:

That's the issue. You're going to come in one day and there's going to be all this foundation out there, and then the decision's going to be made, "Well, they spend a lot of money, and even though they disturbed it, we'll let them do it." I mean, that's the reality.

MR. GLADSTEIN:

I don't think LDEQ's going anywhere and I don't think this community's going anywhere.

MS. SUBRA:

But we want to know when we see somebody digging for foundations, who to notify that's going to rush right out there and say, "No, you can't do that."

MR. GLADSTEIN:

That's why I'm proposing we have an ongoing relationship that doesn't stop

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at this point, that continues.

MS. SUBRA:

Okay. But enforcement is the thing that we have lacked in these 22 years, and we want to be sure that what you have in that consent decree is

7 de.txt  
enforceable and enforced.

8 MR. GLADSTEIN:

9 I totally agree with you. Just  
10 because it's in writing doesn't mean  
11 that it's going to happen.

12 MS. SUBRA:

13 Exactly. Thank you. And, again, we  
14 would like to work with y'all as we move  
15 this process ahead. Thank y'all for  
16 coming. Thank you for bringing the  
17 money to deal with the waste issues, and  
18 move forward quickly to get money from  
19 additional generators to move this whole  
20 process ahead.

21 MR. RATCLIFF:

22 Thank you Ms. Subra. And to touch  
23 on something that Ms. Subra mentioned  
24 earlier, copies of the actual proposed  
25 settlements have been placed with the

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1 local libraries. The addresses are  
2 listed on the screen there.

3 That is everyone who has signed up  
4 to speak. Is there anyone else in the  
5 audience who would like to ask a  
6 question or give a comment?

7 Yes, sir, right here.

8 MR. MATTE:

9 My name is Tim Matte. My question

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10 is this: just a point of clarification,  
11 we are all interested in seeing the  
12 properties, both properties, put back  
13 into commercial use or productive as  
14 quickly as possible, but I'm not really  
15 clear about the ownership. Once this -  
16 You're getting 6.2 million dollars in  
17 cash because that's money that's already  
18 in the registry of the Court. Now, I  
19 think I understood you to say that  
20 neither Marine Shale nor RPI have any  
21 money left. So there is - there are no  
22 more funds coming in, yet you will have  
23 a 6.2 million dollar judgment against  
24 those companies.  
25 MR. RATCLIFF:

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1 Correct.  
2 MR. MATTE:  
3 So I assume that's some sort of  
4 attachment against the property or will  
5 lead to an attachment against the  
6 property, so that in the event it's  
7 sold, that would provide some cash. But  
8 in my opinion, the only way those  
9 properties are going to be sold, if  
10 they're made - if they're brought into  
11 a position where they can be utilized  
12 commercially. Wilma's description

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13 earlier and your answer to that, you  
14 can't break the cap of the property, is  
15 going to severely limit it's use. You  
16 know, perhaps, it can be used as - I  
17 mean, you're not going to build a  
18 building on it if, as she said, you have  
19 to put a foundation in there. You're  
20 not going to want to break that cap,  
21 because once you break the cap, you're  
22 going to be responsible for removing all  
23 the materials, so on and so forth. So I  
24 don't know that we're leading that  
25 particular piece of property to

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1 commercial use with some of those  
2 restrictions.

3 And, of course, in the other case,  
4 you're cleaning surface waste, but  
5 you're not cleaning the rest of that  
6 property. Who is actually going to own  
7 the property in this interim time period  
8 and would be responsible for the  
9 operations of those properties?

10 MR. GLADSTEIN:

11 Jack Kent continues to hold title to  
12 these properties. He continues to pay  
13 taxes for the next three years on the  
14 properties. Once the properties are  
15 remediated to the satisfaction of EPA

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16 and DOJ, and assuming we can, you know,  
17 work out some kind of structure for  
18 continued community input, which I think  
19 we should have, once the community -  
20 you know, we can reach a consensus, that  
21 we reach this point where we certify  
22 that the cleanup has been done, then the  
23 consent decree provides that these  
24 properties can go into a trust. And the  
25 trustee will sell the properties, you

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1 know, with the idea of trying to get  
2 them back into commercial use consistent  
3 with the restrictions. And the proceeds  
4 - And it may not be much proceeds  
5 because, as you said, there are not  
6 going to be - you know, there's not a  
7 whole lot that people are going to be  
8 able to do. But the idea is to get them  
9 back into use. The proceeds will go  
10 toward the satisfaction of that  
11 judgement.

12 MR. MATTE:

13 But by that time, the property's  
14 clean, so that's not additional funds  
15 for cleanup, that's just -

16 MR. GLADSTEIN:

17 Right. Right. The additional funds  
18 for cleanup are going to come from the

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19 additional customers that we're going to  
20 be pursuing.  
21 MR. GRIZZAFFI:  
22 I'm Leo Grizzaffi. I would like to  
23 know if Jack Kent would be able to  
24 something. Would be able to sell this  
25 property since the - if somebody, some

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1 entity, from out of the country came in  
2 to maybe want to purchase it, could he  
3 sell it.  
4 MR. GLADSTEIN:  
5 The consent decree prohibits him  
6 from selling, you know, any interest  
7 that he has in these properties. We  
8 wanted that explicitly in there so that  
9 that wouldn't happen.  
10 MR. GRIZZAFFI:  
11 Okay. Another question I have is  
12 about the bayou and the slips. When you  
13 went out and tested the grounds around  
14 the plant, did you test the water bottom  
15 and the slip on the west end of the  
16 plant?  
17 MR. GLADSTEIN:  
18 No, we didn't. That needs to be  
19 done as part of the comprehensive  
20 assessment.  
21 MR. GRIZZAFFI:

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22                   Yeah, that would be a good idea,  
23                   because there was a lot of aggregate -  
24                   not aggregate, a lot of creosote was  
25                   spilled in there at one time, and they

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1                   took a tugboat and washed - wheel  
2                   washed a lot of it on into the bayou.  
3                   And my understanding at the time was  
4                   that there was probably two feet of  
5                   waste down in the bottom of that.

6                   Another thing, there was some  
7                   complaints about the Amelia Ballpark. A  
8                   lot of the kids play out there. One of  
9                   our schools plays baseball and softball  
10                  out there. And when they first started  
11                  playing out there, when they would slide  
12                  on the bases, they would get black on  
13                  their uniforms. And a test was made to  
14                  determine if there was any aggregate on  
15                  the ballpark, because a lot of aggregate  
16                  went into that area. And they said, no,  
17                  there wasn't any. Where the kids were  
18                  playing, it was all under the concrete.  
19                  So I would like for you to go back out  
20                  there and make an assessment of that  
21                  whole ballpark to see, you know, if it's  
22                  really safe for our kids. That's about  
23                  all I have.

24                  MR. RATCLIFF:

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Thank you, Mr. Grizzaffi. Who

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1 hasn't spoken yet?

2 State your name, please.

3 MS. HEBERT:

4 My name is Lauren Hebert. And I  
5 just wanted to confirm one of the things  
6 and I have an additional question. So  
7 y'all are saying that before anything  
8 can be done with this property that,  
9 first, y'all are going up and doing a  
10 planned cleanup, then y'all are going to  
11 go do the assessments and do any  
12 cleanups that has to be done then, and  
13 then y'all are going to have to tear  
14 down the kiln. So that all has to be  
15 done before it can be sold or he can do  
16 any - that that is going to be done,  
17 right?

18 MR. GLADSTEIN:

19 (Shakes head positively).

20 MS. HEBERT:

21 Okay. And then y'all said he has to  
22 pay the property taxes for three years.  
23 What happens after that?

24 MR. GLADSTEIN:

25 I know the history hasn't been very

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96

1 good. But, hopefully, within three  
2 years, we're going to be close to the  
3 time where we're going to be able to  
4 certify that the cleanup is done. If  
5 that's not true, we are keeping a  
6 reserve of 25 - ten thousand dollars in  
7 the Court registry, where if we need it  
8 to go toward paying the taxes, then  
9 that's where it'll go.

10 MR. CLOUTIER:

11 Pat Cloutier. (Inaudible).

12 MR. RATCLIFF:

13 Can you repeat your question. The  
14 reporter couldn't hear it all.

15 MR. CLOUTIER:

16 How much profit has Marine Shale  
17 made on illegally running the hazardous  
18 waste incinerator?

19 MS. SYKES:

20 I have no idea.

21 MR. CLOUTIER:

22 Just ball park.

23 Mr. Gladstein, can you give me a  
24 ball park?

25 Mr. Ratcliff.

1 MR. RATCLIFF:

2 I don't know.  
Page 87

de. txt

3 MR. CLOUTIER:  
4 Millions?  
5 MR. RATCLIFF:  
6 I would assume it would be millions.  
7 MR. CLOUTIER:  
8 Multi-millions?  
9 MS. SYKES:  
10 I would assume millions.  
11 MR. CLOUTIER:  
12 Over 6.2 million?  
13 MS. SYKES:  
14 I would think so, since that's how  
15 much is in the registry report.  
16 MR. CLOUTIER:  
17 So they didn't have to put up enough  
18 money to clean up the mess? Y'all  
19 didn't make do -  
20 MS. SYKES:  
21 They had to post financial assurance  
22 for the facility. Chris, would like to  
23 address the status of that?  
24 MR. RATCLIFF:  
25 The financial assurance that was

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1 posted was required by regulations years  
2 ago. Obviously, the amount that was  
3 required by those regulations was  
4 inadequate for what we need at this  
5 point.

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6 MR. CLOUTIER:

7 Chris, I remember an article in the  
8 newspaper where Billy Guste, the  
9 Attorney General at the time, with the  
10 DEQ sued - joined Marine Shale in a  
11 suit and sued other waste processors for  
12 not having enough money to close their  
13 sites. How come you didn't make Marine  
14 Shale have the money in escrow to be  
15 able to close their site?

16 MR. RATCLIFF:

17 I don't know the answer to that  
18 question. Like I say, the financial  
19 assurance that was required by the  
20 regulations at the time they applied for  
21 their permit were satisfied. But,  
22 apparently, the regulations were  
23 inadequate at the time.

24 MR. CLOUTIER:

25 I mean, this is wrong to me. People

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99

1 who paid money to generators to get rid  
2 of a waste product legally, okay, you're  
3 going to make them pay through the nose  
4 again instead of going after the  
5 profits. Had Marine Shale and its  
6 agents not - had they not paid their  
7 taxes and the IRS - and they owed the  
8 money to IRS, IRS would have sowed them

9 up. They wouldn't have been able to  
10 turn around. We had this discussion on the  
11 last public hearing, Terry, okay. You  
12 let them sale the property next door for  
13 a million dollars.

14 MS. SYKES:

15 Well -

16 MR. CLOUTIER:

17 You let them dispose of assets that  
18 could have been used here, okay. And  
19 how many more millions could y'all have  
20 sold? Who protected them? Is it  
21 politicians? Is it bureaucrats? You  
22 can't get away with this unless  
23 somebody's protecting you, Terry. Who's  
24 doing it? Who's done it for 20 years?

25 MS. SYKES:

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1 Well, again, virtually from the day  
2 they opened their doors and began  
3 burning hazardous waste, you know, they  
4 were under scrutiny by first the  
5 criminal people, and then later the  
6 civil people took over. There was not a  
7 very large period of time in which  
8 Marine Shale operated that we weren't on  
9 their case severely. And they paid for  
10 it. They paid in penalties. They paid  
11 in legal fees. You know, we did not

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12 make their lives easy, but we were  
13 confined by the law. You know, we have  
14 to operate within the law just like they  
15 do. And, again, you know, we took the  
16 path that was available to us by filing  
17 suit against them and pursuing them  
18 pretty much relentlessly over these  
19 many, many years.

20 MR. CLOUTIER:

21 Mr. Gladstein, it's been reported by  
22 the DEQ and the EPA that they  
23 contaminated the bayou. To this date,  
24 the bayou has never been cleaned up.

25 MR. GLADSTEIN:

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101

1 You know -

2 MR. CLOUTIER:

3 There was no aggressive enforcement  
4 action against them the whole 22 years.  
5 It's still - Y'all still pussyfooting  
6 around with it. You know, "Well, we're  
7 going to do this assessment," okay.  
8 Y'all are going to use up the 6.2  
9 million dollars assessing the site.

10 MR. GLADSTEIN:

11 Right. Well, listen, you know, what  
12 was said is certainly true, that my  
13 relationship to this problem is, you  
14 know, it's almost nothing compared to

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15 what you're talking about in terms of  
16 what the community's been through. But,  
17 you know, I did work on it, you know,  
18 about 15 years ago. And I can tell you,  
19 as I said before, that when I got back  
20 involved and went out into the plant and  
21 saw that that waste was still there, I  
22 was, you know, outraged. But I also  
23 have to say that, you know, we - the  
24 question is: are we going to be looking  
25 forward, or are we going to be looking

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1 backward?  
2 And, you know, I have a case against  
3 someone who's very much like Mr. Kent.  
4 His name is Mr. Gurley. And I've been  
5 fighting Mr. Gurley, you know, since  
6 1995 and, you know, I'm still fighting  
7 him. And, you know, we've got, you  
8 know, lots of his money tied up, but we  
9 still don't have it. And I guess what  
10 I'm proposing and what we're proposing  
11 is rather than spend, you know - do we  
12 want to really spend another ten years?  
13 I mean, it was 1996, and what's  
14 happened? Almost nothing in terms of  
15 real cleanup. I'm saying let's not do  
16 that. Let's do this with what we've  
17 got. Let's take that six million -

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18           Rather than go to trial and get another  
19           judgment and have it appealed, you know,  
20           and still have that, you know, waste  
21           sitting there, I'm suggesting, you know,  
22           let's set up a mechanism where the  
23           community stays involved and we move  
24           forward. I think we've pretty much  
25           agreed that what needs to happen first

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1           is to get that waste, you know, out of  
2           the tanks, out of the bins, then we need  
3           to do that assessment that includes the  
4           bayou. That's what I'm proposing.

5           MR. CLOUTIER:

6                     Do you think if you would have shut  
7           down Marine Shale before 20 years, do  
8           you think that that might have had an  
9           effect on your Mr. Gurley case?

10          MR. GLADSTEIN:

11                     No.

12          MR. CLOUTIER:

13                     If you wouldn't have let him made  
14           those millions and millions of dollars  
15           the first 15 years where he could afford  
16           the lawyers and you tied up some of his  
17           money, but you didn't tie up enough?

18          MR. GLADSTEIN:

19                     The Gurley problems, that - those  
20           Superfund sites are in the west Memphis

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21 area and those have been cleaned up.  
22 What - The situation with Gurley is  
23 that an example is set, and that example  
24 is being set. You know, here we haven't  
25 got the cleanup time.

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1 MR. CLOUTIER:  
2 Where is the example, okay? It's  
3 been 22 years.  
4 MR. GLADSTEIN:  
5 Right, right.  
6 MR. CLOUTIER:  
7 What's going to stop the next Marine  
8 Shale from starting up because of the  
9 way you handled this one?  
10 MS. SYKES:  
11 Can I answer that?  
12 MR. CLOUTIER:  
13 Sure, go ahead.  
14 MS. SYKES:  
15 Because we really made their lives  
16 pretty miserable during virtually their  
17 entire time of operation. I mean, there  
18 was virtually less than a year that they  
19 operated when we were not pursuing them  
20 through one legal mechanism or another.  
21 And we closed the facility down in 1996.  
22 MR. CLOUTIER:  
23 Were you a big enough deterrent to

24 them to shut them down? No -  
25 MS. SYKES:

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1 We did shut him down.

2 MR. CLOUTIER:

3 - because he had more money than  
4 y' all.

5 MS. SYKES:

6 But we did shut him down. And thank  
7 goodness the government has to operate  
8 within the law, and that's what we  
9 operated within. And we did the job.  
10 It's slow. It's slow, sometimes it's  
11 not very pretty, but it did work.

12 MR. CLOUTIER:

13 Did you shut him down, or did he  
14 walk away -

15 MS. SYKES:

16 We shut him down.

17 MR. CLOUTIER:

18 - did he just walk away from a  
19 mess?

20 MS. SYKES:

21 We shut him down. Believe me, he'd  
22 still be operating today if we hadn't.

23 MR. CLOUTIER:

24 He walked out at the most opportune  
25 time for him.

1 MR. RATCLIFF:

2 He fought us to the US Supreme  
3 Court. He took it as high as he could  
4 go before he gave up.

5 MR. CLOUTIER:

6 He laughed all the way to the bank.

7 MS. SYKES:

8 I think that we took significant  
9 amounts of the money.

10 MR. CLOUTIER:

11 Now, one other thing. In Lafayette,  
12 Judge Haik and the EPA and the Justice  
13 Department signed off on the Recycling  
14 Park landfill. It's my understanding a  
15 landfill can't be started without public  
16 hearings, community involvement. Why  
17 did y'all sign off on that? We wouldn't  
18 half of this problem if y'all hadn't  
19 signed off on it.

20 MS. SYKES:

21 Well, as I mentioned earlier, first  
22 of all, this is not considered a  
23 landfill. It's considered a remedy.

24 MR. CLOUTIER:

25 (Inaudible).

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MS. SYKES:

I understand that. But here we've done a risk assessment. The risk assessment shows that it doesn't pose a risk.

MR. CLOUTIER:

Wait, wait. We're talking about community involvement in siting a landfill, okay. That's an industrial landfill or hazardous waste landfill or whatever you want to call it, okay. It was sited with no public involvement, no - not one public hearing. None. Is that legal?

MS. SYKES:

Well, again, the law doesn't look at this as a landfill, and -

MR. RATCLIFF:

Terry, can I interrupt?

MS. SYKES:

Yes.

MR. RATCLIFF:

I'm sorry. I think what he's asking is that why did we allow the ash to be taken to Recycling Park in the first

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place; is that correct? Is that your question?

MR. CLOUTIER:

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4 Well, that's the first part. The  
5 second part is it didn't cost 30 million  
6 dollars for him to move it there. He  
7 did it in a short period of time with  
8 just a few trucks.

9 MR. RATCLIFF:

10 To answer your first question, the  
11 answer is, at that point, the status of  
12 that material was in dispute. The  
13 litigation had not been resolved. The  
14 case was still pending. And the judge  
15 ordered that the material be brought to  
16 that site pending the outcome of the  
17 case. Was it legal? Yes, it was legal  
18 because the judge ordered it so. That's  
19 how it ended up where it is.

20 MR. PRICE:

21 If I can interrupt, how can it be  
22 legal -

23 MR. RATCLIFF:

24 I'm sorry, sir, state your name.

25 MR. PRICE:

□

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1 Merlin Price.

2 How can it be legal for a judge to  
3 say, "Okay, we'll put hazardous waste  
4 there," when it's against your rules to  
5 put it there? How can y'all sign off on  
6 that and agree with that?

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MR. RATCLIFF:

At that point in time, the status of that material was still disputed. It was not determined to be hazardous waste by the judge because that was the central issue in the litigation.

MR. PRICE:

Okay.

MS. SYKES:

Remember, Jack Kent claimed it was aggregate. He claimed it was a product.

MR. CLOUTIER:

Okay. But now it's an industrial waste and that's an industrial waste site, okay. Where's the public hearing for that?

MR. RATCLIFF:

You're at it.

MR. CLOUTIER:

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No, this hearing is not to site an industrial landfill.

MR. RATCLIFF:

That is correct. It is not an industrial landfill. It is a -

MR. CLOUTIER:

When are we going to have a hearing on that?

MR. RATCLIFF:

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10 It's not a landfill. It's a  
11 contaminated site. And what we are  
12 doing is proposing a remedy that allows  
13 - that address the risk in an  
14 acceptable -  
15 MR. CLOUTIER:

16 You're capping an industrial  
17 landfill is what you've kept saying here  
18 over and over again tonight. You're  
19 going to put a two-foot cap on it, okay.  
20 When are you going to have a hearing for  
21 an industrial landfill site in Amelia?

22 MR. RATCLIFF:  
23 Again, it's not an industrial  
24 landfill. And this is the hearing on  
25 the proposed remedy.

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111

1 MR. CLOUTIER:  
2 Can I request that we have a hearing  
3 on the siting of that industrial waste?

4 MR. RATCLIFF:  
5 If you'd like to request that, yes,  
6 you may.

7 MR. CLOUTIER:  
8 I request it.

9 MR. RATCLIFF:  
10 Are you through with your comment?

11 MR. CLOUTIER:  
12 That pretty much does it, thank you.

13 de.txt  
MR. RATCLIFF:  
14 Okay. Thank you, Mr. Cloutier.  
15 MS. BROUSSARD:  
16 Can I add something?  
17 MR. RATCLIFF:  
18 I think there's a gentleman behind  
19 you that hadn't had an opportunity to  
20 speak.  
21 MS. BROUSSARD:  
22 Okay.  
23 MR. NAQUIN:  
24 My name is Paul Naquin, St. Mary  
25 Parish President. I would like to thank

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1 you, DEQ, and the EPA for coming out  
2 tonight to this hearing. We do  
3 appreciate this. Also, I'd like to  
4 thank the citizens that take a concern  
5 in the parish to try to clean up the  
6 parish.  
7 I would like - One question this  
8 gentleman asked, what will you do if  
9 another hazardous waste plant wants to  
10 come into St. Mary Parish? In 2003, St.  
11 Mary Parish zoned the parish. This will  
12 protect the citizens or the parish from  
13 having a hazardous waste plant put in  
14 any place in the parish. So we do have  
15 a zoning ordinance that will take care



de. txt  
19 So let's go ahead and clean up the site.  
20 Both sites. The site where the plant's  
21 at and also where the material, the  
22 disputed material, is at.  
23 You cannot tonight tell me in ten  
24 years this is not going to be hazardous  
25 waste material that's going into our

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1 ditches. We right now, the St. Mary  
2 Parish - the citizens of St. Mary  
3 Parish is paying seven million dollars  
4 to have a landfill to put household  
5 waste into. Now, we need to do  
6 something. We need to stop going on and  
7 taking assessments of this thing. We  
8 know what it's doing. It's going into  
9 our bayous, it's going into the ground.  
10 So let's go ahead and clean the thing  
11 up, do it right once and for all.

12 You've got a Superfund. Let's go  
13 ahead - If the parish or the city of  
14 Morgan City or anyone, we need to go and  
15 try to tap into this Superfund and keep  
16 on, and then fight Jack Kent until his  
17 death. He put this material here. His  
18 company put this material here. It's  
19 time to do something about it. Let's go  
20 and try to tap into the Superfund. Can  
21 you answer me that? Why can't we go

22 de.txt  
into the Superfund? We know it's  
23 disputed material. You've done said  
24 that more than one time. So if it's  
25 disputed material, it must be some

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115

1 concern to y'all that it may be  
2 hazardous waste in another ten years. I  
3 need an answer.

4 MR. RATCLIFF:

5 Is your question, can the Superfund  
6 be used to address these sites?

7 MR. NAQUIN:

8 Yes, sir.

9 MR. RATCLIFF:

10 Terry, can you answer that?

11 MR. NAQUIN:

12 Someone needs to answer.

13 MR. GLADSTEIN:

14 Good evening. I know you don't want  
15 a bureaucratic answer.

16 MR. NAQUIN:

17 That's right.

18 MR. GLADSTEIN:

19 And I guess my non-bureaucratic  
20 answer is I think we're totally with you  
21 in trying to make cleanup first. But, I  
22 guess, when you - when we say  
23 "cleanup," it's not the same thing as  
24 what you're saying.

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de. txt  
MR. NAQUIN:

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1                   Do you know how much six million  
2                   dollars is going to go to clean up this  
3                   facility? You - Tell me how much y' all  
4                   done spent on comprehensive studies on  
5                   this property already. How much y' all  
6                   have spent? I bet you well over a  
7                   million dollars.

8                   MR. GLADSTEIN:

9                   Probably.

10                  MR. NAQUIN:

11                  Okay. You've still got five million  
12                  left, then.

13                  MR. GLADSTEIN:

14                  No, no, no. That - no, no, no.

15                  MR. NAQUIN:

16                  Okay, that don't come out the six  
17                  million?

18                  MR. GLADSTEIN:

19                  No, no, no.

20                  MR. NAQUIN:

21                  Well, how much six million going to  
22                  do to clean up this property?

23                  MR. GLADSTEIN:

24                  Six million is going to do what's in  
25                  the bins and in the tanks that - you

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1 know, the closed tanks and the open  
2 bins.

3 But let me go back to your Superfund  
4 question, okay. And I'm going to try to  
5 make this not bureaucratic. There are  
6 two parts of the Superfund. One is  
7 removal, which is for immediate problems  
8 like we've got in the surface waste.  
9 The other is for long range problems.  
10 That has to go through a national  
11 priority listing. And there was a  
12 national priority listing that was done  
13 years ago related to this site, as well  
14 as, you know, public health assessment  
15 done by, you know, ATSDR out of Atlanta.  
16 And the site at that time did not rank  
17 to getting on the national priorities  
18 list. You know, that's the reality.

19 Now, in terms of removal, if we need  
20 to use removal monies under the  
21 Superfund, we will. In fact, we're  
22 using some removal monies right now to  
23 do, you know, some immediate assessment.

24 MR. NAQUIN:

25 Yes, I understand what you're

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1 saying. What will it take us to tap  
2 into the Superfund to help y'all get the

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money.

MR. GLADSTEIN:

Right. And

MR. NAQUIN:

Should we get on plane tomorrow and go to Washington with you and try to tap into this Superfund?

MR. GLADSTEIN:

What I'm saying is we are tapped into the Superfund from a removal standpoint, yes.

MR. NAQUIN:

We never removed anything yet.

MR. GLADSTEIN:

Right, right, but I'm trying to answer your question. From the remedial standpoint, the long range cleanup standpoint, the way the Superfund gets tapped into is if a site is on what they call the "MPL," and that requires a risk assessment. And I know you don't want the bureaucratic answer, but that's how you get into the, you know, that pot of

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Superfund money. And when this assessment was done for this site, relative to all the other sites in the country, it did not rank.

MS. SUBRA:

de.txt

6 But tell him the alternative source  
7 of money that is available for this  
8 site, generators. Tell him that, tell  
9 him that.

10 MR. GLADSTEIN:

11 Right, right, right. And that's  
12 what we're pursuing. Okay, Ms. Subra  
13 says that we are pursuing, we will be  
14 pursuing numerous other customers. And  
15 that will be work that is done that is  
16 the same type of Superfund work.

17 MR. NAQUIN:

18 But why are we going to cap this  
19 material? We would like to see it moved  
20 out of St. Mary Parish to a certified  
21 landfill. That's what we're asking you  
22 tonight to do. Get it out of St. Mary  
23 Parish and put it into a site that's  
24 approved for this type of waste.

25 MR. GLADSTEIN:

□

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1 Right. And we're definitely going  
2 to be doing that with the surface waste.  
3 You know, that's what's happening with  
4 - that's what is going to happen with  
5 the surface waste, no question. In  
6 terms of the off-site material, the RPI,  
7 I think, you know, with - we have some  
8 disagreement there. We - A risk

de.txt

9 assessment was done, and you can ask the  
10 toxicologist, Dr. Sutherland, again, but  
11 we believe that with - that the two  
12 foot clay cap will be protective there.  
13 In terms of what's left after the  
14 surface waste is removed from the plant,  
15 as I said, we are going to do a more  
16 thorough assessment there. And, you  
17 know, I think we would welcome, you  
18 know, continued community involvement in  
19 that process.

20 MR. NAQUIN:

21 But on that off-site, we always will  
22 have restrictions on that property. And  
23 that's what we are asking you. You've  
24 got restrictions, so you - we've got to  
25 have some concerns. Why we have these

□

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1 restrictions? Why can't we get enough  
2 money to get all this disputed material  
3 away from the off-site also and put it  
4 into an approved landfill? That's what  
5 I'm asking you tonight. Why don't we do  
6 that, then we don't have to worry about  
7 capping this off-site landfill. You  
8 must be - The DEQ and the EPA must be  
9 concerned about it by capping it.  
10 You've got to have some concern. If you  
11 didn't have no concern, you wouldn't be

de. txt

12 capping and doing nothing about it.

13 Thank you.

14 MR. RATCLIFF:

15 Thank you, Mr. President.

16 MR. GRIZZAFFI:

17 I have a question. About the  
18 landfill we're talking about right now,  
19 there are many generators who've put  
20 stuff in there. Is that whole area  
21 mapped, that tells where each generator,  
22 their product was put - their ash was  
23 put?

24 MR. GLADSTEIN:

25 Sorry, you're referring to the off-

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1 site RPI location, right?

2 MR. GRIZZAFFI:

3 Exactly.

4 MR. GLADSTEIN:

5 Right. We - I will, you know,  
6 leave this, you know, this evening. And  
7 there are generally three locations.  
8 And we know that in one of those three  
9 locations, it's almost all Southern Wood  
10 material, because Southern Wood made an  
11 effort to keep an eye on their material,  
12 unlike most of the customers. The other  
13 two locations have - it's mixed. And,  
14 you know, once the material goes through

de. txt

15 the kiln, you can't figure out - you  
16 know, it doesn't have an identifier on  
17 it. You don't know whose it is.

18 MR. GRIZZAFFI:

19 When you went in and made an  
20 assessment there, how much area did you  
21 have between each place where you made  
22 an assessment, each spot? And the  
23 reason I'm saying that is because if you  
24 went from, say, a hundred feet, well,  
25 you may miss what was actually down

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1 there, and it's a possibility that it  
2 could be hazardous stuff in there.

3 The other thing I think Paul was  
4 talking about is moving all of that.  
5 Well, if it's no more hazardous than you  
6 say it is, then it could possibly be  
7 moved to the Berwick landfill, right,  
8 Terry?

9 MS. SYKES:

10 First, let me say that before it was  
11 moved to the Recycling Park area, it had  
12 to be sampled. That was part of the  
13 initial court order. And it had to meet  
14 what we call "land ban treatment  
15 standards," which are quite low. And so  
16 we know the character of that material.  
17 And then it was sampled yet again when

de.txt

18 they did the risk assessment. So the  
19 chances of having material that was  
20 outside of the sample ranges that we see  
21 now, I think is just virtually  
22 impossible. And that's part of why we  
23 require a certain number of samples when  
24 they do risk assessments. So, I hope  
25 that answers that -

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1 MR. GRIZZAFFI:  
2 And the second part of that was -  
3 MR. RATCLIFF:  
4 He's changing the tape in the video.  
5 Okay, you can continue.  
6 MR. GRIZZAFFI:  
7 The second part was, it could be  
8 moved to the Berwick landfill, right?  
9 MR. NAQUIN:  
10 Our landfill's not certified for  
11 that type of material.  
12 MS. SYKES:  
13 He would know better than I.  
14 MR. GRIZZAFFI:  
15 Okay.  
16 MR. GLADSTEIN:  
17 Excuse me, before you start -  
18 MR. FULTON:  
19 Your first question you asked, what  
20 some of the distances were between the

de. txt

21 samples. And I think they varied, but  
22 they're anywhere from 50 to 200 feet.  
23 Now, a lot of this material was  
24 homogenous material, so it's been mixed  
25 up thoroughly. And we've collected a

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1 lot of samples. So from a sampling  
2 standpoint, I really believe that we've  
3 probably got a good example of what the  
4 material is (inaudible).

5 MS. SYKES:

6 And, again, it was sampled before it  
7 was ever taken to RPI, too.

8 MR. FULTON:

9 Right, right.

10 MS. BROUSSARD:

11 May I ask something?

12 MR. RATCLIFF:

13 Okay, yes. Ms. Broussard.

14 MS. BROUSSARD:

15 Okay. From reading the consent  
16 decree online, what I got was if this  
17 doesn't go through now, we're probably  
18 going to sit on ten more years of  
19 waiting while y'all sue Kent and Kent  
20 sues y'all and back and forth, right?

21 MR. RATCLIFF:

22 That's quite possible.

23 MS. BROUSSARD:

de. txt

24                   Okay. The last paragraph I read,  
25                   that's what I got, that this will

□

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1                   continue.

2                   MR. GLADSTEIN:

3                   Ma'am, that's the concern. We don't  
4                   know, but it's, you know -

5                   MS. BROUSSARD:

6                   But that was in the last paragraph,  
7                   that -

8                   MR. GLADSTEIN:

9                   Right. That is the concern, is that  
10                  -

11                  MS. BROUSSARD:

12                  He gets off the hook and we get  
13                  started with the cleanup, okay.

14                  As an act of faith, would it be  
15                  possible, I know - I recognize this  
16                  from the consent decree that was going  
17                  to let GTX open - the part about Jack  
18                  Kent and he couldn't own the controlling  
19                  property, could it please stop after  
20                  just ordering that "Jack M. Kent shall  
21                  refrain from ever owning or controlling  
22                  a majority interest in any business  
23                  involved in the treatment, storage, or  
24                  disposal of waste, or recycling of  
25                  material"? And please cut out,

1 "including, but not limited to, any  
2 entity that takes over the operation of  
3 MSP." Could we - Ms. Subra said not  
4 much of what we say here is going to get  
5 changed, but could - This is from an  
6 old consent decree. Could that be gone  
7 from this one, so that we don't have to  
8 worry about him - about this plant  
9 opening again, or about him being a  
10 consultant if it should open again.  
11 Because, like you said, the consent -  
12 the permits are already there for GTX.  
13 I have a copy of them, too. So they're  
14 there. They have a permit to open, but  
15 they backed out of it. This makes me  
16 scared that they're going to open and  
17 he's going to be in it again. Is there  
18 any way to get the rest of this  
19 paragraph out of here? That he cannot  
20 be in this in any way, shape, or form.  
21 MR. RATCLIFF:

22 I understand your concern. There's  
23 other provisions in these agreements  
24 that make that extremely unlikely, but  
25 we will consider and discuss what you're

1 de. txt  
requesting.  
2 MS. BROUSSARD:  
3 It sure would give us a little bit  
4 more faith in this not happening to us  
5 again. Thank you.  
6 MR. RATCLIFF:  
7 Thank you Ms. Broussard.  
8 Is there anyone else that would like  
9 to speak?  
10 Mr. Price.  
11 MR. PRICE:  
12 Yeah, thank you.  
13 STAFF:  
14 Chris, I'm sorry. This gentleman  
15 here was after Ms. Broussard.  
16 MR. RATCLIFF:  
17 Oh, okay. Well, I think actually  
18 Mr. Price had asked to speak even  
19 previously. We'll get to you, Mr. -  
20 MR. PRICE:  
21 A couple questions have come up  
22 since the other people have spoken. If  
23 we settle with Kent for six million and  
24 we get this money and say, "Okay, we got  
25 the money, let's go do it," and do the

□

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1 assessment, and Kent is off the hook at  
2 this point, is there anything stopping  
3 you all from ever going back against him

4 de.txt  
to say, "Okay, it's not six million,  
5 it's going to be 100 million"? Is there  
6 anything to stop y'all from taking him  
7 back to court to get more money, or are  
8 we just going to let Jack Kent go and  
9 then go after the company from here on  
10 out?

11 MR. GLADSTEIN:

12 I mean, the whole Jack Kent go thing  
13 - I mean, let him go - I understand  
14 that it's in that direction. But, first  
15 of all, when we - as I said, when we go  
16 after other customers, they have the  
17 right to go after him, you know. So,  
18 you know, if I go after - if we go  
19 after another company, and the other  
20 company says, "Well, we shouldn't have  
21 to this, we were duped," you know,  
22 there's nothing - you know, normally in  
23 our consent decrees we give contribution  
24 protection. So in our consent decree  
25 with Southern Wood Piedmont, the other

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1 - the customer, we gave them  
2 contribution protections, so that other  
3 companies can't go after them. We did  
4 not give contribution protection to Jack  
5 Kent, so any other company that we sue  
6 can go after Kent.



10 de.txt  
hazardous waste. Do you know who put it  
11 there? Do you know the customer that  
12 brought it in?

13 MR. GLADSTEIN:

14 Well, again, once that material goes  
15 through the kiln, it does not have -

16 MR. PRICE:

17 Well, supposedly this stuff never  
18 went through the kiln. It's sitting on-  
19 site.

20 MR. GLADSTEIN:

21 Well, most of what is in those bins  
22 is what's called baghouse dust. So it's  
23 got the concentration of the heavy  
24 metals, it's semi-processed. It's gone  
25 through the kiln, but it hasn't gone

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1 through the oxidizers; it comes off the  
2 baghouses. They didn't finish with it,  
3 so it's just sitting there.

4 MR. PRICE:

5 Well, there ought to be manifests  
6 somewhere that says, "Okay, this was our  
7 last customer of the day. We processed  
8 this and we're going to turn the  
9 electricity off now, and, poof, we're  
10 just going to leave this stuff sitting  
11 here." We ought to know who those  
12 persons are.



16 de. txt  
the consent decree?

17 MR. GLADSTEIN:

18 Right.

19 MR. PRICE:

20 Why can't you - and I think this  
21 would be favorable to the people of the  
22 parish - why cannot you put in there  
23 that instead of it going into a trust,  
24 or it can go into a trust, that it comes  
25 to the parish to be used as an

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1 industrial park, a port expansion  
2 facility, whatever? Why cannot that  
3 also be put into the consent decree,  
4 that it be left up to the people of the  
5 parish, the decision on the land?

6 MR. GLADSTEIN:

7 Well, what - you know, I look, this  
8 was a decision that - I mean, one  
9 possibility was that once these two  
10 sites are cleaned up, they could have  
11 been donated to the city or the parish.  
12 That was one possibility. The United  
13 States and the State got penalty  
14 judgments against Marine Shale, so  
15 there's the six million in the registry  
16 and then there's another six million  
17 dollar judgment. The United States and  
18 the State want some satisfaction on that

19 judgment. So the most readily available  
20 assets - you know, MSB doesn't have  
21 any, and what RPI has is property. So,  
22 you know, once this - assuming these  
23 settlements get signed off by the judge,  
24 we are going to register these  
25 judgments. So what ever other property

□

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1 RPI has is going to - we're going to  
2 have a judgment lien against it. But  
3 the most readily available source of  
4 funds for the government to get some  
5 minimal satisfaction, you know, for it's  
6 - the penalties against Marine Shale  
7 and RPI are from the sale of those  
8 properties.

9 MR. PRICE:

10 Okay. I understand that. If we do  
11 sell it, the park - if do sell it with  
12 all this aggregate on it, who is going  
13 to own - is the new owner going to own  
14 the aggregate also, or is that going to  
15 be a separate portion of the sale?

16 MR. GLADSTEIN:

17 No. The new owner is going to take  
18 whatever is there. You know -

19 MR. PRICE:

20 And who's going to be responsible if  
21 something happens in the long term?

22 de.txt  
MR. GLADSTEIN:

23 The owner is going to be  
24 responsible.

25 EVELYN BROUSSARD:

□

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1 That's why the parish doesn't want  
2 it.

3 MR. PRICE:

4 What is DEQ and EPA - what is  
5 y'all's determination of the material  
6 that is stored on-site? How do you  
7 classify it now?

8 MS. SYKES:

9 Meaning the material that's stored  
10 in the tanks - the barges and the  
11 tanks?

12 MR. PRICE:

13 No, ma'am. In the park area that's  
14 covered already. Off-site.

15 MS. SUBRA:

16 RPI, what is it -

17 MR. PRICE:

18 What are y'all classifying it,  
19 hazardous, non-hazardous material,  
20 disputed waste? What did y'all  
21 determine -

22 MS. SYKES:

23 We entered into agreements that call  
24 it disputed material.

25

de. txt  
MR. PRICE:

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1                   And anywhere in the United States,  
2                   when y'all have found disputed material,  
3                   what is done with it? I'm looking for a  
4                   case history on this, on disputed  
5                   material. What happens to it? Does it  
6                   just sit there as y'all are proposing to  
7                   do with our community here, or is it  
8                   removed? Is pressure put on EPA, DEQ,  
9                   whatever to get it out of there? What's  
10                   -

11                   MS. SYKES:

12                   That's such a broad question. I  
13                   mean, it depends on where it comes from  
14                   and whether we know the history of it,  
15                   et cetera, et cetera.

16                   MR. GLADSTEIN:

17                   The general rule with hazardous  
18                   constituents is that a risk assessment  
19                   needs to be done. You know, the  
20                   national policy is to make risk-based  
21                   decisions, you know, regardless of what  
22                   you call the material.

23                   MR. PRICE:

24                   I understand that. But still, we  
25                   know the stuff at the site of the plant

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1 now - we know the stuff there is  
2 hazardous material. We know that once  
3 it goes through oxidizers and  
4 everything, it comes out as this  
5 glassy substance. And that substance  
6 is what's stored at RPI, correct?

7 MR. GLADSTEIN:

8 Well, right. There's two kinds of  
9 material.

10 MR. PRICE:

11 Well, the process is -

12 MR. GLADSTEIN:

13 There's the primary and the  
14 secondary. Some of it - There are two  
15 kinds, yeah.

16 MR. PRICE:

17 I'm not no dummy.

18 MR. GLADSTEIN:

19 Yeah.

20 MR. PRICE:

21 You know, this stuff is hazardous  
22 material.

23 MR. GLADSTEIN:

24 Right. And as Terry said, before  
25 any of that material went over to RPI,

1 it was tested under the land ban  
2 standards, which are very restrictive

3 standards.

4 MR. PRICE:

5 Okay. Why are we going to spend  
6 these millions of dollars to put this  
7 two-foot cap on there, do a risk  
8 assessment, and come to find out, hey,  
9 we've got to move it? Why waste our  
10 money on that? Why we don't do the risk  
11 before we ever touch the material, then  
12 make a determination on how we're going  
13 to remediate this property?

14 MS. SYKES:

15 That's what we did.

16 MR. GLADSTEIN:

17 Okay. If you're talking about the  
18 off-site location, we did the risk  
19 assessment for the off-site location.

20 MR. PRICE:

21 Okay. I just haven't had a chance  
22 to read it. I apologize. I've been  
23 offshore; I just got in. I'll read up  
24 on it, I will.

25 The material that is stored off-

□

1 site, was a permit given by EPA, DEQ,  
2 DNR, to put this material there? And do  
3 you all know that that site was formerly  
4 wetlands? And I'm familiar with  
5 wetlands and doing remediation and

de. txt

6 mitigation and all that stuff. Who gave  
7 them the authority to - besides the  
8 judge - who gave the authority to put  
9 this material in this property?

10 TERRY SYKES:

11 The judge.

12 MR. PRICE:

13 That was it? The judge said, "Okay,  
14 we're going to put it here, and this is  
15 where it's going to go."

16 MS. SUBRA:

17 The judge told them one location.

18 MS. SYKES:

19 The judge told them they could  
20 remove it to Recycling Park.

21 MR. PRICE:

22 But from what I understand, years  
23 back - and I might be wrong - but he  
24 had to move it to property that he  
25 owned. Then, a couple months later, he

□

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1 went out and bought this property and he  
2 put all the material there, if that's  
3 the way the story goes.

4 MS. SYKES:

5 No, I don't think that's the case.

6 MR. PRICE:

7 Okay. I might be wrong.

8 MS. SYKES:

de. txt

9 Oh, you're talking about the Domino  
10 property?

11 MR. PRICE:

12 Yes.

13 MS. SYKES:

14 Oh, boy, you're testing my memory.

15 MR. PRICE:

16 That's what I'm saying. If my  
17 memory serves me correct that was part  
18 of the deal, was the judge said, "Okay,  
19 we're going to store it off-site, but  
20 it's got to be your property." He went  
21 out and bought the this property, then  
22 he put it on there.

23 MS. SYKES:

24 That could be right. But in any  
25 event, the judge's order gave him

□

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1 authority to put it at RPI.

2 MR. PRICE:

3 I understand. If I could just  
4 recap. Your plan is to, number one, get  
5 rid of the material that is on-site at  
6 the plant?

7 MR. GLADSTEIN:

8 Yes. The surface waste that is in  
9 the open bins and in the closed tanks,  
10 yes.

11 MR. PRICE:

de. txt

12 Right. Then do an assessment of  
13 what is under?

14 MR. GLADSTEIN:

15 Correct.

16 MR. PRICE:

17 Okay. And cap the stuff that is  
18 off-site?

19 MR. GLADSTEIN:

20 Correct.

21 MR. PRICE:

22 That is your game plan?

23 MR. GLADSTEIN:

24 And the third part of it is to  
25 demolish the equipment, including the

□

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1 kiln.

2 MR. PRICE:

3 And is there any stipulation in  
4 there that it's got to be scrapped, it's  
5 got to be cut, or can it be sold as  
6 components as I suggested earlier? I  
7 mean, is there any stipulation there  
8 that this plant or part of this kiln  
9 cannot go to another community and do  
10 harm to another community?

11 MR. GLADSTEIN:

12 Well, we haven't gotten to -

13 MR. PRICE:

14 That part?  
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15 MR. GLADSTEIN:  
16 We haven't gotten that far. And as  
17 I was - You know, I haven't thought  
18 about this before this evening, but, you  
19 know, in terms of getting continuous  
20 community involvement, you know, I think  
21 we would be open to, you know, what  
22 happens with the kiln material.  
23 MR. PRICE:  
24 Thank y' all. I appreciate y' all  
25 coming.

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1 MR. RATCLIFF:  
2 Thank you, Mr. Price.  
3 Yes, sir, Mr. Cloutier.  
4 MR. CLOUTIER:  
5 Yes, sir. He used the term relating  
6 to Souther Piedmont a while ago,  
7 communi ty something or other. Which it  
8 sounds like Southern Piedmont's only  
9 going to pay \$200,000 for the capping on  
10 Recycling Park and their liability is  
11 over with.  
12 MR. GLADSTEIN:  
13 No, no, no. They have done an  
14 investigation at the off-site location  
15 that was - that cost them a couple  
16 hundred thousand dollars. There are  
17 going to do the cleanup of the off-site

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18 location, which is, you know, at least,  
19 you know, one and a half million. And  
20 they are paying \$200,000 in cash toward  
21 cleanup at the plant location.

22 MR. CLOUTIER:

23 Right. And that's - And they get  
24 away with this deal because they were in  
25 the court proceedings on the Marine

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1 Shale trial?

2 MR. GLADSTEIN:

3 The reason that they're involved is  
4 because they wanted to get involved.  
5 Their position was that, you know -  
6 You're talking about disputed material.  
7 Their position was that this material  
8 that they sent was not hazardous. So  
9 we, you know, we argued with them about  
10 that. And rather than go to trial with  
11 them over that argument, we proposed  
12 that they do this off-site cleanup and,  
13 you know, plus pay a couple hundred  
14 thousand toward the on-site cleanup.  
15 And that was the agreement.

16 MR. CLOUTIER:

17 And they were a major generator -

18 MR. GLADSTEIN:

19 Yeah, they are a major generator.  
20 But I have to say that they have been

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21 the only one that has come forward thus  
22 far. And, historically, they - there  
23 is records of their efforts to try to  
24 keep their material segregated from all  
25 the other material. So I think they

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1 exercised, you know, more due care than,  
2 you know, most of the other customers.  
3 The reason their involved now is because  
4 they came forward and got involved in  
5 the lawsuit.

6 MR. CLOUTIER:

7 So with that strategy, being a major  
8 generator, they're going to get out for  
9 under two million dollars?

10 MR. GLADSTEIN:

11 It sounds like you answered your own  
12 question there.

13 MR. CLOUTIER:

14 Is that what you're saying? I'm  
15 trying to be sure of what you're saying.

16 MR. GLADSTEIN:

17 That - Yeah, that's what we're  
18 saying.

19 MR. CLOUTIER:

20 With the strategy -

21 MR. GLADSTEIN:

22 You know, there is a reopener there  
23 for natural resource damages, for, you

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24 know, criminal, you know - just your,  
25 you know, reopeners, you know. But, in

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1 general, that's correct. And we believe  
2 that in light of all the circumstances,  
3 that that's a fair and reasonable  
4 outcome for this particular generator.

5 MR. CLOUTIER:

6 So all generators aren't being  
7 treated the same?

8 MR. GLADSTEIN:

9 I don't know about any other  
10 generators. We're going to get a  
11 referral. There are lots of customers.  
12 We've got the manifests, and we're going  
13 to go after them. We're going to -

14 MR. CLOUTIER:

15 But potentially -

16 MR. GLADSTEIN:

17 Hold on. We're going -

18 MR. CLOUTIER:

19 Potentially, the other generators  
20 could be on the hook for much more than  
21 two million dollars even though they  
22 weren't nearly as large a generator?

23 MR. GLADSTEIN:

24 I don't know about that. We're  
25 going to go after the generators, and

1           what ever the costs are, whatever work  
2           needs to be done, we're going to hold  
3           those generators accountable. We have  
4           - This law, this Superfund law that  
5           were using, CERCLA law, has joint and  
6           several liability as part of it. If a  
7           generator comes forward early, then, you  
8           know, that's an incentive to come  
9           forward early, that they won't have  
10          further liability. The people - The  
11          customers that are out there, that's  
12          their risk. You know, the sooner other  
13          customers come forward, the better. The  
14          people who are waiting - The companies  
15          that wait until the end, if it turns  
16          out, you know, that, you know, we're  
17          going to have millions and millions,  
18          which we don't know, then that their  
19          risk.

20          MR. CLOUTIER:

21                 So y'all have loopholes for every  
22                 situation. If a generator's big enough  
23                 to know what's going on, they can get by  
24                 lightly. And if they're a little mom  
25                 and pop generator, they don't know

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1 what's going on, don't have the lawyers  
2 to tell them, they could go bankrupt.

3 MR. GLADSTEIN:

4 Okay, I understand what you're  
5 saying. And I'll tell you, when I  
6 practice, I try not to make it that way.  
7 I do my best to - and, you know, I know  
8 Terry and Chris and Gary and all of us  
9 up here feel the same way. But I also  
10 know that sometimes it doesn't look that  
11 way.

12 MR. CLOUTIER:

13 But Southern - If I'm right,  
14 Southern Wood Piedmont was one of the  
15 first customers - was the first  
16 hazardous waste that came to the site,  
17 and they were there for years. They  
18 said they generated waste there for  
19 years and years and years.

20 MR. GLADSTEIN:

21 Okay. Well, I'll tell you, I think  
22 that the first one - and I'll test you  
23 knowledge on this - was Colfax.

24 MR. CLOUTIER:

25 But they were one of the first ones,

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1 if I remember correctly.

2 MR. GLADSTEIN:

3 I won't disagree with you that

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4 Souther Wood Piedmont was a major at the  
5 site.

6 MR. CLOUTIER:

7 But from the outside, it sure looks  
8 like a sweetheart deal.

9 MR. GLADSTEIN:

10 Right. Well, from the inside, it  
11 doesn't, believe me. We spent a lot of  
12 time, you know, working out what we  
13 believe is a fair solution here. And I  
14 understand that from your standpoint, it  
15 doesn't look that way.

16 MR. CLOUTIER:

17 Thank you.

18 MR. RATCLIFF:

19 Is there anyone else that would like  
20 to speak, or have a question?

21 Yes, sir, Mr. Mayor.

22 MR. MATTE:

23 Quick question. On the RPI  
24 property, does the agreement with  
25 Southern Wood Piedmont for the capping

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1 and so forth limit any liability for any  
2 other generator who could argue that his  
3 waste is in that particular facility as  
4 opposed to it being a part of the other  
5 properties? In other words, Souther  
6 Wood Piedmont's saying, "All of my waste



10 de.txt  
signatures on the document, correct?

11 MR. RATCLIFF:

12 Correct.

13 MR. GLADSTEIN:

14 Yeah.

15 MS. SUBRA:

16 And the signatures were from Jack  
17 Kent, Marine Shale, Recycling Park, and  
18 Southern Wood Piedmont?

19 MR. GLADSTEIN:

20 Right.

21 MS. SUBRA:

22 Well, were any or all of these very  
23 willing participants, or were there any  
24 reluctant participants?

25 MR. GLADSTEIN:

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1 Well, I think everybody's a  
2 reluctant participant. I mean, it's,  
3 you know - The reason people do these  
4 agreements is because they're  
5 compromises. I mean, this is not ideal  
6 from the government's standpoint, and  
7 it's certainly not ideal from the  
8 defendants' standpoint.

9 MS. SUBRA:

10 So how willing were they to sign  
11 this document at this time with these  
12 stipulations?

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MR. GLADSTEIN:  
I don't think they were that willing. I mean, we had to - We were less than a month away from trial. We put - You know, we did our expert reports. We - You know, Southern Wood Piedmont did their expert reports. We filed our, you know, our final motions. And it was, you know, only after we filed our final motions that, you know, Marine Shale and Recycling Park and Jack Kent, you know, thought that they should settle. You know, and given that our

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focus has been on trying to get the most immediate, you know, problems taken care of, that's the way we've been proceeding. That it's more important to finally get that, you know, waste out of there than to argue about, you know, should it be six million or ten million, you know, and not have it resolved for, you know, who knows how many years.

MS. SUBRA:

And I'm not objecting to the resolution. I was just trying to figure out were there any disgruntled parties that felt like they were getting dragged to the table to sign.

16 de.txt  
MR. GLADSTEIN:  
17 Well, and as I said, I think with a  
18 settlement, everybody's not happy. I  
19 mean, they're happy that the problem is  
20 solved, but, you know, - you know, I'm  
21 not really sure how to answer that.  
22 MS. SUBRA:  
23 Okay, you have. Thanks.  
24 MR. GRIZZAFFI:  
25 Leo Grizzaffi. Chris, what is it

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1 going to take to void those permits of  
2 Jack Kent?  
3 MR. RATCLIFF:  
4 I will take just a simple act of the  
5 Secretary of the DEQ or the Assistant  
6 Secretary of the Office of Environmental  
7 Services.  
8 MS. SUBRA:  
9 Wait. Could you repeat it closer to  
10 the microphone?  
11 MR. RATCLIFF:  
12 I'm sorry. It's only going to take  
13 a signature by the Secretary of DEQ or  
14 an authorized Assistant Secretary on the  
15 termination document.  
16 MR. GRIZZAFFI:  
17 When that's brought to their  
18 attention, do you think they're just

19                                   de. txt  
going to go ahead and do it?  
20                   MR. RATCLIFF:  
21                                   Who?  
22                   MR. GRIZZAFFI:  
23                                   The Secretary.  
24                   MR. RATCLIFF:  
25                                   Oh, yes.

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1                   MS. SUBRA:  
2                                   Do we have to make an appointment?  
3                   MR. RATCLIFF:  
4                                   No. No. That action was delayed, I  
5                                   think, as I've tried to explain before,  
6                                   because of the delicate situation with  
7                                   the settlement negotiations in this  
8                                   case. And I think once these  
9                                   settlements are finalized, there won't  
10                                  be any reason not to go ahead and do it.  
11                  MS. BROUSSARD:  
12                                  Ms. Subra, can you let us know when  
13                                  it happens?  
14                  MR. RATCLIFF:  
15                                  Yes.  
16                  MS. BROUSSARD:  
17                                  Please inform us when that permit is  
18                                  dead.  
19                  MR. RATCLIFF:  
20                                  We will to that.  
21                  MS. BROUSSARD:

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Thank you.  
23 MR. RATCLIFF:  
24 Okay. Anyone else?  
25 Okay. Well, thank you everyone for

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1 coming tonight. You've given us a lot  
2 of good feedback and a lot to think  
3 about, and we really appreciate your  
4 input. Once again, just to remind you,  
5 the official close of the public comment  
6 period for the US - the federal comment  
7 closes Friday, July 28th. And DEQ's  
8 comment period closes Monday, July 31st.  
9 And with that, we'll close the hearing.  
10 Thank you very much. Good night.

11  
12 WHEREUPON, AT 9:36 P.M. THE HEARING ENDED

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I, R. Aaron Palmer, Certified Court Reporter, in and for the State of Louisiana, as the officer before whom this matter was taken, do hereby certify that the foregoing matter was reported by me in the Stenomask (voice-writing) method, was prepared and transcribed by me or under my personal direction and supervision, and is a true and correct transcript to the best of my ability and understanding;

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