

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss.

SUPERIOR COURT
CIVIL ACTION NO.
1582CV00213

BOSTON EXECUTIVE HELICOPTERS, LLC,
MII AVIATION SERVICES, LLC, and
HB HOLDINGS LLC,

Plaintiffs,

vs.

FLIGHTLEVEL NORWOOD, LLC, EAC
REALTY TRUST II, and PETER EICHLEAY,

Defendants.

DEPOSITION of WARREN M. DELARIA

Tuesday, April 17, 2018 - 10:11 a.m.

Held at: Pierce & Mandell, P.C.

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Boston, Massachusetts 02108

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1	I N D E X		1	P R O C E E D I N G S		
2	Witness	Page	2	MR. FEE: Usual stipulations?		
3	WARREN M. DELARIA		3	MR. HARTZELL: The usual stipulations.		
4	Examination by Mr. Fee	5, 185	4	WARREN M. DELARIA,		
5	Examination by Mr. Hartzell	182	5	first having been satisfactorily		
6			6	identified by the production of his driver's		
7			7	license and duly sworn by the Notary Public,		
8	E X H I B I T S		8	testified under oath as follows:		
9			9	EXAMINATION		
10	No.	Description	10	BY MR. FEE:		
11	Exhibit 261	E-mails	11	Q. Mr. DeLaria, my name is Michael Fee. I'm		
12	Exhibit 262	E-mails	12	an attorney, and I represent Boston Executive		
13	Exhibit 263	E-mail from Christopher Donovan to Peter Eichleay dated 8/2/14; E-mail from Peter Eichleay to Christopher Donovan dated 8/7/14	13	Helicopters in litigation that's pending in the		
14			14	Norfolk Superior Court.		
15	Exhibit 264	Memo from Mike DeLaria to Steve Desrosiers dated 9/9/14	15	I understand that you're here to answer		
16	Exhibit 265	E-mail from Mark Ryan to Kevin Shaughnessy and others dated 3/23/15	16	some questions today. Is that fair to say?		
17	Exhibit 266	Photograph	17	A. Yes.		
18	Exhibit 267	"Blockage of FlightLevel's Fuel Farm by Boston Executive Helicopters" dated 1/29/15	18	Q. And you're represented by your counsel,		
19			19	Mr. Hartzell?		
20			20	A. Yes.		
21	Exhibit 268	Photographs	21	Q. And Mr. Burlingham is here today as well.		
22	Exhibit 269	Snow plowing invoices to FlightLevel	22	Correct?		
23			23	A. Yes.		
24			24	Q. Can you state your name and address,		

<p style="text-align: right;">Page 6</p> <p>1 please.</p> <p>2 A. Warren Michael DeLaria. 1210 -- 550</p> <p>3 Liberty Street, Unit 1210.</p> <p>4 Q. How long have you lived there?</p> <p>5 A. Three years now.</p> <p>6 Q. Okay. And can you briefly describe your</p> <p>7 educational background for me, sir?</p> <p>8 A. Yes. I went through high school both --</p> <p>9 I did two years at Holy Cross Cathedral, two</p> <p>10 years at South Boston High School, and some</p> <p>11 college time at Wentworth Institute.</p> <p>12 Q. How long were you at Wentworth?</p> <p>13 A. Approximately two years.</p> <p>14 Q. Did you receive a degree?</p> <p>15 A. No.</p> <p>16 Q. What did you study at Wentworth?</p> <p>17 A. Electrical drafting and design.</p> <p>18 Q. When did you cease going to school at</p> <p>19 Wentworth?</p> <p>20 A. When I got drafted.</p> <p>21 Q. And were you in the armed forces?</p> <p>22 A. Yes. In the Navy.</p> <p>23 Q. When were you drafted into the Navy?</p> <p>24 A. 1969.</p>	<p style="text-align: right;">Page 8</p> <p>1 Q. And you said you're on medication?</p> <p>2 A. Yes.</p> <p>3 Q. Would any medication that you're on</p> <p>4 affect your ability to understand or answer</p> <p>5 questions?</p> <p>6 A. No.</p> <p>7 MR. FEE: Off the record.</p> <p>8 (Discussion off the record.)</p> <p>9 BY MR. FEE:</p> <p>10 Q. What part of California were you working</p> <p>11 with Hussmann?</p> <p>12 A. That was city of Commerce.</p> <p>13 Q. Where is that?</p> <p>14 A. It's south of LA. This is so long ago.</p> <p>15 South of Los Angeles, probably by 10 miles, 15</p> <p>16 miles. Something like that.</p> <p>17 Q. And you were there until approximately</p> <p>18 1980?</p> <p>19 A. I did five years with them.</p> <p>20 Q. And where did you go?</p> <p>21 A. Then I went to Hill Refrigeration.</p> <p>22 Q. H-i-l-l?</p> <p>23 A. Yes.</p> <p>24 Q. And where are they located?</p>
<p style="text-align: right;">Page 7</p> <p>1 Q. How long did you serve?</p> <p>2 A. I got out in 1978. September of 1978.</p> <p>3 Q. What did you do in the Navy?</p> <p>4 A. I flew DC-6s.</p> <p>5 Q. And when you got out of the Navy in 1978,</p> <p>6 what did you do then?</p> <p>7 A. I went to work for Hussmann Refrigeration</p> <p>8 and then was transferred from Massachusetts to</p> <p>9 California.</p> <p>10 Q. And how long were you working for</p> <p>11 Hussmann?</p> <p>12 A. Probably four years.</p> <p>13 Q. And did you continue to fly during that</p> <p>14 time?</p> <p>15 A. No. I had stopped flying.</p> <p>16 Q. Do you still fly?</p> <p>17 A. I did until I had my heart surgery in</p> <p>18 August of 2011.</p> <p>19 Q. And how old are you, sir?</p> <p>20 A. I'm 66 years old.</p> <p>21 Q. And do you have a medical condition that</p> <p>22 would cause you to not be able to understand or</p> <p>23 answer my questions?</p> <p>24 A. No.</p>	<p style="text-align: right;">Page 9</p> <p>1 A. They were also city of Commerce.</p> <p>2 Q. And how long did you work for Hill?</p> <p>3 A. 15 years. I retired from them.</p> <p>4 Q. Until approximately 1995?</p> <p>5 A. Yes.</p> <p>6 Q. And basically what were your job</p> <p>7 responsibilities at Hill Refrigeration?</p> <p>8 A. I was working in the -- their order</p> <p>9 department at first, then went into their system</p> <p>10 controllership, and then went into sales.</p> <p>11 Q. So is it fair to say that you had</p> <p>12 exposure to a broad range of business activities</p> <p>13 when you were working for Hill?</p> <p>14 A. Yes. Most definitely.</p> <p>15 Q. Including ordering, sales, accounting?</p> <p>16 A. Yes.</p> <p>17 Q. Anything else?</p> <p>18 A. At Hill that was it. That was my</p> <p>19 functions at Hill.</p> <p>20 Q. And you said you retired from them in</p> <p>21 1995 approximately?</p> <p>22 A. Um-hmm.</p> <p>23 Q. And what did you do next?</p> <p>24 A. I owned my own company, Dependable Market</p>

Page 10	Page 12
<p>1 Refrigeration Services.</p> <p>2 Q. How long did you own Dependable Market</p> <p>3 Refrigeration?</p> <p>4 A. About three years.</p> <p>5 Q. Until approximately 1998?</p> <p>6 A. Yes.</p> <p>7 Q. What did you do after that?</p> <p>8 A. Then I was able to retire.</p> <p>9 Q. And what did you do in retirement?</p> <p>10 A. What did I do in retirement? Ski,</p> <p>11 travel. That was the biggest thing. Skiing and</p> <p>12 traveling. I owned a house in Colorado. I</p> <p>13 stayed there.</p> <p>14 Q. And at some point you came out of</p> <p>15 retirement?</p> <p>16 A. Well, my dad got very sick back here and</p> <p>17 my mom didn't drive. She didn't do anything, so</p> <p>18 I had to come back and help her.</p> <p>19 Q. What year was that?</p> <p>20 A. 1999.</p> <p>21 Q. At some point did you become employed by</p> <p>22 FlightLevel?</p> <p>23 A. Yes, I did. I first went to work for</p> <p>24 Harvard Pilgrim Health Care working with Charlie</p>	<p>1 A. I was bored.</p> <p>2 Q. Okay.</p> <p>3 A. I started actually at the customer</p> <p>4 service desk.</p> <p>5 Q. Okay.</p> <p>6 A. I just wanted something to do.</p> <p>7 Q. And have you worked continuously at</p> <p>8 FlightLevel from August of 2011 to the present?</p> <p>9 A. Yes, I have.</p> <p>10 Q. And can you tell me how your roles or</p> <p>11 responsibilities have changed since you first</p> <p>12 began at the customer service desk in 2011?</p> <p>13 A. When I first -- I was at the customer</p> <p>14 service desk and then I was just tagged with</p> <p>15 running the day-to-day operations of FlightLevel</p> <p>16 Norwood.</p> <p>17 Q. Okay.</p> <p>18 A. And I think it was a year or so after</p> <p>19 that that I was responsible for the day-to-day</p> <p>20 operations of all of the other locations.</p> <p>21 Q. And so when did you start becoming</p> <p>22 responsible for day-to-day operations of</p> <p>23 FlightLevel Norwood? How long were you at the</p> <p>24 company?</p>
Page 11	Page 13
<p>1 Baker.</p> <p>2 Q. What did you do for Harvard Pilgrim?</p> <p>3 A. I was the director of finance.</p> <p>4 Q. For the entire Harvard Pilgrim?</p> <p>5 A. Yes.</p> <p>6 Q. Impressive. And how long did you have</p> <p>7 that position?</p> <p>8 A. I was with them for 10 years.</p> <p>9 Q. Until approximately 2009?</p> <p>10 A. It was 2010.</p> <p>11 Q. Okay. And as director of finance for</p> <p>12 Harvard Pilgrim, what did you do? What were your</p> <p>13 responsibilities?</p> <p>14 A. At that time we were just working on the</p> <p>15 turnaround, trying to find where all the bleeding</p> <p>16 was, and trying to plug the holes.</p> <p>17 Q. And after you left -- when did you leave</p> <p>18 Harvard Pilgrim? Approximately 2010 you said?</p> <p>19 A. Yes.</p> <p>20 Q. And what did you do after that?</p> <p>21 A. Then I went to work -- it was August of</p> <p>22 2011. I went to work for FlightLevel.</p> <p>23 Q. Okay. What were the circumstances of</p> <p>24 your going to work for FlightLevel? Did you --</p>	<p>1 A. I want to say it was November of 2011.</p> <p>2 Somewhere in that -- November, December.</p> <p>3 Somewhere in that area.</p> <p>4 Q. And at what point did you become</p> <p>5 responsible for all of the day-to-day operations</p> <p>6 of all of the FlightLevel entities?</p> <p>7 A. The following year.</p> <p>8 Q. 2012 sometime. Okay.</p> <p>9 And can you describe for me today what</p> <p>10 your responsibilities are with respect to</p> <p>11 FlightLevel Norwood?</p> <p>12 A. Again, it's just running the day-to-day</p> <p>13 operations. Responsible for the finance --</p> <p>14 financial portion. You know, the financial</p> <p>15 statements, monthly financial statements,</p> <p>16 maintenance, real estate.</p> <p>17 Q. Who do you report to?</p> <p>18 A. I report to Peter Eichleay.</p> <p>19 Q. And had you had any prior experience in</p> <p>20 operating an FBO prior to joining FlightLevel in</p> <p>21 2011?</p> <p>22 A. Not running an FBO but the -- in the</p> <p>23 service I had particular training --</p> <p>24 Q. In aviation?</p>

Page 14	Page 16
<p>1 A. -- in aviation.</p> <p>2 Q. But you'd never run an FBO or an aviation</p> <p>3 business previously?</p> <p>4 A. No, sir. I didn't.</p> <p>5 Q. Now, today are you responsible for</p> <p>6 managing all of the employees of FlightLevel?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. And do you do training for them?</p> <p>9 A. Yes. We have training.</p> <p>10 Q. And as the person -- and it's fair to say</p> <p>11 that you're the person responsible for all the</p> <p>12 FlightLevel operations at Norwood; is that</p> <p>13 correct?</p> <p>14 A. Yes.</p> <p>15 Q. So in connection with that, are you</p> <p>16 familiar with all of the regulations that are</p> <p>17 promulgated by the airport commission?</p> <p>18 A. Yes.</p> <p>19 Q. And are you also familiar with all of the</p> <p>20 regulations that are promulgated by the FFA with</p> <p>21 respect to --</p> <p>22 A. Yes.</p> <p>23 MR. HARTZELL: Hold on. I would just</p> <p>24 advise the witness to please wait until he</p>	<p>1 understanding of the object-free area or OFA is?</p> <p>2 A. It's an area that is free of any moving</p> <p>3 parts or any vehicles or --</p> <p>4 Q. Okay. And what is that based on? What</p> <p>5 is your understanding of that based on?</p> <p>6 A. Well, it's a TOFA, I believe, not OFA.</p> <p>7 Q. Okay.</p> <p>8 A. And there's a couple of -- there's -- the</p> <p>9 FAA has different ones. There's a 50 foot and a</p> <p>10 25 foot from a building. 50 foot from -- if I</p> <p>11 remember correctly, it is from boilers or open</p> <p>12 vents. The 25 foot is from the beginning of the</p> <p>13 building to the fueling vent of an aircraft.</p> <p>14 Q. And you think that describes FAA</p> <p>15 regulations regarding TOFA?</p> <p>16 A. Pretty much.</p> <p>17 Q. Are you familiar with the National Fire</p> <p>18 Protection Association code, Section 407?</p> <p>19 A. I'm not 100 percent sure of that. No.</p> <p>20 Q. Are you familiar with the storm water</p> <p>21 pollution prevention plan?</p> <p>22 A. Yes, sir.</p> <p>23 Q. And are you also familiar with the</p> <p>24 emergency response plan?</p>
Page 15	Page 17
<p>1 finishes his question before you answer it</p> <p>2 because the court reporter can't take down two</p> <p>3 people talking at the same time.</p> <p>4 THE WITNESS: Okay.</p> <p>5 BY MR. FEE:</p> <p>6 Q. And how did you become familiar with</p> <p>7 regulations that are promulgated by the Norwood</p> <p>8 Airport Commission?</p> <p>9 A. When I took the job, it was imperative</p> <p>10 that I read the information to be brought up --</p> <p>11 so I could do the job properly.</p> <p>12 Q. Did you also educate yourself with</p> <p>13 respect to the applicable FAA regulations?</p> <p>14 A. Yes.</p> <p>15 Q. And do you know what the term "OFA" or</p> <p>16 "object-free area" means?</p> <p>17 A. Um-hmm.</p> <p>18 MR. HARTZELL: Hold on. One other thing.</p> <p>19 You have to verbalize all your answers. You</p> <p>20 can't just say "um-hmm." You have to say yes or</p> <p>21 no.</p> <p>22 A. Yes.</p> <p>23 BY MR. FEE:</p> <p>24 Q. And can you tell me what your</p>	<p>1 A. Yes, I am.</p> <p>2 Q. Excellent.</p> <p>3 When did you first become aware of Boston</p> <p>4 Executive Helicopters' operations on -- at the</p> <p>5 airport?</p> <p>6 A. I don't quite understand that question.</p> <p>7 Q. Okay. When did you first learn that</p> <p>8 Boston Executive Helicopters operated at Norwood</p> <p>9 Airport?</p> <p>10 A. As soon as I got there. They were one of</p> <p>11 our tenants at that point in time.</p> <p>12 Q. Where were they a tenant?</p> <p>13 A. They were down in, what we call, the</p> <p>14 condo hangars at that point in time.</p> <p>15 Q. On Lot G?</p> <p>16 A. Yes.</p> <p>17 Q. And they were operating in Units 7 and 8</p> <p>18 of Lot G. Is that fair to say?</p> <p>19 A. That is correct. Yes.</p> <p>20 Q. And they've operated there continuously</p> <p>21 since your arrival at FlightLevel?</p> <p>22 A. Yes.</p> <p>23 Q. And at some point did you become aware of</p> <p>24 the fact that BEH purchased the former -- or</p>

Page 18	Page 20
<p>1 assumed the lease of the former Swift Aviation 2 hangar? 3 A. I heard that they were. Yes. 4 Q. Were you aware of the fact, during your 5 tenure at FlightLevel, that Swift Aviation's 6 hangar had collapsed? 7 A. Yes. 8 Q. And you were aware of the fact -- 9 A. Actually, let me -- I wasn't there when 10 it collapsed. It collapsed, I believe, the year 11 before I got there. 12 Q. Okay. So when you arrived, was it -- was 13 the hangar down? 14 A. Yes. It was down. 15 Q. And at some point did you become aware of 16 the fact that BEH intended to assume the Swift 17 lease and to build a new hangar on that Lot G? 18 A. At that time, absolutely not. 19 Q. But at some point did you become aware of 20 that? 21 A. Later. Yes. 22 Q. And at some point did you come to the 23 understanding that BEH wanted to become an FBO? 24 A. No, sir.</p>	<p>1 Q. Did you ever have any conversations with 2 Mr. Burlingham about that? 3 A. No. 4 Q. At no time? 5 A. No time. 6 Q. Okay. At some point did you become aware 7 of conflicts between FlightLevel and BEH over 8 various issues? 9 MR. HARTZELL: Objection. 10 BY MR. FEE: 11 Q. You can answer if you understand. 12 A. Yeah. I had heard of some conflicts. 13 Yes. 14 Q. At some point did you become involved in 15 any conflicts between BEH and FlightLevel? 16 MR. HARTZELL: Objection. You can 17 answer. 18 A. No. Not really. 19 BY MR. FEE: 20 Q. Okay. Was it your understanding that 21 when you came on the airport, and BEH was a 22 tenant of FlightLevel, that relationships between 23 FlightLevel and BEH were harmonious? 24 A. Prior? I mean, when I first got there?</p>
Page 19	Page 21
<p>1 Q. At no time did you become aware of the 2 fact -- let me finish my question. 3 At no time did you become aware of the 4 fact that BEH desired to become an FBO at 5 Norwood? 6 A. Not until I heard it at an airport 7 commission meeting, which was some months later. 8 Q. At some point -- and are we talking 2011 9 or 2012 you became aware -- 10 A. I don't recall the date, but that's when 11 I heard it for the first time. 12 Q. Okay. And this was -- you don't recall 13 when you first became aware of BEH's desire to 14 become an FBO. Is that fair to say? But you 15 learned of it at an airport commission meeting. 16 A. Yes. That's a fact. 17 Q. And when you learned that BEH intended to 18 become an FBO, did you have a discussion with 19 Mr. Eichleay about that? 20 A. No. 21 Q. Mr. Eichleay did not discuss with you the 22 fact that a competing FBO was seeking to be 23 approved? 24 A. No.</p>	<p>1 Q. Yes. 2 A. They were fine. 3 Q. And at some point -- 4 A. There was no issues. I never had any 5 issues with them. 6 Q. At some point did that harmonious 7 relationship change? 8 MR. HARTZELL: Objection. You can 9 answer. 10 A. I don't think so. 11 BY MR. FEE: 12 Q. Okay. Things are fine today? 13 A. Oh, no. If you're asking me where 14 they're at today. I mean, they did not change -- 15 personally, with the way Chris was operating, 16 is -- where they are now, I think things have 17 changed. Yes. 18 BY MR. FEE: 19 Q. And my question is: At some point -- can 20 you tell me at what point you began to notice 21 that the harmonious relationship between BEH and 22 FlightLevel had changed? 23 MR. HARTZELL: Take your time. Listen 24 carefully to the question and answer as best you</p>

Page 22	Page 24
<p>1 can.</p> <p>2 A. I really -- I can't -- I can't pinpoint a</p> <p>3 time frame.</p> <p>4 BY MR. FEE:</p> <p>5 Q. Is there an event in your mind that</p> <p>6 suggests the shift in relations between BEH and</p> <p>7 FlightLevel?</p> <p>8 A. I will say that there was a time when --</p> <p>9 there started to be a period of videotapes being</p> <p>10 taken of our employees, and our employees</p> <p>11 complained that it was a safety hazard. The --</p> <p>12 there was a -- it was just more of an</p> <p>13 intimidation-type thing, and I never understood</p> <p>14 why it had to be that way.</p> <p>15 But other than that, I mean, I really</p> <p>16 didn't have really direct contact with</p> <p>17 Mr. Donovan at that point in time.</p> <p>18 Q. Do you know when the videotaping began?</p> <p>19 A. It just -- all of a sudden one day it</p> <p>20 just started. Whether it was -- sometimes it was</p> <p>21 Mr. Donovan and sometimes it was another</p> <p>22 individual who I do -- I can't say who it was,</p> <p>23 but it was in one of the vehicles. I don't know</p> <p>24 who it was.</p>	<p>1 BY MR. FEE:</p> <p>2 Q. And were those reports oral or in</p> <p>3 writing?</p> <p>4 A. Oral.</p> <p>5 Q. Okay. And you said you couldn't remember</p> <p>6 when this videotaping began; is that fair to say?</p> <p>7 A. No. I can't honestly.</p> <p>8 Q. Okay. I'm going to show you a document</p> <p>9 that's been previously marked as Exhibit 164 to</p> <p>10 Mr. Eichleay's deposition, and the e-mail appears</p> <p>11 to be from you to Russ Maguire dated</p> <p>12 March 3, 2014. Have you seen this before?</p> <p>13 A. Yes, I have.</p> <p>14 Q. Can you tell me what prompted you to send</p> <p>15 this e-mail to Mr. Maguire?</p> <p>16 A. We were being -- there was a complaint</p> <p>17 issued by Boston Air Charter that Mr. Donovan</p> <p>18 would hover above the tail of their aircraft, and</p> <p>19 their aircraft would be shuddering severely. And</p> <p>20 he wanted something to be done about it.</p> <p>21 Q. And who from Boston Air Charter reported</p> <p>22 this information?</p> <p>23 A. That was Al Bishop.</p> <p>24 Q. And when did Mr. Bishop report this</p>
Page 23	Page 25
<p>1 There was a camera that was set up in a</p> <p>2 room down -- peering down at our fuel farm. So</p> <p>3 there was videotapes going on at -- all the time.</p> <p>4 Q. And your employees found this</p> <p>5 objectionable?</p> <p>6 A. Found it intimidating when they're trying</p> <p>7 to operate safely. Because they felt that</p> <p>8 somebody was just trying to either intimidate</p> <p>9 them or get them to do something wrong.</p> <p>10 Q. And what was the basis for that fear?</p> <p>11 A. When you have somebody staring at you all</p> <p>12 the time, it's a very uncomfortable -- and</p> <p>13 videotaping you when you're doing your job, it's</p> <p>14 a very uncomfortable situation. Some reported it</p> <p>15 as more of a bullying tactic.</p> <p>16 Q. What, if anything, did you or FlightLevel</p> <p>17 do to curb this bullying tactic?</p> <p>18 A. I would report it to Peter Eichleay and</p> <p>19 counsel.</p> <p>20 MR. HARTZELL: Just caution the witness</p> <p>21 not to disclose any conversations you've had with</p> <p>22 counsel. Okay?</p> <p>23 THE WITNESS: Okay.</p> <p>24</p>	<p>1 information to you?</p> <p>2 A. He actually reported it twice. The first</p> <p>3 time I just kind of let it go because I just</p> <p>4 thought it was a -- you know, one of those</p> <p>5 isolated instances. The second time then it</p> <p>6 wasn't an isolated instance.</p> <p>7 Q. And is Boston Air Charter's hangar</p> <p>8 adjacent to BEH's hangar?</p> <p>9 A. Yes, it is.</p> <p>10 Q. And did you witness this event at all?</p> <p>11 A. I got called one -- on this particular</p> <p>12 occasion, somebody -- they had called me from the</p> <p>13 maintenance office that it was happening again.</p> <p>14 Q. Okay.</p> <p>15 A. Because they were my eyes. I couldn't</p> <p>16 see it. I was down the other end.</p> <p>17 Q. When you say they were your eyes?</p> <p>18 A. My accounting staff was down there and</p> <p>19 they would call me, so then I would go to look.</p> <p>20 Q. Did you ever personally witness --</p> <p>21 A. Yes.</p> <p>22 Q. You have to wait until I finish my</p> <p>23 question.</p> <p>24 MR. HARTZELL: I know that you want to</p>

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<p>1 answer the questions quickly, but you need to</p> <p>2 always wait until he finishes his questions.</p> <p>3 THE WITNESS: Okay.</p> <p>4 MR. HARTZELL: You're doing fine.</p> <p>5 BY MR. FEE:</p> <p>6 Q. Did you ever personally witness Boston</p> <p>7 Executive Helicopters operating in an unsafe</p> <p>8 manner?</p> <p>9 A. I would consider that -- yes.</p> <p>10 Q. Okay. And did you personally witness it</p> <p>11 with your own eyes?</p> <p>12 A. Yes.</p> <p>13 Q. And when was that?</p> <p>14 A. I don't -- the exact dates -- you know,</p> <p>15 I'm not going to be able to give you exact dates</p> <p>16 because I don't remember. This particular</p> <p>17 instance --</p> <p>18 Q. When you say "this particular</p> <p>19 instance" --</p> <p>20 A. This instance that you're showing me on</p> <p>21 the document.</p> <p>22 Q. You have to wait until I finish my</p> <p>23 question, Mike.</p> <p>24 MR. HARTZELL: Off the record for a</p>	<p>1 was just being done.</p> <p>2 Q. And my question to you is: Did you</p> <p>3 personally observe any --</p> <p>4 A. Yes.</p> <p>5 Q. -- any of these incidences?</p> <p>6 MR. HARTZELL: Wait until he finishes,</p> <p>7 then answer. He's finished his question. You</p> <p>8 can answer.</p> <p>9 A. Yes.</p> <p>10 BY MR. FEE:</p> <p>11 Q. And when did you personally observe any</p> <p>12 of these instances?</p> <p>13 A. It was one -- I'm sorry.</p> <p>14 Q. That's okay.</p> <p>15 A. It was -- one of them after this point in</p> <p>16 time.</p> <p>17 Q. And so one time you witnessed --</p> <p>18 A. Yes.</p> <p>19 Q. -- you witnessed Boston Executive</p> <p>20 Helicopters hovering above a Boston Air Charter</p> <p>21 plane?</p> <p>22 A. Yes. That's true.</p> <p>23 Q. But you can't tell me when?</p> <p>24 A. No, sir.</p>
Page 27	Page 29
<p>1 second.</p> <p>2 (Discussion off the record.)</p> <p>3 BY MR. FEE:</p> <p>4 Q. Mr. DeLaria, the exhibit that's been</p> <p>5 previously marked as 164 refers to an incident</p> <p>6 that occurred on or about March 3rd of 2014, and</p> <p>7 you testified that the information in it was</p> <p>8 reported to you by Mr. Bishop. Is that correct?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. But you weren't present when this</p> <p>11 incident occurred?</p> <p>12 A. No, sir. I was not.</p> <p>13 Q. But there's another incident that you</p> <p>14 said you observed personally; is that correct?</p> <p>15 A. There was a couple of instances. Yes.</p> <p>16 Q. And can you describe for me those</p> <p>17 instances?</p> <p>18 A. He was asked not to do this, to hover</p> <p>19 above the aircraft.</p> <p>20 Q. And you said "he."</p> <p>21 A. Mr. Donovan was asked not to hover</p> <p>22 against the aircraft, and he just continued to do</p> <p>23 it. He would -- any opportunity -- it was</p> <p>24 like -- I don't know why he was doing it, but it</p>	<p>1 Q. And who was present?</p> <p>2 A. I think our line crew was there. Most of</p> <p>3 the instances, the line crew was present when</p> <p>4 this was taking place.</p> <p>5 Q. And did you make an effort to talk to</p> <p>6 Mr. Donovan about this?</p> <p>7 A. No.</p> <p>8 Q. What did you do? You reported it to</p> <p>9 Mr. Maguire?</p> <p>10 A. Mr. Maguire. Well, I went to</p> <p>11 Peter Eichleay, and Peter said that I should let</p> <p>12 Mr. Maguire know.</p> <p>13 Q. Okay. And did Mr. Eichleay talk to</p> <p>14 Mr. Donovan about this?</p> <p>15 A. I don't know.</p> <p>16 Q. Did Mr. Bishop talk to Mr. Donovan about</p> <p>17 this?</p> <p>18 A. I think Mr. Bishop did.</p> <p>19 Q. How do you know that?</p> <p>20 A. Mr. Bishop told me that he had a</p> <p>21 conversation with Mr. Donovan.</p> <p>22 Q. Okay. And are you aware of any specific</p> <p>23 rules and regulations governing where helicopters</p> <p>24 can and cannot land at Norwood Airport?</p>

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<p>1 A. Yes.</p> <p>2 Q. What are those rules and regulations?</p> <p>3 A. The way they stand today, they have</p> <p>4 helicopter pads that they're supposed to land and</p> <p>5 take off on.</p> <p>6 Q. Where are those?</p> <p>7 A. Those -- the northeast corner of the</p> <p>8 ramp.</p> <p>9 Q. And where are those regulations written</p> <p>10 down?</p> <p>11 A. Those were provided by the Norwood</p> <p>12 Airport Commission.</p> <p>13 Q. And your testimony is that you believe</p> <p>14 there are written regulations promulgated by the</p> <p>15 Norwood Airport Commission that direct where</p> <p>16 helicopters can land and can't land. Is that</p> <p>17 your testimony?</p> <p>18 A. Yes, sir. That's my understanding.</p> <p>19 Q. Do you know exactly where these</p> <p>20 regulations appear?</p> <p>21 A. All I can say is I know that the airport</p> <p>22 commission had voted on it and put it in an</p> <p>23 order. And at first, there was -- I believe it</p> <p>24 was brought up at the airport commission. I was</p>	<p>1 A. No.</p> <p>2 Q. I'll show you what's been marked</p> <p>3 previously as Exhibit 165. It appears to be a</p> <p>4 letter to Mr. Donovan from Mr. Maguire dated</p> <p>5 March 21, 2014. Have you seen this letter</p> <p>6 before?</p> <p>7 A. No.</p> <p>8 Q. The Tab A reference on the first page --</p> <p>9 A. Okay.</p> <p>10 Q. -- refers to video stills. Do you see</p> <p>11 that?</p> <p>12 A. Uh-hmm.</p> <p>13 Q. Did you --</p> <p>14 MR. HARTZELL: You have to verbalize all</p> <p>15 your answers.</p> <p>16 THE WITNESS: I'm sorry.</p> <p>17 A. Yes. That's true.</p> <p>18 BY MR. FEE:</p> <p>19 Q. Did you provide these video stills to</p> <p>20 Mr. Maguire?</p> <p>21 A. I did not.</p> <p>22 Q. Did someone from FlightLevel provide</p> <p>23 those video stills?</p> <p>24 A. I don't believe so.</p>
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<p>1 present when it was brought up, and they were</p> <p>2 quite mad about Mr. Donovan's actions at that</p> <p>3 point in time.</p> <p>4 They wanted me to support them making a</p> <p>5 rule that there was no helicopter operation on</p> <p>6 the north ramp.</p> <p>7 MR. HARTZELL: If you've finished your</p> <p>8 answer, you can stop. Wait for him to ask the</p> <p>9 next question.</p> <p>10 THE WITNESS: I hadn't finished.</p> <p>11 BY MR. FEE:</p> <p>12 Q. Please do.</p> <p>13 A. And I had said there was a period of time</p> <p>14 that Mr. Donovan was acting like a good citizen,</p> <p>15 and that I was not prepared at that time to agree</p> <p>16 that operations on the north ramp should stop.</p> <p>17 Within three weeks of my making that statement,</p> <p>18 three to four weeks, the -- it resumed again.</p> <p>19 And I felt I was trying to help him out</p> <p>20 at that time, but then it felt like I was being</p> <p>21 thrown under the bus. So at that point in time I</p> <p>22 supported the moving of the helicopter operations</p> <p>23 to the new helipads.</p> <p>24 Q. Does FlightLevel operate any helicopters?</p>	<p>1 Q. Does FlightLevel operate a security</p> <p>2 camera in the vicinity of the area where this</p> <p>3 alleged unsafe helicopter operation took place?</p> <p>4 A. I'm not sure, in this period of time, we</p> <p>5 had video cameras at that time.</p> <p>6 Q. So it's your testimony that you have no</p> <p>7 idea who provided the video stills that are</p> <p>8 referenced in Tab A of Exhibit 175?</p> <p>9 MR. HARTZELL: Objection.</p> <p>10 A. No, sir.</p> <p>11 BY MR. FEE:</p> <p>12 Q. You don't know?</p> <p>13 A. No.</p> <p>14 Q. Okay.</p> <p>15 MR. HARTZELL: You have to answer yes or</p> <p>16 no.</p> <p>17 THE WITNESS: I thought I said no.</p> <p>18 BY MR. FEE:</p> <p>19 Q. He said no. I heard him.</p> <p>20 Now, at some point was there a conflict</p> <p>21 between FlightLevel and BEH regarding BEH'S</p> <p>22 repaving of a certain area between the hangars on</p> <p>23 Lot F and Lot G? Do you recall that?</p> <p>24 A. Yes.</p>

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<p>1 Q. What do you recall about that conflict?</p> <p>2 A. That he had -- when he had dug up his</p> <p>3 area, that the feeling was that he had come over</p> <p>4 too far than his property line.</p> <p>5 Q. Okay. And when you say "he," you're</p> <p>6 referring to Mr. Donovan?</p> <p>7 A. Mr. Donovan. I'm sorry.</p> <p>8 Q. And do you recall when this took place?</p> <p>9 A. No.</p> <p>10 Q. Was it in connection with Mr. Donovan's</p> <p>11 efforts to rebuild the Swift hangar?</p> <p>12 A. I'm not quite sure I understand that</p> <p>13 question.</p> <p>14 Q. I'm happy to rephrase.</p> <p>15 A. Okay.</p> <p>16 Q. Were you aware at some point that</p> <p>17 Mr. Donovan engaged in construction on Lot F to</p> <p>18 build a hangar?</p> <p>19 A. Yes, sir.</p> <p>20 Q. And was the repaving that you're</p> <p>21 describing at or about the same time that</p> <p>22 Mr. Donovan was building the hangar on Lot F?</p> <p>23 A. I can't really answer that question</p> <p>24 because I don't know.</p>	<p>1 A. Go ahead.</p> <p>2 BY MR. FEE:</p> <p>3 Q. You testified that at some point you</p> <p>4 became aware that Mr. Donovan had repaved a</p> <p>5 portion of Lot F, and the feeling at FlightLevel</p> <p>6 was that it had -- he had gone too far and</p> <p>7 repaved portions of Lot G; right?</p> <p>8 A. Yes.</p> <p>9 Q. And that became a source of conflict</p> <p>10 between FlightLevel and BEH. Correct?</p> <p>11 A. That's my understanding. Yes.</p> <p>12 Q. And were you -- did you have any</p> <p>13 involvement in the discussions between BEH and</p> <p>14 FlightLevel regarding that particular issue?</p> <p>15 MR. HARTZELL: Objection.</p> <p>16 A. No.</p> <p>17 BY MR. FEE:</p> <p>18 Q. Did you observe that repaving that was</p> <p>19 allegedly done by BEH?</p> <p>20 A. I was aware of the repaving.</p> <p>21 Q. How were you aware of it?</p> <p>22 A. I would drive by it.</p> <p>23 Q. So you saw --</p> <p>24 A. I saw it.</p>
Page 35	Page 37
<p>1 Q. Did you personally observe the paving</p> <p>2 that was done on Lot F that caused conflict?</p> <p>3 A. No.</p> <p>4 Q. How did you become aware of it?</p> <p>5 A. I became aware when -- it all started</p> <p>6 with the snowing -- the snow season, and it was</p> <p>7 the worst snow season we had had. And it started</p> <p>8 with snow being buried in our fuel farm.</p> <p>9 And there was -- to my understanding,</p> <p>10 Mr. Donovan was asked a number of times not to do</p> <p>11 it, and he continued to plow that area. And then</p> <p>12 the feeling was to put barriers up to probably</p> <p>13 stop that.</p> <p>14 Q. I'm going to get to that in a minute.</p> <p>15 A. Okay.</p> <p>16 Q. Right now I want to ask you more about</p> <p>17 the repaving that Mr. Donovan did.</p> <p>18 A. I can't answer that question.</p> <p>19 MR. HARTZELL: Wait a minute. He hasn't</p> <p>20 asked you a question.</p> <p>21 Take a time out. Listen carefully to his</p> <p>22 question. He was coming back to ask you another</p> <p>23 question. So you have to listen and answer it as</p> <p>24 best you can.</p>	<p>1 Q. And what was your -- what did you see</p> <p>2 when you looked at the area that was repaved?</p> <p>3 A. The repaving equipment there.</p> <p>4 Q. You saw paving equipment?</p> <p>5 A. Paving equipment.</p> <p>6 Q. And did you see anything else?</p> <p>7 A. No. I don't know what it -- I wasn't</p> <p>8 looking for anything, to be honest.</p> <p>9 Q. Okay. Did you notice that the repaving</p> <p>10 in any way hindered or impeded FlightLevel's</p> <p>11 operations on Lot G?</p> <p>12 A. I'm not aware that it did.</p> <p>13 Q. Okay.</p> <p>14 (Exhibit No. 261 marked for identification.)</p> <p>15 BY MR. FEE:</p> <p>16 Q. Now, as part of this -- I'm going to show</p> <p>17 you an exhibit that's been marked as Exhibit 261.</p> <p>18 It appears to be an e-mail exchange between</p> <p>19 Mr. Eichleay, Mr. Maguire, and you dated</p> <p>20 July 29, 2014. Do you see that at the top?</p> <p>21 A. Yes.</p> <p>22 Q. And does this -- and if you skip down to</p> <p>23 the middle level, the e-mail between Mr. Eichleay</p> <p>24 and Mr. Maguire, and you're cc'd, the second</p>

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<p>1 paragraph says: 2 "Also, just so you know, we are 3 experiencing an issue that can turn into a 4 trespass situation." 5 Do you see that? 6 A. Yes. 7 Q. And it's dated July 29, 2014; right? 8 A. Yes, sir. It is. 9 Q. Does this refresh your recollection as to 10 exactly when you became aware of a paving 11 conflict? 12 A. No, sir. 13 Q. So up above it says -- I'm sorry -- 14 strike that. 15 Did you, at any time, have a meeting or a 16 discussion with Mr. Maguire regarding this 17 repaving issue? 18 A. No, sir. 19 Q. All right. I'll take 261 back. 20 Back to 261. I want to show you page 2, 21 and this is a portion of the e-mail from 22 Mr. Maguire to Mr. Eichleay. In the second 23 paragraph on the second page, it says: 24 "Also, several weeks ago Mike had sent me</p>	<p>1 "Hi, Peter. I did receive this and spoke 2 to Mike DeLaria a short time ago." 3 Does that refresh your recollection as to 4 whether or not you had any conversations with 5 Mr. Maguire regarding the alleged paving 6 controversy in July of 2014? 7 A. Absolutely not. 8 Q. Now, is it that you don't remember, or 9 that you don't think you had conversations with 10 Mr. Maguire? 11 A. I don't remember. 12 Q. Okay. Do you remember anything about the 13 paving? 14 A. No. 15 Q. Okay. Now, I'm showing you a document 16 that's been previously marked as Exhibit 62 to 17 Mr. Burlingham's deposition. Let me walk you 18 through this, and I'm going to ask you a 19 question. 20 The cover sheet appears to be a letter to 21 Mr. Donovan from you dated July 30, 2014. 22 A. Okay. 23 Q. The attachment appears to be a letter to 24 Mr. Fox from Mr. Burlingham dated July 29, 2014,</p>
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<p>1 some e-mail correspondence plus a photo from one 2 of FlightLevel's security cameras specific to 3 Boston Air Charter's complaints regarding BEH 4 helo operations close to Boston Air Charter's 5 parked jet." 6 Do you see that? 7 A. Yes, sir. 8 Q. So does that refresh your recollection as 9 to whether you provided video or photographs to 10 Mr. Maguire regarding alleged unsafe helicopter 11 operations? 12 MR. HARTZELL: Objection. 13 A. No. 14 BY MR. FEE: 15 Q. It doesn't. Okay. 16 (Exhibit No. 262 marked for identification.) 17 BY MR. FEE: 18 Q. Sir, 262 is an e-mail exchange between 19 Mr. Maguire and Mr. Eichleay dated July 29, 2014, 20 and I would suggest to you that it follows the 21 prior e-mail exchange that we discussed and was 22 marked as 261. And it's on the same topic. And 23 the e-mail from Mr. Maguire, which appears on the 24 top of page 1, says:</p>	<p>1 and attached to that is a picture. Do you see 2 that? 3 A. Yes, sir. 4 Q. Have you seen this document before? 5 MR. HARTZELL: Please take a minute and 6 look at it. 7 A. I don't remember, to be perfectly honest. 8 I just don't remember. 9 BY MR. FEE: 10 Q. Turning your attention to the first page, 11 this appears to be a letter from you. Correct? 12 A. Correct. 13 Q. And it's addressed to Mr. Donovan. 14 Correct? 15 A. Uh-hmm. 16 Q. You have to answer yes or no. 17 A. Yes. 18 MR. HARTZELL: You have to verbalize your 19 answer. 20 A. Yes. 21 BY MR. FEE: 22 Q. And do you recall the circumstances under 23 which you delivered this letter? 24 A. I was just given instructions to print</p>

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<p>1 this and please deliver it to Mr. Donovan. 2 Q. And did you actually give it to 3 Mr. Silva? 4 A. It's possible. 5 Q. Okay. 6 A. I don't remember. 7 Q. So can you tell me why -- first of all, 8 who instructed you to do that? 9 A. It would have to be Peter Eichleay, I 10 believe. 11 Q. But you don't recall? 12 A. I don't recall. 13 Q. And so do you have any recollection of 14 delivering this to Mr. Silva on the north ramp? 15 A. No, I don't. 16 Q. Did you have any -- did you speak with 17 Mr. Eichleay at all regarding the substance of 18 the July 29th letter? 19 A. I never felt it was my business. 20 Q. Okay. So you were instructed by 21 Mr. Eichleay to deliver it? 22 A. Yes. 23 Q. But you don't know when or how you 24 delivered it. Is that fair to say?</p>	<p>1 approached him and handed him an envelope 2 addressed to Christopher Donovan and stated, 'Let 3 the games begin, my friend.' 4 "He made this statement, according to 5 Robert, in a threatening tone and with a smile on 6 his face." 7 Did I read that correctly? 8 A. You read that correctly. 9 Q. So does that refresh your recollection as 10 to how you caused the letter that's been marked 11 as Exhibit 62 to be delivered? 12 A. There was nothing derogatory meant by 13 that statement. 14 Q. Let me back up. Does this refresh your 15 recollection as to how you delivered the letter? 16 A. Yes, sir. 17 Q. And you delivered what has been marked as 18 Exhibit 62 to Mr. Silva on the north ramp; is 19 that correct? 20 A. Yes. 21 Q. Now, can you tell me -- did you say these 22 words "Let the games begin, my friend," to 23 Mr. Silva? 24 A. Yes. That I said.</p>
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<p>1 A. I would say that this must have been 2 hand-delivered because there was no other way for 3 it to get there other than hand delivery. 4 Q. But you have -- as you sit here today, 5 you have no recollection of delivering it to 6 Mr. Silva -- 7 A. Of this -- 8 Q. -- Mr. Silva -- 9 MR. HARTZELL: Wait until he finishes. 10 BY MR. FEE: 11 Q. -- on the north ramp? 12 A. That's true. I don't. 13 Q. Okay. 14 (Exhibit No. 263 marked for identification.) 15 BY MR. FEE: 16 Q. Mr. DeLaria, Exhibit 263 appears to be an 17 e-mail from Mr. Donovan to Mr. Eichleay dated 18 August 2, 2014. 19 A. Uh-hmm. 20 Q. In the first -- in the second paragraph 21 Mr. Donovan states: 22 "Wednesday morning at approximately 7:15, 23 Robert Silva, our operations manager, was on the 24 north ramp handling aircraft. Mike DeLaria</p>	<p>1 Q. Can you tell me what you meant by that? 2 A. Absolutely nothing. It was an expression 3 that was -- we used to use in the service 4 whenever we were going to do any type of a 5 mission or a task. It was another way that I 6 thought was -- what was starting out to be 7 childish. That it was just -- all of it was a 8 stupid thing. That's what it was meant in that 9 context. 10 Q. What was a stupid thing? 11 A. The whole approach that we were doing. 12 The whole -- you know, we could have solved -- 13 things could have been solved, but I felt like 14 there was a lot of bullying at that point in 15 time. 16 Q. Right. And so you wanted to convey to 17 Mr. Silva that you were beginning -- or 18 FlightLevel was beginning a mission of some sort. 19 Is that fair to say? 20 MR. HARTZELL: Objection. Go ahead. 21 A. I can't say that's true. No. Because I 22 didn't know. 23 BY MR. FEE: 24 Q. Well, what were you intending -- what</p>

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<p>1 were you referring to -- what was beginning?</p> <p>2 What did you mean the games are beginning?</p> <p>3 A. Well, that the -- it was going to just --</p> <p>4 things were just going to go from -- it was going</p> <p>5 to heat up. The events were heating up, which I</p> <p>6 thought was not the way that things should</p> <p>7 happen.</p> <p>8 Q. And things were going to heat up because</p> <p>9 why?</p> <p>10 A. Because Mr. Donovan was -- wanted his --</p> <p>11 I guess wanted to have an FBO at that point in</p> <p>12 time.</p> <p>13 Q. And FlightLevel was going to take action</p> <p>14 to prevent that; is that right?</p> <p>15 MR. HARTZELL: Wait. Objection.</p> <p>16 A. Not true.</p> <p>17 BY MR. FEE:</p> <p>18 Q. What was FlightLevel going to do?</p> <p>19 A. It was more on -- more the property</p> <p>20 dispute.</p> <p>21 Q. So at that point in time was it fair to</p> <p>22 say that FlightLevel felt that BEH was unfairly</p> <p>23 taking advantage of its leasehold on Lot G?</p> <p>24 MR. HARTZELL: Objection.</p>	<p>1 running high between FlightLevel and BEH.</p> <p>2 MR. HARTZELL: Objection.</p> <p>3 A. To be -- I don't believe that with</p> <p>4 Mr. Donovan, on his routine interactions with the</p> <p>5 company -- I don't think there was any -- he</p> <p>6 wasn't -- how do I want to say it?</p> <p>7 He was not behaving as the good customer.</p> <p>8 I think that the only time that it was evident</p> <p>9 was when it all came to the hangar and I</p> <p>10 didn't -- I was out of that. That was really --</p> <p>11 I was opposed myself.</p> <p>12 As I'm running four locations, I didn't</p> <p>13 need to be bogged down with this, and that's</p> <p>14 where Peter Eichleay came in.</p> <p>15 BY MR. FEE:</p> <p>16 Q. Okay. Did you know Mr. Silva previously?</p> <p>17 A. Yes, I did.</p> <p>18 Q. Did you have an opinion about him?</p> <p>19 A. Good guy but was probably not the best</p> <p>20 worker.</p> <p>21 Q. Okay. And he worked for FlightLevel</p> <p>22 previously. Correct?</p> <p>23 A. Yes, sir.</p> <p>24 Q. And so during his tenure at FlightLevel</p>
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<p>1 A. Yes.</p> <p>2 BY MR. FEE:</p> <p>3 Q. Okay. And FlightLevel was going to take</p> <p>4 action to prevent further incursions by BEH on</p> <p>5 Lot G. Correct?</p> <p>6 A. Yes.</p> <p>7 MR. HARTZELL: Objection.</p> <p>8 THE WITNESS: I'm sorry.</p> <p>9 MR. HARTZELL: You need to wait a second.</p> <p>10 A. Yes, sir.</p> <p>11 BY MR. FEE:</p> <p>12 Q. And how did you know that FlightLevel was</p> <p>13 going to take action to prevent further</p> <p>14 incursions by BEH on Lot G?</p> <p>15 A. I don't know how to answer that question.</p> <p>16 Q. Well, did you speak to Mr. Eichleay about</p> <p>17 what FlightLevel's plans were to prevent further</p> <p>18 incursions by BEH on Lot G?</p> <p>19 A. No, sir.</p> <p>20 Q. You just had a feeling that something --</p> <p>21 A. Something was going to happen.</p> <p>22 Q. Something was going to happen.</p> <p>23 And so it's fair to say at that point in</p> <p>24 time -- and that's July of 2014 -- tensions were</p>	<p>1 did you have any conflicts with Mr. Silva?</p> <p>2 A. Only about his performance.</p> <p>3 Q. Okay. And what was poor about his</p> <p>4 performance in your opinion?</p> <p>5 A. He just -- he wanted to do what he wanted</p> <p>6 to do and not what the job called for.</p> <p>7 Q. Okay. And so did Mr. Silva leave</p> <p>8 FlightLevel under good circumstances?</p> <p>9 MR. HARTZELL: Objection.</p> <p>10 A. Yes. He left for another job.</p> <p>11 BY MR. FEE:</p> <p>12 Q. You didn't fire him?</p> <p>13 A. No, sir.</p> <p>14 Q. And had you ever disciplined him?</p> <p>15 A. He was talked to a couple of times. Yes,</p> <p>16 sir.</p> <p>17 Q. Was any of that discipline in writing?</p> <p>18 A. I don't believe so. No.</p> <p>19 Q. So at some point did you come to the</p> <p>20 conclusion that Mr. Silva was living at the BEH</p> <p>21 hangar?</p> <p>22 A. Yes, sir.</p> <p>23 Q. And what caused you to come to that</p> <p>24 conclusion?</p>

<p style="text-align: right;">Page 50</p> <p>1 A. His car was there quite a bit.</p> <p>2 Q. And why were you interested in whether or</p> <p>3 not Mr. Silva was living at the BEH hangar?</p> <p>4 A. Because --</p> <p>5 MR. HARTZELL: Objection. Go ahead.</p> <p>6 A. Because it's not allowed.</p> <p>7 BY MR. FEE:</p> <p>8 Q. Okay. And did you know of any other</p> <p>9 individuals that may have been living at any</p> <p>10 other hangars on the airport?</p> <p>11 A. No, sir.</p> <p>12 Q. And so was the sole reason that you</p> <p>13 believed Mr. Silva was living at the hangar was</p> <p>14 that you saw his car there frequently?</p> <p>15 A. Yes, sir.</p> <p>16 Q. And you knew he was an employee of BEH.</p> <p>17 Correct?</p> <p>18 A. Yes, sir.</p> <p>19 Q. So you took it upon yourself to report</p> <p>20 that matter to Mr. Maguire?</p> <p>21 A. I believe I did. Yes.</p> <p>22 Q. And Mr. Maguire reported that to the NAC.</p> <p>23 Correct?</p> <p>24 A. I don't know.</p>	<p style="text-align: right;">Page 52</p> <p>1 activities on the airport?</p> <p>2 MR. HARTZELL: Objection.</p> <p>3 A. I would say there's probably some truth</p> <p>4 to that. Yes.</p> <p>5 BY MR. FEE:</p> <p>6 Q. And any time there was a perceived</p> <p>7 violation of the rules by BEH, you would bring</p> <p>8 that to the attention of Mr. Maguire. Correct?</p> <p>9 MR. HARTZELL: Objection.</p> <p>10 A. Not all the time. No.</p> <p>11 BY MR. FEE:</p> <p>12 Q. Well, you did several times; right?</p> <p>13 A. But I'm not -- not every instance, I'm</p> <p>14 sure.</p> <p>15 Q. Okay. Well, did you report any other</p> <p>16 alleged rules violations by any other operator at</p> <p>17 the airport to Mr. Maguire?</p> <p>18 MR. HARTZELL: Objection.</p> <p>19 A. Yes.</p> <p>20 BY MR. FEE:</p> <p>21 Q. When?</p> <p>22 A. I can't give you dates, but I know that</p> <p>23 it was Boston Air Charter. There was a number of</p> <p>24 times that things were brought to his attention.</p>
<p style="text-align: right;">Page 51</p> <p>1 Q. Do you know if the NAC caused the</p> <p>2 building inspector to investigate whether or not</p> <p>3 Mr. Silva was living at the BEH hangar?</p> <p>4 A. I am not aware of what took place after</p> <p>5 that.</p> <p>6 Q. Is this one of the games that you were</p> <p>7 describing earlier?</p> <p>8 MR. HARTZELL: Objection.</p> <p>9 A. No, sir.</p> <p>10 BY MR. FEE:</p> <p>11 Q. Okay. Well, I'm trying to understand why</p> <p>12 it was so important for you to bring to</p> <p>13 Mr. Maguire's attention the fact that a BEH</p> <p>14 employee might be spending an inordinate amount</p> <p>15 of time at the BEH hangar. Why was that</p> <p>16 important to you?</p> <p>17 MR. HARTZELL: Objection.</p> <p>18 A. Because we're meant to live by the rules</p> <p>19 of the airport and I expect everybody -- that the</p> <p>20 same standards are to be upheld by everybody.</p> <p>21 BY MR. FEE:</p> <p>22 Q. At this point in time when tensions are</p> <p>23 running high between BEH and FlightLevel, is it</p> <p>24 fair to say that you were very observant of BEH's</p>	<p style="text-align: right;">Page 53</p> <p>1 Q. But you can't recall any specifics?</p> <p>2 A. No, sir.</p> <p>3 Q. Did you feel that Boston Executive</p> <p>4 Helicopters was not observing the rules at the</p> <p>5 airport?</p> <p>6 MR. HARTZELL: Objection.</p> <p>7 A. There were times. Yes.</p> <p>8 BY MR. FEE:</p> <p>9 Q. And whenever you came in contact with</p> <p>10 that information, you would report it to</p> <p>11 Mr. Maguire; right?</p> <p>12 MR. HARTZELL: Objection.</p> <p>13 A. Yes, sir.</p> <p>14 BY MR. FEE:</p> <p>15 Q. Now, are you aware of an incident that</p> <p>16 allegedly occurred regarding your employee Jason</p> <p>17 Tibbetts?</p> <p>18 A. Jason Tibbetts? Yes.</p> <p>19 Q. And it involved fueling of an aircraft</p> <p>20 owned by BEH. Correct?</p> <p>21 A. Yes.</p> <p>22 Q. And can you tell me what you remember</p> <p>23 about that incident?</p> <p>24 A. I believe that he had gone down to fuel</p>

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<p>1 an aircraft, and the aircraft was not positioned 2 in the area where he could fuel it. And to be 3 honest with you, I can't recall if -- I think he 4 may have moved the aircraft before he fueled. 5 Q. When you say "he," are you -- 6 A. Jason. Or Jason had asked whoever the 7 pilot was that he would have to move the aircraft 8 to fuel. 9 Q. Do you know who the pilot was? 10 A. I don't recall. 11 Q. Okay. And so your recollection of this 12 incident is that a BEH aircraft asked to be 13 refueled by FlightLevel, and the aircraft was not 14 in the proper position, and FlightLevel asked BEH 15 to move the aircraft before it was fueled. Is 16 that fair to say? 17 A. Yes, sir. 18 Q. Do you recall anything else about that 19 incident? 20 A. About that incident? No. 21 MR. HARTZELL: Do you need to take a 22 break for a minute? 23 THE WITNESS: I'm getting close. 24 MR. HARTZELL: You tell us when you need</p>	<p>1 Q. And he remains the line service manager 2 to this date, does he not? 3 A. Yes, sir. 4 Q. Now, the first -- and you wrote this 5 e-mail -- you wrote this memorandum; right? 6 A. Yes, sir. 7 Q. And it says, "Based on Jason" -- the 8 first line says: 9 "Based on Jason's report, I feel that 10 BEH, Rob Silva was a big part of this violation. 11 Rob has been aware of this issue due to the 12 airport commission meetings. And for him to say 13 that this was okay was totally out of line and 14 shows that there was underlying agenda by 15 him/BEH." 16 Did I read that correctly? 17 A. Yes, sir. 18 Q. And you wrote that? 19 A. Yes, I did. 20 Q. And does that refresh your recollection 21 as to the specifics of the fueling incident in 22 September of 2014? 23 A. Yes. 24 Q. Okay. And so now that your recollection</p>
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<p>1 it. 2 BY MR. FEE: 3 Q. Any time you want to stop is fine with 4 me, but let's keep going until you need to stop. 5 I'm showing you a document that's been 6 marked as Exhibit 34. It's entitled "Fueling 7 Incident." It's dated September 9, 2014. It 8 appears to be from Mr. Eichleay to Donovan. 9 A. Uh-hmm. 10 Q. Have you seen this document before? 11 A. I don't recall. No. 12 Q. Okay. 13 (Exhibit No. 264 marked for identification.) 14 BY MR. FEE: 15 Q. Sir, Exhibit 264 appears to be a 16 memorandum from you to Steve Desrosiers and 17 others dated September 9, 2014. Have you seen 18 this before? 19 A. Yes. 20 Q. Now, who's Steve Desrosiers? 21 A. Steve used to be director of 22 administration for the company at one time. 23 Q. And Kevin Putnam, do you know who he is? 24 A. He's the line service manager.</p>	<p>1 has been refreshed, can you tell me more of what 2 you remember about that particular incident? 3 A. This particular instance, that we were 4 being -- excuse the expression -- baited to fuel 5 in a nonfueling area. 6 They'd place the aircraft where it 7 shouldn't be fueled, and they would try to get 8 the line gentlemen to just fuel them. And then 9 as soon as they did, there would be an e-mail 10 provided or something would come out from the 11 Boston Executive Helicopters' people saying we 12 were in violation of fueling. 13 Q. Okay. And did -- was there an e-mail 14 from Boston Executive Helicopters saying -- 15 A. Not in this one. 16 Q. And why would Boston Executive 17 Helicopters induce FlightLevel to violate the 18 rules? 19 MR. HARTZELL: Objection. Go ahead. 20 A. I don't know, but there was numerous 21 times that something like this happened. 22 BY MR. FEE: 23 Q. Wouldn't Boston Executive Helicopters 24 also be in violation of the rules if it induced</p>

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<p>1 FlightLevel to fuel in an area that it knew was 2 not appropriate? 3 MR. HARTZELL: Objection. 4 A. They might try to, but it was our job to 5 follow the airport rules. 6 BY MR. FEE: 7 Q. And so your understanding -- how did it 8 come to your attention that the rules had been 9 violated? 10 A. Because the line people would come to me 11 and -- the first thing I'd get is a phone call 12 saying that the aircraft is in a nonfueling area. 13 "Mike, it has to be moved." 14 And I told them once that the linemen 15 would tell the people, "As soon as you move the 16 aircraft, we'll be glad to fuel your aircraft, 17 but it can't be here." 18 Q. Did you get a call like that in this 19 instance? 20 A. I'm not 100 percent sure how I found out. 21 Whether -- you know, it could have been -- 22 Kevin Putnam could have called me. I don't know. 23 Q. But you have no specific recollection of 24 how you learned about the details of this</p>	<p>1 Q. And you didn't ask Rob? 2 A. No. I would -- it was -- I didn't ask 3 Rob. 4 Q. Okay. And you reported it to Maguire? 5 A. I most certainly did. 6 Q. What did Maguire do about it? 7 A. I don't think he did anything. He just 8 told us that we did the right thing and that was 9 it. It was all verbal. I don't remember 10 anything else about it. 11 (Exhibit No. 265 marked for identification.) 12 BY MR. FEE: 13 Q. Now, we talked a minute ago about the 14 report that you made to Mr. Maguire regarding the 15 claim that Mr. Silva was residing in the BEH 16 hangar. Do you recall that? 17 A. Yes, I do. 18 Q. And do you know what happened after you 19 made that report? 20 A. No, sir. 21 Q. Let me show you a document that's been 22 marked as Exhibit 265. 23 It appears to be an e-mail amongst the 24 Norwood Airport commissioners talking about the</p>
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<p>1 particular incident; is that right? 2 A. No. Other than them telling us what they 3 encountered. 4 Q. "Them" is who? 5 A. The line guy. 6 Q. And is that Jason Tibbetts? 7 A. In this case it would be Jason. 8 Q. And how did Jason Tibbetts know that he 9 had fueled in an improper place? 10 A. Because we had a class or we had a 11 get-together, training class, instructing the 12 guys that based on the airport rules, that this 13 is what -- and how you are to fuel an aircraft. 14 Q. And what evidence did you have that 15 Rob Silva "baited" Jason Tibbetts into fueling in 16 an improper place? 17 A. The only evidence -- 18 MR. HARTZELL: Objection. Go ahead. 19 A. The only evidence I have is Jason's 20 testimony to us telling us that Rob Silva said it 21 was okay to fuel there. 22 BY MR. FEE: 23 Q. Okay. And you believe Jason? 24 A. I most certainly do.</p>	<p>1 fact that they've engaged the building inspector, 2 Mark Chubet, to investigate claims that Mr. Silva 3 was living in a hangar. Do you see that? 4 A. I see that. 5 Q. And down below it says: 6 "Mark will keep tabs on them. His next 7 step is to file a complaint at Dedham District 8 Court." 9 Do you see that? 10 A. Yes, sir. 11 Q. So were you aware of the fact that as a 12 result of your complaint, the building inspector 13 investigated this alleged zoning violation and 14 was communicating with the Norwood Airport 15 commissioners regarding that issue? 16 A. No. 17 Q. Did you have any communications with the 18 Norwood Airport commissioners at all regarding 19 this issue? 20 A. Other than reporting it, no. 21 Q. And were you aware at any time that the 22 building commissioner made a determination that 23 Mr. Silva was, in fact, not living at the hangar? 24 MR. HARTZELL: Objection.</p>

<p style="text-align: right;">Page 62</p> <p>1 A. I did not -- I did not know.</p> <p>2 BY MR. FEE:</p> <p>3 Q. Okay. And do you know if at any time the</p> <p>4 building inspector brought a complaint in Dedham</p> <p>5 District Court against BEH for zoning violations?</p> <p>6 A. No.</p> <p>7 Q. And did you encourage Mr. Maguire or the</p> <p>8 airport commissioners to pursue legal action</p> <p>9 against BEH for alleged zoning violations?</p> <p>10 A. No.</p> <p>11 Q. Okay.</p> <p>12 THE WITNESS: And with that, could we</p> <p>13 take a break?</p> <p>14 MR. FEE: Sure. Absolutely.</p> <p>15 (Recess taken at 11:12 a.m.)</p> <p>16 (Deposition resumed at 11:18 a.m.)</p> <p>17 MR. FEE: Back on the record.</p> <p>18 BY MR. FEE:</p> <p>19 Q. Mr. DeLaria, I'm showing you a document</p> <p>20 that was previously marked as Exhibit 35 to the</p> <p>21 Silva deposition, and it appears to be a letter</p> <p>22 from town counsel, David DeLuca, to</p> <p>23 Mr. McCulloch, entitled "Zoning Violation" and</p> <p>24 dated April 28, 2015.</p>	<p style="text-align: right;">Page 64</p> <p>1 MR. HARTZELL: I think the question was:</p> <p>2 Do you remember what you did with it when you</p> <p>3 received it?</p> <p>4 THE WITNESS: I don't remember.</p> <p>5 MR. HARTZELL: You have got to answer his</p> <p>6 question.</p> <p>7 A. I don't remember.</p> <p>8 BY MR. FEE:</p> <p>9 Q. Do you remember receiving it?</p> <p>10 A. I'm sure I did, but I don't remember.</p> <p>11 Q. I'm just asking if you have a</p> <p>12 recollection of it.</p> <p>13 A. No.</p> <p>14 Q. So you don't have any recollection of</p> <p>15 whether you talked to Mr. Eichleay about it or</p> <p>16 anyone else at BEH -- at FlightLevel?</p> <p>17 A. No.</p> <p>18 Q. Okay. So now you mentioned earlier the</p> <p>19 snow of 2014 -- or --</p> <p>20 MR. HARTZELL: 2015.</p> <p>21 BY MR. FEE:</p> <p>22 Q. -- 2015.</p> <p>23 A. Whatever that was called at that time.</p> <p>24 Q. In January of 2015, there was a lot of</p>
<p style="text-align: right;">Page 63</p> <p>1 I want to draw your attention to the</p> <p>2 attachment. Have you seen -- do you know what</p> <p>3 the attachment is?</p> <p>4 A. I believe this is the -- when you punch</p> <p>5 your card in at the code system.</p> <p>6 Q. And did you have access to this</p> <p>7 information?</p> <p>8 A. No.</p> <p>9 Q. You don't have access to it?</p> <p>10 A. No, sir.</p> <p>11 Q. And have you ever seen this before?</p> <p>12 A. No.</p> <p>13 Q. Do you know if the -- okay. Thanks.</p> <p>14 Now, I'm going to show you what's been</p> <p>15 marked as Exhibit 56. It's a letter addressed to</p> <p>16 you from Mr. Fox, who was, at the time,</p> <p>17 representing Boston Executive Helicopters. And</p> <p>18 the letter is dated November 19, 2013. Have you</p> <p>19 seen that before?</p> <p>20 A. I'm sure I did, but I don't remember.</p> <p>21 Q. Do you know what you did with it when you</p> <p>22 received it?</p> <p>23 A. I'd have to see what they asked for. I'm</p> <p>24 not even sure what he's asking me.</p>	<p style="text-align: right;">Page 65</p> <p>1 snow; right?</p> <p>2 A. A ton. Yes, sir.</p> <p>3 Q. And you started to talk about it earlier,</p> <p>4 and I want to just circle back on that.</p> <p>5 A. Okay.</p> <p>6 Q. Now, as the operations manager for</p> <p>7 FlightLevel at Norwood Airport, are you in charge</p> <p>8 of snow removal?</p> <p>9 A. Yes, sir.</p> <p>10 Q. And can you describe for me how that</p> <p>11 is -- how you manage that?</p> <p>12 A. Based on the number of inches that's</p> <p>13 forecast or happens, we try to either remove the</p> <p>14 snow ourselves -- and I believe it's after four</p> <p>15 inches or five inches, we contract with PJ Hayes</p> <p>16 to remove snow.</p> <p>17 Q. And you're responsible for clearing quite</p> <p>18 a significant portion of the airport. Is that</p> <p>19 fair to say?</p> <p>20 A. All of the --</p> <p>21 MR. HARTZELL: Wait a minute. Objection.</p> <p>22 Go ahead.</p> <p>23 A. Yes. The ramp area.</p> <p>24</p>

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<p>1 BY MR. FEE: 2 Q. Because FlightLevel leases almost all of 3 the ramps at the airport, there's a significant 4 amount of snow that needs to be moved. Correct? 5 MR. HARTZELL: Objection. 6 A. Yes. 7 BY MR. FEE: 8 Q. Okay. And how many trucks does 9 FlightLevel have to do snow removal? 10 A. We only had two -- what do you want to 11 call them -- plow trucks. 12 Q. That was in January of 2015? 13 A. Yes. 14 Q. Do you have more today? 15 A. No. We still have two plow trucks. 16 Q. Do you know approximately the square 17 footage that FlightLevel is required to clear? 18 A. I -- 19 MR. HARTZELL: In what year? 20 A. I'm not 100 percent sure. I'm guessing 21 it's around 250,000 square feet of ramp space. 22 300,000. Something like that. 23 BY MR. FEE: 24 Q. And do you know -- as operations manager,</p>	<p>1 Q. So at the beginning of a plow season 2 they'll deposit equipment and leave it at the 3 airport so that they're ready to go when events 4 require it. Correct? 5 A. Yes, sir. 6 Q. And do you know -- was that the case in 7 January and February of 2015 as well? 8 A. Yes, sir. 9 Q. Okay. And are you familiar with the 10 process whereby snow is cleared in the area 11 between the hangars on Lot G and Lot F? 12 A. Yes, sir. 13 Q. And how is that accomplished? 14 A. We would go down and plow the area with 15 the plow trucks, and we start early enough and we 16 keep pushing it up against the woods unless it 17 was a significant event. And at that time, we 18 wouldn't be able to get the snow from the fuel 19 farm. We had to make sure that the fuel farm 20 would be able to be operational. 21 So we'd have to use the big front 22 loaders, and we don't have that. That would be 23 PJ Hayes that would be doing that. 24 Q. Is it fair to say that you plowed snow</p>
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<p>1 do you know how long approximately it takes 2 FlightLevel's two trucks to clear the 3 approximately 300,000 square feet of space? 4 MR. HARTZELL: Objection. 5 A. Again, that's a hard -- because we start 6 when it's snowing out and it's -- we have a goal 7 to be totally in operation, four hours. 8 BY MR. FEE: 9 Q. Four hours? 10 A. Yes. 11 Q. But sometimes that's overwhelmed by the 12 amount of snow. 13 A. Yes. 14 Q. Do you have dedicated employees that plow 15 snow during events? 16 A. Yes. 17 Q. And do they plow snow on a 24-hour basis? 18 A. Yes, sir. 19 Q. And your relationship to PJ Hayes. 20 They're a contractor to FlightLevel. Correct? 21 A. Yes. 22 Q. And do they maintain their equipment at 23 the airport? 24 A. Yes, they do.</p>	<p>1 from the -- and I'm talking about the area 2 between the buildings on Lots F and G -- plow 3 from the taxiway -- Gate 3 taxiway southerly 4 toward the woods and the fuel farm? 5 A. Yes. 6 Q. And as of -- in January of 2015 that snow 7 began to accumulate in the vicinity of the fuel 8 farm. Correct? 9 MR. HARTZELL: Objection. 10 A. Yes, because of all the snow. 11 BY MR. FEE: 12 Q. Okay. So I just want to show you a 13 document that was marked previously as 14 Exhibit 176 to Mr. Eichleay's deposition. And it 15 appears to be a truck moving in a southerly 16 direction plowing snow in the area between the 17 buildings on Lots F and G. Do you see that? 18 A. Yes, sir. 19 Q. And is that -- does that fairly and 20 accurately depict the method by which FlightLevel 21 attempts to remove snow from the area between the 22 buildings on Lots F and G? 23 MR. HARTZELL: Objection. 24 A. Yes.</p>

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<p>1 BY MR. FEE:</p> <p>2 Q. Okay. And the -- where the S truck is</p> <p>3 parked in this picture, do you see that?</p> <p>4 A. Yes, sir.</p> <p>5 Q. Is that an area in which the mobile</p> <p>6 fuelers for FlightLevel regularly park?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. And they can egress from that</p> <p>9 position by going toward the north ramp, can they</p> <p>10 not?</p> <p>11 A. They go to the north ramp -- well, they</p> <p>12 go in via -- what would that be -- the west side.</p> <p>13 Q. Yes.</p> <p>14 A. And they pull it in and then they pull</p> <p>15 one behind it. So the next morning all they have</p> <p>16 to do is clean the trucks off and do their</p> <p>17 inspections before the fueling starts.</p> <p>18 Q. Right. And is it common for the fuel</p> <p>19 trucks to leave the fuel farm by going toward the</p> <p>20 north ramp?</p> <p>21 A. It could depend on who's putting them</p> <p>22 away. It could be either way. It depends on the</p> <p>23 guy at night who's doing it. Sometimes the guy</p> <p>24 will bring them in from the east side and</p>	<p>1 FlightLevel's responsibility in 2015 to clear the</p> <p>2 snow in front of the condo hangars on Lot G so</p> <p>3 that the tenants could get their planes and</p> <p>4 helicopters in and out of those spaces?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. And do you know if FlightLevel was</p> <p>7 able to successfully perform those</p> <p>8 responsibilities in January of 2015 due to the</p> <p>9 heavy amount of snow?</p> <p>10 MR. HARTZELL: Objection.</p> <p>11 A. Yes.</p> <p>12 BY MR. FEE:</p> <p>13 Q. Okay. And so it's your testimony that</p> <p>14 there was no accumulation of snow in front of the</p> <p>15 condo hangars on Lot G in January of 2015?</p> <p>16 A. I didn't say --</p> <p>17 MR. HARTZELL: Slow down. Objection. Go</p> <p>18 ahead.</p> <p>19 A. I didn't say that.</p> <p>20 BY MR. FEE:</p> <p>21 Q. Okay. So is it your testimony then that</p> <p>22 at some point during January of 2015 snow did</p> <p>23 accumulate between the hangars -- outside the</p> <p>24 hangars on Lot G?</p>
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<p>1 sometimes they'll bring them in from the west</p> <p>2 side.</p> <p>3 It all depends on the line guy putting</p> <p>4 the trucks away.</p> <p>5 Q. But there are two ways to get in and out</p> <p>6 of the fuel farm. Correct?</p> <p>7 A. Yes, there is.</p> <p>8 Q. And so if one is blocked, you can use the</p> <p>9 other one; right?</p> <p>10 MR. HARTZELL: Objection.</p> <p>11 A. For the little trucks you could. Yes.</p> <p>12 BY MR. FEE:</p> <p>13 Q. And what about the big trucks?</p> <p>14 A. No.</p> <p>15 Q. Why not?</p> <p>16 A. Because when you're -- the semis that are</p> <p>17 delivering the fuel wouldn't be able to do that.</p> <p>18 Q. And the semis that are delivering the</p> <p>19 fuel need to utilize both the north ramp and the</p> <p>20 space between Lots F and G in order to access and</p> <p>21 egress from the fuel farm. Is that your</p> <p>22 testimony?</p> <p>23 A. Yes.</p> <p>24 Q. And would you agree with me that it was</p>	<p>1 MR. HARTZELL: Objection.</p> <p>2 A. It's possible. Yes.</p> <p>3 BY MR. FEE:</p> <p>4 Q. And is it possible then that FlightLevel</p> <p>5 had difficulty keeping up with removing the snow</p> <p>6 from the condo hangars on Lot G due to the sheer</p> <p>7 amount of accumulation in January of 2015?</p> <p>8 MR. HARTZELL: Objection.</p> <p>9 A. That's not true.</p> <p>10 BY MR. FEE:</p> <p>11 Q. It's not true.</p> <p>12 So it's your testimony that FlightLevel</p> <p>13 removed all snow that accumulated outside the</p> <p>14 hangars on Lot G in January of 2015?</p> <p>15 A. Yes, sir.</p> <p>16 Q. How do you know that?</p> <p>17 A. I know because that's our job. If the</p> <p>18 airport is closed, that is the last priority. We</p> <p>19 try to clean the -- clear the ramps and make</p> <p>20 sure -- the other is make sure helicopters are</p> <p>21 able to get out.</p> <p>22 Because on the most part, the airport is</p> <p>23 open to helicopters but not to fixed wing. So</p> <p>24 our job is to make sure that we can get</p>

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<p>1 helicopters out and not worry about fixed wing if 2 the airport is closed. 3 Q. Do you have a priority list for areas to 4 be cleared first? 5 A. Yes. 6 Q. And what's that list? 7 A. Out -- I'm going to get these building 8 numbers wrong. 9 MR. HARTZELL: Do the best you can. 10 A. I believe it's Building 1, 2, and 3 where 11 there's helicopters; we clean this area so they 12 can launch. There's a pad out there for them to 13 launch. 14 The other is for us to do Lot G because 15 there's helicopters down there. 16 Now, the one thing I can't answer is: 17 I'm not responsible -- we're not responsible to 18 clean the helipads. That is the responsibility 19 of the airport. So we try to just hit our areas 20 first. 21 BY MR. FEE: 22 Q. Okay. And what about the ramps? 23 A. The ramps are started when the snow 24 starts. It's the ramp for the FBO. We try to</p>	<p>1 A. Yes. 2 Q. Is it equipment owned by PJ Hayes? 3 A. Yes, it is. 4 Q. And it's -- kept at the airport in 5 January of 2015? 6 A. Yes. 7 Q. And can you identify what the three 8 pieces of equipment are starting in the 9 foreground and going to the background? 10 A. Well, the one at the far right is a front 11 loader and these other two are just the -- just 12 plows. They don't have the bucket on the front 13 so -- but this is used just basically for pushing 14 snow. 15 Q. And you said there's a front loader 16 that's used for removing snow. Is that fair to 17 say? 18 A. Yes. 19 (Exhibit No. 266 marked for identification.) 20 BY MR. FEE: 21 Q. Mr. DeLaria, Exhibit 266 appears to be a 22 picture of a PJ Hayes piece of equipment. Do you 23 recognize that? 24 A. That is a -- I don't know what they call</p>
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<p>1 get that first, and we do a path between where 2 the tie-down aircraft are, but the tenants are 3 required to shovel out their own aircraft. 4 Q. Okay. But in terms of priority of your 5 resources when there's a significant snow event, 6 do you first clear the ramps and then all of the 7 other places that you've mentioned? 8 A. We do -- we usually send one truck down 9 to do one thing. One truck does the other. 10 That's why we had two. One would do the ramp and 11 the other would do the other areas. 12 Q. You testified that when the snow started 13 to accumulate, you would ask PJ Hayes to come in 14 and deal with that. 15 A. Yeah. We have a standard -- if it's -- 16 again, I'm not 100 percent sure. I think it's 17 over four inches or five inches that they 18 immediately just come on board and start. 19 Q. They immediately deploy? 20 A. Yes. 21 Q. Okay. I'll show you what's been marked 22 as Exhibit 180. It was marked in the deposition 23 of Mr. Eichleay. Do you recognize this 24 equipment?</p>	<p>1 it. That's a front loader with a pusher on it. 2 Q. But is that a fair and accurate 3 representation of the equipment that PJ Hayes had 4 on the airport in January of 2015? 5 A. I believe so. 6 Q. Okay. And now, with respect to the areas 7 between Lots F and G, you testified that the snow 8 was pushed back towards the woods. Correct? 9 A. Yes, sir. 10 Q. And at times that would accumulate. 11 Correct? 12 MR. HARTZELL: Objection. 13 A. Yes. Depending on the amount of snow 14 that you had. That's a fair statement. 15 BY MR. FEE: 16 Q. When it accumulated would you ask 17 PJ Hayes to remove it? 18 A. We would ask them to come with a front 19 loader to keep pushing it back so we could keep 20 the gate open. 21 Q. Right. And so the reason that you would 22 do that is so that you can ensure there's two 23 ways to access and egress from the fuel farm. 24 Correct?</p>

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<p>1 A. Yes, sir.</p> <p>2 Q. And that was the responsibility of you</p> <p>3 and FlightLevel to make sure that the fuel farm</p> <p>4 was clear at all times. Correct?</p> <p>5 A. Yes.</p> <p>6 MR. HARTZELL: Objection. Go ahead.</p> <p>7 BY MR. FEE:</p> <p>8 Q. Correct?</p> <p>9 A. Yes.</p> <p>10 Q. And so PJ Hayes existed or was present at</p> <p>11 the airport in order to ensure that FlightLevel</p> <p>12 could keep the fuel farm clear. Correct?</p> <p>13 A. Yes, sir.</p> <p>14 Q. Okay. And whenever the fuel farm became</p> <p>15 impeded by snow, PJ Hayes was there to remove the</p> <p>16 snow. Correct?</p> <p>17 MR. HARTZELL: Objection.</p> <p>18 A. Again, only on the amount of snow that we</p> <p>19 had. So if we couldn't do it and the snow was</p> <p>20 starting to get beyond our capability of being</p> <p>21 able to push it with a plow, then we could call</p> <p>22 PJ Hayes to move the snow.</p> <p>23 BY MR. FEE:</p> <p>24 Q. Right. Okay.</p>	<p>1 they were doing. So I had to go down and</p> <p>2 physically see it.</p> <p>3 Q. And what did you do?</p> <p>4 A. I talked to -- I reported it to</p> <p>5 Mr. Eichleay. That he was down at the -- Boston</p> <p>6 Executive -- it appeared that Boston Executive</p> <p>7 was trying to clear that area.</p> <p>8 Q. So you were aware of the fact that Boston</p> <p>9 Executive Helicopters was pushing snow into the</p> <p>10 area adjacent to the fuel farm. Correct?</p> <p>11 A. Yes.</p> <p>12 Q. And did you attribute all of the snow</p> <p>13 that was in that area to Boston Executive</p> <p>14 Helicopters' plowing activities?</p> <p>15 A. I don't recall saying that that was a</p> <p>16 true statement.</p> <p>17 Q. Did you have any way of knowing which</p> <p>18 snow had been placed there by Boston Executive</p> <p>19 Helicopters and which snow had been plowed</p> <p>20 adjacent to the fuel farm by FlightLevel's</p> <p>21 contractors?</p> <p>22 A. We know that there was a truck that did</p> <p>23 not belong to anybody or the plowing people or</p> <p>24 our trucks that were moving the snow.</p>
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<p>1 (Exhibit No. 267 marked for identification.)</p> <p>2 BY MR. FEE:</p> <p>3 Q. Mr. DeLaria, 267 appears to be a memo of</p> <p>4 some sort from Mr. Putnam dated January 29, 2015.</p> <p>5 Do you see this?</p> <p>6 A. Yes.</p> <p>7 Q. Have you seen it before?</p> <p>8 A. I don't recall.</p> <p>9 Q. Can you take a look at it. I'm going to</p> <p>10 ask you a question about it.</p> <p>11 A. Uh-hmm.</p> <p>12 Q. Did you -- do you recall speaking to</p> <p>13 Mr. Putnam about this at all?</p> <p>14 A. Yes, I do.</p> <p>15 Q. And what did Mr. Putnam tell you?</p> <p>16 A. That someone else had been plowing and</p> <p>17 had blocked the fuel farm.</p> <p>18 Q. And was he able to tell you how much snow</p> <p>19 had been plowed to block the fuel farm?</p> <p>20 A. Yes.</p> <p>21 Q. And what did he tell you?</p> <p>22 A. Just -- well, I actually went down to</p> <p>23 look. I went and seen physically because I</p> <p>24 didn't quite understand what he meant -- what</p>	<p>1 Q. Right. So you were aware of the fact</p> <p>2 that Boston Executive Helicopters appeared to be</p> <p>3 moving snow in the vicinity of the fuel farm.</p> <p>4 Correct?</p> <p>5 A. Yes, sir.</p> <p>6 Q. But there's no way that you can tell</p> <p>7 whether that snow caused blockage of the fuel</p> <p>8 farm; right?</p> <p>9 MR. HARTZELL: Objection.</p> <p>10 BY MR. FEE:</p> <p>11 Q. Strike that. Let me rephrase.</p> <p>12 You said that FlightLevel routinely plows</p> <p>13 the area between the buildings on Lots F and G in</p> <p>14 a southerly direction adjacent to the fuel farm</p> <p>15 and toward the woods. Correct?</p> <p>16 A. That is correct.</p> <p>17 Q. And you testified that when the snow</p> <p>18 accumulates to a certain extent, you call</p> <p>19 PJ Hayes, and they move the snow so that you can</p> <p>20 get in and out of the fuel farm; right?</p> <p>21 A. Yes, sir.</p> <p>22 Q. And so the -- and in -- you testified</p> <p>23 that you were aware of the fact that Boston</p> <p>24 Executive Helicopters had moved some snow into</p>

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<p>1 the area adjacent to the fuel farm. Correct?</p> <p>2 MR. HARTZELL: Objection.</p> <p>3 A. I'll question the word "some," but yes.</p> <p>4 BY MR. FEE:</p> <p>5 Q. Is there any way for you to quantify how</p> <p>6 much snow Boston Executive Helicopters allegedly</p> <p>7 moved into the vicinity of the fuel farm?</p> <p>8 MR. HARTZELL: Objection.</p> <p>9 BY MR. FEE:</p> <p>10 Q. Can you give me any kind of estimate?</p> <p>11 A. I cannot give you an estimate, but I</p> <p>12 could go back and find the records on how much</p> <p>13 snow we received that day.</p> <p>14 Q. Okay. I understand that there may be</p> <p>15 written records. But as you sit here today, can</p> <p>16 you tell me, with any degree of certainty, how</p> <p>17 much snow Boston Executive Helicopters allegedly</p> <p>18 placed adjacent to your fuel farm?</p> <p>19 MR. HARTZELL: Objection.</p> <p>20 A. No. I could not, but I could find out.</p> <p>21 BY MR. FEE:</p> <p>22 Q. Now, as a result of the fuel farm</p> <p>23 allegedly being blocked by snow, what did you do?</p> <p>24 A. We contacted PJ Hayes to come start</p>	<p>1 and -- are you not?</p> <p>2 A. I am.</p> <p>3 Q. Are you aware that FlightLevel lost any</p> <p>4 money as a result of this alleged blocking of</p> <p>5 their fuel farm?</p> <p>6 A. I'm not sure. I would have to go back</p> <p>7 and look --</p> <p>8 Q. Okay.</p> <p>9 A. -- at our records.</p> <p>10 Q. Okay. So was this another game the</p> <p>11 parties were playing with each other regarding</p> <p>12 snow blocking the fuel farm and FlightLevel</p> <p>13 blaming BEH for that activity?</p> <p>14 MR. HARTZELL: Objection.</p> <p>15 A. Absolutely not.</p> <p>16 BY MR. FEE:</p> <p>17 Q. Okay. Did you have any discussions with</p> <p>18 Mr. Eichleay regarding the utility of -- strike</p> <p>19 that.</p> <p>20 I'll show you a document that's been</p> <p>21 marked as Exhibit 179 to the Eichleay deposition.</p> <p>22 Does this look like PJ Hayes clearing snow in the</p> <p>23 vicinity of the fuel farm?</p> <p>24 A. Yes, sir.</p>
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<p>1 moving the snow back so we could get that gate</p> <p>2 open.</p> <p>3 Q. You contacted them immediately. Correct?</p> <p>4 A. Yes.</p> <p>5 Q. And how long was the fuel farm blocked?</p> <p>6 A. I can't answer that.</p> <p>7 Q. You don't know?</p> <p>8 A. I don't know.</p> <p>9 Q. Do you know if any fuel deliveries were</p> <p>10 impeded as a result of this alleged blocking of</p> <p>11 the fuel farm?</p> <p>12 A. I don't remember but I can also -- I</p> <p>13 could go back and look at our records to let you</p> <p>14 know.</p> <p>15 Q. But as you sit here today, you have no</p> <p>16 idea?</p> <p>17 A. No.</p> <p>18 Q. But you think, based on Exhibit 267, the</p> <p>19 last paragraph, that upon learning of the snow</p> <p>20 blocking the fuel farm you called PJ Hayes and</p> <p>21 they moved it; right?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. So are you aware of -- you're</p> <p>24 responsible for the finances of FlightLevel</p>	<p>1 Q. So did you observe PJ Hayes clearing snow</p> <p>2 in the vicinity of the fuel farm in January of</p> <p>3 2015?</p> <p>4 A. I didn't observe them removing snow. No.</p> <p>5 Q. At some point did you become aware of the</p> <p>6 fact that PJ Hayes had removed the snow and the</p> <p>7 fuel farm was again operational for ingress and</p> <p>8 egress --</p> <p>9 A. Yes.</p> <p>10 Q. -- in both directions?</p> <p>11 MR. HARTZELL: Time out.</p> <p>12 THE WITNESS: I'm sorry.</p> <p>13 MR. HARTZELL: You need to wait until he</p> <p>14 finishes his question.</p> <p>15 A. And the word is "yes."</p> <p>16 BY MR. FEE:</p> <p>17 Q. Thanks. But you don't know how long it</p> <p>18 took for PJ Hayes to remove the snow and make the</p> <p>19 fuel farm operational?</p> <p>20 A. No. I wouldn't be able to answer that</p> <p>21 question.</p> <p>22 Q. Okay.</p> <p>23 (Exhibit No. 268 marked for identification.)</p> <p>24</p>

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<p>1 BY MR. FEE: 2 Q. I'm going to show you a document that's 3 been marked as Exhibit 268. It's a document that 4 was produced to us yesterday by your counsel. 5 Do you know what this represents? 6 A. That is a picture of Oulton Hues' plow 7 truck. 8 Q. How do you know it's Oulton Hues' plow 9 truck? 10 A. Because he used that regularly to come on 11 the airport, and that is his license plate that 12 is on there. 13 Q. And how do you know his license plate? 14 A. Well, he would come up to the airport. 15 At one time he would come up and talk to us. 16 He'd be in his truck. He would carry his dog 17 around or whatever. 18 Q. So you knew his truck? 19 A. I know his truck. 20 Q. Do you know when this picture was taken? 21 A. No, sir. 22 Q. Did you take it? 23 A. No, sir. 24 Q. So you have no idea when this was?</p>	<p>1 A. Yes, sir. 2 Q. And they would invoice you on a regular 3 basis for those services? 4 A. Based on each event. 5 Q. Right. And so you would assume that 6 FlightLevel would have records regarding times 7 that it engaged with PJ Hayes to remove snow 8 adjacent to the fuel farm. Is that fair to say? 9 A. I don't know how to interpret that 10 question. 11 Q. I can rephrase it if you don't 12 understand. 13 A. Please. 14 Q. You said that -- and when I was showing 15 you Exhibit 267, you said that based on the last 16 paragraph you believe that once it became clear 17 to you that the fuel farm was impeded that you 18 called PJ Hayes and they came in and removed the 19 snow. Right? 20 A. That's correct. 21 Q. And my question to you is: Is that an 22 event for which PJ Hayes would give FlightLevel 23 an invoice? 24 A. They never segregated the invoice. It</p>
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<p>1 A. No. 2 Q. Okay. Now, as the person in charge of 3 taking care of the financial information for 4 FlightLevel, are you familiar with the billing 5 relationship with PJ Hayes? 6 A. Yes. 7 Q. And so do you have a monthly contract 8 with them? Do you pay them a certain amount to 9 be on retainer, or do you pay them based on the 10 amount of snow that they plow? 11 A. It's time and materials. 12 Q. Time and materials. Okay. 13 And so when they do -- and you said there 14 was a trigger. Four or five or six inches and 15 they would automatically deploy. Correct? 16 MR. HARTZELL: Objection. 17 A. Yes, but they would come in and tell us, 18 "Mike, we're at the threshold. We're going to 19 start plowing." 20 BY MR. FEE: 21 Q. And there's also the opportunity for you 22 to call them and say, "Hey, we've got this issue 23 here by the fuel farm. Can you come and move 24 that snow?" Right?</p>	<p>1 was just one big invoice. 2 Q. Okay. And did those invoices describe 3 the services -- the particular services that were 4 rendered? 5 A. Yes. 6 Q. And so was it fair to say that if PJ 7 Hayes removed snow from the fuel farm in and 8 about January of 2015 there would be an invoice 9 from them for that service? 10 A. Yes. 11 (Exhibit No. 269 marked for identification.) 12 BY MR. FEE: 13 Q. I'm showing you what's been marked as 14 Exhibit 269. Are these the types of invoices 15 that PJ Hayes provides when they give you 16 additional services? 17 A. Yes. Yes, sir. 18 Q. And it breaks it down by snowplowing and 19 excavator and loader with pusher; right? It 20 describes the specific equipment used. 21 A. Yes, sir. 22 Q. So if a front-end loader was used to 23 clear snow in front of the fuel farm, you would 24 expect to have an additional invoice for that.</p>

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<p>1 Correct?</p> <p>2 MR. HARTZELL: Objection.</p> <p>3 A. No. It would be on the one invoice.</p> <p>4 BY MR. FEE:</p> <p>5 Q. Okay.</p> <p>6 A. They would just say -- you know, if it</p> <p>7 was an additional loader, they'd say, you know, a</p> <p>8 loader and how many hours it would take. If it</p> <p>9 took three hours or four hours, it would have the</p> <p>10 hours corresponding to what the extra was.</p> <p>11 Q. Do you know if FlightLevel has any</p> <p>12 invoices from PJ Hayes regarding the snow removal</p> <p>13 that was undertaken on or about January 29, 2015?</p> <p>14 A. We have all their invoices.</p> <p>15 Q. Okay. I just haven't seen it. That's</p> <p>16 why I'm asking.</p> <p>17 A. Okay.</p> <p>18 MR. FEE: I'll have a chat with your</p> <p>19 counsel about that later.</p> <p>20 (Exhibit No. 270 marked for identification.)</p> <p>21 BY MR. FEE:</p> <p>22 Q. Exhibit 270 appears to be a letter dated</p> <p>23 February 6, 2015, from Mr. Burlingham to</p> <p>24 Mr. Donovan. It's entitled "Notice of Trespass,</p>	<p>1 or his truck they had, but they were plowing that</p> <p>2 snow.</p> <p>3 Q. And you saw -- you say "we saw" a truck.</p> <p>4 Who is "we"?</p> <p>5 A. The line person. That's where the snow</p> <p>6 was being just pushed to a point.</p> <p>7 Q. I understand that. I'm trying to figure</p> <p>8 out how you know that it was Mr. Donovan.</p> <p>9 A. I can't say for sure that it was</p> <p>10 Mr. Donovan. I didn't see his face. It could</p> <p>11 have been any other person.</p> <p>12 Q. And so the basis for your inferring that</p> <p>13 it was Mr. Donovan is information provided to you</p> <p>14 by someone else?</p> <p>15 A. Pictures that I seen --</p> <p>16 Q. Okay. And --</p> <p>17 A. -- from the line gentleman.</p> <p>18 Q. Who provided -- which line gentleman</p> <p>19 provided you pictures?</p> <p>20 A. I'm not 100 percent sure, to be honest</p> <p>21 with you.</p> <p>22 Q. So you -- based on information that was</p> <p>23 given to you by the lineman, you inferred that</p> <p>24 Mr. Donovan was plowing snow between the</p>
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<p>1 Cease and Desist."</p> <p>2 Have you ever seen this before?</p> <p>3 A. No, sir.</p> <p>4 Q. Did you ever talk to Mr. Burlingham</p> <p>5 about -- or provide Mr. Burlingham information</p> <p>6 regarding activities by BEH involving snowplowing</p> <p>7 between the buildings on Lots F and G?</p> <p>8 A. I did to Peter Eichleay.</p> <p>9 Q. And what do you recall about the</p> <p>10 information that you relayed to Peter Eichleay in</p> <p>11 or about January of 2015?</p> <p>12 A. Only that Mr. Donovan was plowing the</p> <p>13 snow on Lot G.</p> <p>14 Q. How do you know that?</p> <p>15 A. Because we seen the truck.</p> <p>16 Q. Which truck?</p> <p>17 A. His truck.</p> <p>18 Q. You saw --</p> <p>19 A. And he admitted to it.</p> <p>20 Q. Wait a minute. I want to know the basis</p> <p>21 for your telling Mr. Eichleay that Mr. Donovan</p> <p>22 was plowing snow between Lots F and G.</p> <p>23 A. We seen a truck that belonged -- I don't</p> <p>24 know if it belonged to them. If it was Oulton's</p>	<p>1 buildings on Lots F and G. Correct?</p> <p>2 A. I believe it was either Mr. Donovan or an</p> <p>3 employee of Mr. Donovan that was removing snow.</p> <p>4 I don't think that we actually said it was</p> <p>5 Mr. Donovan at that point in time.</p> <p>6 Q. But you contend that someone acting on</p> <p>7 behalf of BEH was plowing snow.</p> <p>8 A. That's a fact. Yes.</p> <p>9 Q. And you conveyed this information to</p> <p>10 Mr. Eichleay.</p> <p>11 A. That's correct.</p> <p>12 Q. And did you tell Mr. Eichleay anything</p> <p>13 regarding the amount of snow that had been</p> <p>14 allegedly moved by Mr. Donovan or someone acting</p> <p>15 on behalf of BEH?</p> <p>16 A. No. The only part that we relayed to</p> <p>17 Mr. Eichleay was the fact that the -- we couldn't</p> <p>18 open. We couldn't get into the fuel farm. We</p> <p>19 only had one access to the fuel farm, that it was</p> <p>20 plowed in.</p> <p>21 Q. And that's the same access point that you</p> <p>22 cleared by calling PJ Hayes on January 29th of</p> <p>23 2015?</p> <p>24 A. Yes. We finally called PJ Hayes.</p>

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<p>1 Q. So the second paragraph of</p> <p>2 Mr. Burlingham's letter, down at the bottom, it</p> <p>3 talks about -- it's in the middle of that</p> <p>4 paragraph.</p> <p>5 "Most recently, on January 27, 2015, and</p> <p>6 again on February 2 and 3, as my client was fully</p> <p>7 mobilized, combining the snow for BEH's Lot F</p> <p>8 with the snowfall on FlightLevel's Lot G to</p> <p>9 create a virtually impenetrable barrier of snow</p> <p>10 and ice, 6 feet high, 15 feet deep, and 70 feet</p> <p>11 long across, nearly the entire length of my</p> <p>12 client's Lot H, blocking access to my client's</p> <p>13 fueling system."</p> <p>14 Do you see that?</p> <p>15 A. Yes, sir.</p> <p>16 Q. Did you provide that information to</p> <p>17 Mr. Eichleay regarding the height, depth, and</p> <p>18 dimension of the snow barrier that had been</p> <p>19 created by BEH?</p> <p>20 A. No, I didn't.</p> <p>21 Q. Who provided that information to</p> <p>22 Mr. Eichleay?</p> <p>23 A. I cannot tell you.</p> <p>24 Q. Did you observe this alleged impenetrable</p>	<p>1 A. I don't know the date.</p> <p>2 Q. Do you recall any discussion with</p> <p>3 Mr. Eichleay or anyone else at FlightLevel</p> <p>4 regarding the decision to -- the decision-making</p> <p>5 process that led up to placing the barriers?</p> <p>6 A. Yes.</p> <p>7 Q. Can you tell me what you remember about</p> <p>8 that?</p> <p>9 A. I was in disagreement with putting the</p> <p>10 barriers up.</p> <p>11 Q. Okay.</p> <p>12 A. Because I felt the -- it would impede on</p> <p>13 the snow removal.</p> <p>14 Q. Okay. Anything else?</p> <p>15 A. No, sir.</p> <p>16 Q. So ultimately that decision to put up</p> <p>17 barriers was made by whom?</p> <p>18 A. Mr. Eichleay.</p> <p>19 Q. And what role did you play in that --</p> <p>20 implementation of that?</p> <p>21 A. To place the barriers.</p> <p>22 Q. And did you purchase the barriers?</p> <p>23 A. Yes, we did.</p> <p>24 Q. I'm talking about you personally.</p>
Page 95	Page 97
<p>1 barrier of snow and ice?</p> <p>2 A. Yes.</p> <p>3 Q. Okay.</p> <p>4 A. I seen it.</p> <p>5 Q. And you saw it with your own eyes?</p> <p>6 A. Yes.</p> <p>7 Q. And again -- and I asked you this</p> <p>8 before -- is there any way for you to tell what</p> <p>9 portion of that impenetrable barrier of snow and</p> <p>10 ice was deposited by BEH and which was not?</p> <p>11 MR. HARTZELL: Objection.</p> <p>12 A. No.</p> <p>13 BY MR. FEE:</p> <p>14 Q. Okay. Thank you.</p> <p>15 (Recess taken at 11:54 a.m.)</p> <p>16 (Deposition resumed at 11:59 a.m.)</p> <p>17 BY MR. FEE:</p> <p>18 Q. So you mentioned earlier barriers.</p> <p>19 A. Yes, sir.</p> <p>20 Q. And at some point FlightLevel erected</p> <p>21 barriers on Lot G adjacent to the BEH hangar on</p> <p>22 Lot F. Correct?</p> <p>23 A. Yes, sir.</p> <p>24 Q. Do you recall when that was?</p>	<p>1 A. No.</p> <p>2 Q. You had no role in purchasing the</p> <p>3 barriers?</p> <p>4 A. No, sir.</p> <p>5 Q. Who did that?</p> <p>6 A. Kevin Putnam.</p> <p>7 Q. Okay. Do you know when?</p> <p>8 A. I couldn't give you a date.</p> <p>9 Q. I'll help you out.</p> <p>10 (Exhibit No. 271 marked for identification.)</p> <p>11 BY MR. FEE:</p> <p>12 Q. Now, I'm showing you a document that's</p> <p>13 been marked as 271. It appears to be a packing</p> <p>14 slip from eNdoto, and the date on the packing</p> <p>15 slip is 1/20/2015. Do you see that?</p> <p>16 A. Yes, sir.</p> <p>17 Q. And it references 15 orange</p> <p>18 24-by-96-by-16 all-purpose, low-profile airport</p> <p>19 barriers. Do you see that?</p> <p>20 A. Yes, sir.</p> <p>21 Q. And the writing down below -- do you</p> <p>22 recognize the writing down below?</p> <p>23 A. That is Kevin Putnam's writing.</p> <p>24 Q. Okay. And it indicates that the pieces</p>

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<p>1 were received on one pallet on February 3, 2015.</p> <p>2 Is that fair to say?</p> <p>3 A. Yes, sir.</p> <p>4 Q. And it says "Paid with Steve's Visa." Is</p> <p>5 that Steve Desrosiers?</p> <p>6 A. Yes.</p> <p>7 Q. Does that refresh your recollection as to</p> <p>8 when these barriers were ordered?</p> <p>9 A. I don't know when they were ordered.</p> <p>10 You're telling me when they were received. I see</p> <p>11 this.</p> <p>12 Q. I'm just showing you a document.</p> <p>13 A. So they were received on the 3rd, but I'm</p> <p>14 not 100 percent --</p> <p>15 MR. HARTZELL: Of what year?</p> <p>16 A. Of 2015.</p> <p>17 BY MR. FEE:</p> <p>18 Q. And do you know where they were stored</p> <p>19 when they arrived?</p> <p>20 A. Yes.</p> <p>21 Q. Where?</p> <p>22 A. Our Hangar 10.</p> <p>23 Q. And who was in charge of maintaining the</p> <p>24 barriers when they arrived?</p>	<p>1 marked as Exhibit 272 that was produced to us by</p> <p>2 your counsel. Do you recognize this document at</p> <p>3 all?</p> <p>4 A. Yes.</p> <p>5 Q. What is it?</p> <p>6 A. This is when they were looking to find</p> <p>7 the barriers to purchase, and they were trying to</p> <p>8 find airport barriers.</p> <p>9 Q. And so do you recognize the writing</p> <p>10 below?</p> <p>11 A. Again, that is Kevin Putnam's writing.</p> <p>12 Q. And there seems to be a circle around the</p> <p>13 barriers described as 24-by-16-by-96. Do you see</p> <p>14 that?</p> <p>15 A. Yes.</p> <p>16 Q. And is that -- and then there's an arrow</p> <p>17 pointing to barriers in the box on the right-hand</p> <p>18 side. Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. And ultimately, is that the barrier that</p> <p>21 was purchased by FlightLevel?</p> <p>22 A. Yes.</p> <p>23 Q. And you purchased 15 of them. Correct?</p> <p>24 A. Yes.</p>
Page 99	Page 101
<p>1 A. That would be the line supervisor. Line</p> <p>2 manager.</p> <p>3 Q. Is it fair to say that at this point in</p> <p>4 time the decision had already been made to deploy</p> <p>5 these barriers at some point?</p> <p>6 A. I don't believe so. I think there was --</p> <p>7 that decision hadn't been made at that time.</p> <p>8 Q. But FlightLevel was preparing to deploy</p> <p>9 the barriers in case it became necessary.</p> <p>10 A. Yes, sir.</p> <p>11 Q. And do you know what events transpired</p> <p>12 that caused FlightLevel to decide to deploy these</p> <p>13 barriers?</p> <p>14 A. It was -- I'm not 100 percent sure. I</p> <p>15 was instructed by Mr. Eichleay that we had to put</p> <p>16 the barriers down.</p> <p>17 Q. Okay. And that was sometime after the</p> <p>18 barriers arrived on-site on February 3, 2015?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Okay.</p> <p>21 (Exhibit No. 272 marked for</p> <p>22 identification.)</p> <p>23 BY MR. FEE:</p> <p>24 Q. Again, this is a document that's been</p>	<p>1 Q. And how did you come up with the number</p> <p>2 of 15?</p> <p>3 A. I believe Mr. Eichleay had measured out</p> <p>4 where he wanted them to go and told us that's</p> <p>5 what -- the number of barriers we need.</p> <p>6 Q. So in terms of the decision -- who made</p> <p>7 the decision to purchase these particular</p> <p>8 barriers?</p> <p>9 A. Kevin.</p> <p>10 Q. And that was based on his discussions</p> <p>11 with Mr. Eichleay?</p> <p>12 A. No. He was told that he needed</p> <p>13 airport-approved barriers and could he go out and</p> <p>14 find them. He produced the document. I found</p> <p>15 them, got the pricing on it, and then we ordered</p> <p>16 them.</p> <p>17 Q. How do you know these are airport</p> <p>18 approved?</p> <p>19 A. Because it says right on the document.</p> <p>20 Q. Okay. You're referring to the language</p> <p>21 that says "airport barrier" at the bottom; is</p> <p>22 that right?</p> <p>23 A. Yes, sir.</p> <p>24 Q. I'll show you a document that's been</p>

<p style="text-align: right;">Page 102</p> <p>1 marked as Exhibit 188. Did you review anything</p> <p>2 like this in the decision to purchase the</p> <p>3 particular barriers that you purchased?</p> <p>4 MR. HARTZELL: Objection.</p> <p>5 A. I don't remember seeing this document.</p> <p>6 BY MR. FEE:</p> <p>7 Q. Turning your attention to the second page</p> <p>8 where it says "ballastable with water or sand."</p> <p>9 Do you see that?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Was it your understanding that the</p> <p>12 recommended specifications for deploying this</p> <p>13 particular piece of equipment required it to be</p> <p>14 ballasted with water or sand?</p> <p>15 MR. HARTZELL: Objection.</p> <p>16 A. No.</p> <p>17 BY MR. FEE:</p> <p>18 Q. Why not?</p> <p>19 A. I wasn't aware that it had to be water</p> <p>20 and sand. That's all I can tell you.</p> <p>21 Q. Turning your attention to the next page,</p> <p>22 page 3. The document -- on page 3 in the upper</p> <p>23 right-hand corner it shows the 24-by-96-by-16</p> <p>24 barrier that you purchased. Is that correct?</p>	<p style="text-align: right;">Page 104</p> <p>1 BY MR. FEE:</p> <p>2 Q. Do you know what an advisory circular is?</p> <p>3 A. Yes, I do.</p> <p>4 Q. Do you know FAA Advisory Circular</p> <p>5 150/5370?</p> <p>6 A. No. I'm not familiar with that.</p> <p>7 Q. Turning your attention, on page 3, to the</p> <p>8 barrier that is immediately to the right of the</p> <p>9 barrier that we just discussed. Do you see that?</p> <p>10 A. Um-hmm.</p> <p>11 Q. And it says, "FAA Compliant AC</p> <p>12 150/5370-2E." Do you see that?</p> <p>13 A. Yes, sir.</p> <p>14 Q. And you say you have no familiarity with</p> <p>15 that particular advisory circular?</p> <p>16 A. No.</p> <p>17 Q. So if I were to represent to you that the</p> <p>18 advisory circular requires FAA-compliant airport</p> <p>19 barriers to be significantly shorter than the</p> <p>20 barriers that you actually purchased, would that</p> <p>21 refresh your recollection as to what constitutes</p> <p>22 FAA compliant in this context?</p> <p>23 MR. HARTZELL: Objection.</p> <p>24 A. No.</p>
<p style="text-align: right;">Page 103</p> <p>1 MR. HARTZELL: Objection. This is a</p> <p>2 different company.</p> <p>3 MR. FEE: No, it's not.</p> <p>4 MR. HARTZELL: RRN?</p> <p>5 A. This is U.S. Reflector barriers. I</p> <p>6 know -- I can speak for what Kevin did. I cannot</p> <p>7 speak to this document.</p> <p>8 BY MR. FEE:</p> <p>9 Q. Okay. I'm going to ask you a question</p> <p>10 about it. You can tell me that you don't want to</p> <p>11 speak to it, but I'm going to show you a picture</p> <p>12 of what's in the top right-hand corner. And the</p> <p>13 dimensions of the barrier are 24-by-94 --</p> <p>14 96-by-16. Correct?</p> <p>15 A. That is what it says. Yes, sir.</p> <p>16 Q. And that's the same dimensions as what</p> <p>17 you testified that Mr. Putnam purchased; right?</p> <p>18 A. Yes, sir.</p> <p>19 Q. So it's the same dimension; right?</p> <p>20 A. Um-hmmm.</p> <p>21 Q. Do you know if that 24-by-16-by-96</p> <p>22 barrier is FAA compliant?</p> <p>23 MR. HARTZELL: Objection.</p> <p>24 A. I have no idea.</p>	<p style="text-align: right;">Page 105</p> <p>1 BY MR. FEE:</p> <p>2 Q. It wouldn't?</p> <p>3 A. No.</p> <p>4 Q. Because you have no knowledge about FAA</p> <p>5 AC --</p> <p>6 A. That particular one --</p> <p>7 MR. HARTZELL: Wait a minute. Slow down.</p> <p>8 Slow down.</p> <p>9 Objection. Go ahead.</p> <p>10 A. No, I do not.</p> <p>11 BY MR. FEE:</p> <p>12 Q. Okay. Thanks.</p> <p>13 So did you go to the NAC meeting on</p> <p>14 February 11th?</p> <p>15 A. Of what year, sir?</p> <p>16 Q. 2015.</p> <p>17 A. I can't honestly tell you.</p> <p>18 Q. I'll refresh your recollection in a</p> <p>19 minute, but this is the airport commission</p> <p>20 meeting where there's a discussion regarding</p> <p>21 FlightLevel's allegations that BEH is plowing</p> <p>22 snow into -- and blocking its fuel farm. Do you</p> <p>23 recall that discussion?</p> <p>24 A. No.</p>

<p style="text-align: right;">Page 106</p> <p>1 Q. Okay. I'm going to show you a document 2 that's been previously marked as Exhibit 182 at 3 the Eichleay deposition. I'll turn your 4 attention to page 2 where it says 5 "correspondence." 6 A. Okay. 7 Q. And there's a little bullet point under 8 the correspondence. It says: 9 "Discussed notice of trespass, cease and 10 desist about snowfall. Mr. Ryan asked that 11 Mr. Donovan and Mr. Eichleay come to an agreement 12 together. This is a dispute over lease of 13 easement. Get settled in superior court. Can't 14 decide it here." 15 Did I read that correctly? 16 A. Yes, sir, you did. 17 Q. Does that refresh your recollection as to 18 whether or not you were at the February 11, 2015, 19 NAC meeting? 20 A. No, sir. 21 Q. Okay. Now, do you recall when the 22 barriers were deployed? 23 A. No, sir. 24 Q. It was shortly -- okay.</p>	<p style="text-align: right;">Page 108</p> <p>1 A. Yes, sir. 2 Q. And how did you know where to put them? 3 A. There was a survey that had been done 4 prior, and the surveyor had put pins in the 5 ground. And we went and made sure that when we 6 placed the barriers, the barriers would be on the 7 east side of the pin. So it was more on our 8 property. They would be on our property and 9 nobody else's. 10 Q. How far to the east of the pin did you 11 place the barriers? 12 A. We placed it, basically, as close to the 13 line as we could. 14 Q. So the pin represented the lot line? 15 A. Yes, sir. 16 Q. And you put it inches to the east of the 17 lot line? 18 MR. HARTZELL: Objection. 19 A. Yes. 20 BY MR. FEE: 21 Q. But basically as close to the pin as you 22 could possibly get it? 23 MR. HARTZELL: Objection. 24 A. Yes.</p>
<p style="text-align: right;">Page 107</p> <p>1 Exhibit 184 appears to be an e-mail from 2 Mr. Burlingham to Officer Grasso dated 3 February 13, 2015. Do you see that? 4 A. Yes, sir. 5 Q. And the subject matter is "Prior notice 6 of possible breach of peace, etc." And the 7 e-mail starts: 8 "Dear Officer Grasso, thank you for your 9 telephone call this morning. Mike DeLaria, 10 FlightLevel Aviation's Chief Operating Officer, 11 will be on-site at the airport and overseeing the 12 placement of the barriers." 13 Did I read that correctly? 14 A. Yes, you did. 15 Q. And then it gave your contact information 16 and some more detail that we won't get into. 17 Does this refresh your recollection as to whether 18 or not the barriers were placed on or about 19 February 13, 2015? 20 A. Yes, sir. 21 Q. So you were on-site that day? 22 A. Yes, sir. 23 Q. And you supervised the placement of the 24 barriers?</p>	<p style="text-align: right;">Page 109</p> <p>1 BY MR. FEE: 2 Q. And was there snow on the ground at the 3 time? 4 A. There was but it was more ice at the 5 time. It wasn't really snow. 6 Q. Were you putting the barriers on top of 7 ice? 8 A. No. We tried to clear it so -- the whole 9 idea is not to have the barriers move, and we 10 were trying to make sure of that. 11 Q. Right. So did you -- who made the 12 decision to fill the barriers with water and 13 glycol? 14 A. The line manager. 15 Q. And who is that? 16 A. Kevin Putnam. 17 Q. Did you play any role in the decision to 18 fill the barriers with water and glycol? 19 A. No. 20 Q. Did you discuss it with Mr. Putnam? 21 A. No. At first we were trying to get sand, 22 and we couldn't get sand. It was very difficult 23 to get the sand we needed. So this was very 24 ancient glycol that had been at the airport and</p>

<p style="text-align: right;">Page 110</p> <p>1 they used it.</p> <p>2 Q. Okay.</p> <p>3 A. It was way out of date. It didn't</p> <p>4 even -- I'm not even sure it had real potency to</p> <p>5 it.</p> <p>6 Q. Well, let's talk about glycol. Why do</p> <p>7 you use glycol at the airport?</p> <p>8 A. Glycol is used to deice aircraft.</p> <p>9 Q. And does FlightLevel, in fact, use glycol</p> <p>10 to deice aircraft?</p> <p>11 A. We have stopped that practice.</p> <p>12 Q. When?</p> <p>13 A. Probably -- this is a pure guess, but</p> <p>14 I'll say three years ago.</p> <p>15 Q. Okay. So sometime in 2015?</p> <p>16 A. Yes.</p> <p>17 Q. So was that before or after you decided</p> <p>18 to use glycol to fill -- FlightLevel decided to</p> <p>19 use glycol to fill the barriers?</p> <p>20 A. I don't recall.</p> <p>21 Q. At or about the same time?</p> <p>22 A. I can't recall.</p> <p>23 Q. You said that the glycol you had was</p> <p>24 ancient. What do you mean?</p>	<p style="text-align: right;">Page 112</p> <p>1 A. Our director of maintenance is the safety</p> <p>2 officer.</p> <p>3 Q. Who is that?</p> <p>4 A. It was John -- what was his name?</p> <p>5 MR. HARTZELL: Just slow down. Tell him</p> <p>6 what you remember. If you don't remember it, let</p> <p>7 him know.</p> <p>8 A. John -- what was his last name? I can't</p> <p>9 remember his last name.</p> <p>10 BY MR. FEE:</p> <p>11 Q. That's okay.</p> <p>12 This has been marked previously as</p> <p>13 Exhibit 186 to Mr. Eichleay's deposition. Can</p> <p>14 you identify the individuals in the picture?</p> <p>15 A. Well, on the left is Kevin Putnam. I'm</p> <p>16 not 100 percent sure who it is on the right, and</p> <p>17 the individual in the forklift, I believe that is</p> <p>18 Dan.</p> <p>19 Q. And so you -- FlightLevel personnel</p> <p>20 utilized the forklift to move the barriers that</p> <p>21 were full of water and glycol and place them on</p> <p>22 the lot line?</p> <p>23 A. Yes, sir.</p> <p>24 Q. And you see that there's snow on the</p>
<p style="text-align: right;">Page 111</p> <p>1 A. It was left there by a prior tenant,</p> <p>2 Eastern Aviation, that had a fleet of jets.</p> <p>3 Q. Did it have a label on it?</p> <p>4 A. I don't recall.</p> <p>5 Q. Did you see the glycol?</p> <p>6 A. I did not. I didn't -- I seen drums. I</p> <p>7 knew that we had drums, but I really didn't go</p> <p>8 over and take any note of it.</p> <p>9 Q. So you didn't play any role -- or you</p> <p>10 didn't observe the barriers being filled with</p> <p>11 glycol?</p> <p>12 A. No.</p> <p>13 Q. So do you know how Mr. Putnam decided to</p> <p>14 apportion the water-to-glycol mix that he placed</p> <p>15 inside the barriers?</p> <p>16 A. No, I do not.</p> <p>17 Q. Do you know if Mr. Putnam affixed any</p> <p>18 labels to the barriers to alert anyone that they</p> <p>19 contained glycol?</p> <p>20 A. No.</p> <p>21 Q. Okay. Are you the safety officer for</p> <p>22 FlightLevel?</p> <p>23 A. No.</p> <p>24 Q. Mr. Putnam is the safety officer?</p>	<p style="text-align: right;">Page 113</p> <p>1 ground; right?</p> <p>2 A. Yes.</p> <p>3 Q. And so does that refresh your</p> <p>4 recollection as to whether or not you had any</p> <p>5 difficulty locating the pins in order to place</p> <p>6 the barriers?</p> <p>7 A. Prior to them placing the barriers, Kevin</p> <p>8 went and cleared where the pins were so they</p> <p>9 could do the line of sight to place the barriers.</p> <p>10 Q. And you were present during this</p> <p>11 operation. Is that fair to say?</p> <p>12 A. Yes.</p> <p>13 Q. During the entire operation?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. Do you recall the weather?</p> <p>16 A. It was cold.</p> <p>17 (Exhibit No. 273 marked for identification.)</p> <p>18 BY MR. FEE:</p> <p>19 Q. I'll show you a series of pictures.</p> <p>20 Mr. DeLaria, Exhibit 273 is a series of pictures.</p> <p>21 Does this fairly and accurately represent the</p> <p>22 activities of FlightLevel on February 13, 2015?</p> <p>23 MR. HARTZELL: Objection.</p> <p>24 A. I would say yes.</p>

<p style="text-align: right;">Page 114</p> <p>1 BY MR. FEE:</p> <p>2 Q. Thank you.</p> <p>3 Now, this document was previously marked</p> <p>4 as Exhibit 187. Does this fairly and accurately</p> <p>5 represent the barriers placed by FlightLevel on</p> <p>6 February 13, 2015?</p> <p>7 MR. HARTZELL: Objection.</p> <p>8 A. I believe that this was not the original</p> <p>9 placing of the barriers.</p> <p>10 BY MR. FEE:</p> <p>11 Q. Okay. Do you believe this is a depiction</p> <p>12 of sometime after the original placement?</p> <p>13 A. This is definitely a depiction after.</p> <p>14 Q. So at some point after Exhibit 273, it</p> <p>15 snowed; right?</p> <p>16 A. Yes, sir.</p> <p>17 Q. So Exhibit 274 represents some period of</p> <p>18 time after the original placement on</p> <p>19 February 13, 2013 (sic)?</p> <p>20 A. Yes. That would be true.</p> <p>21 Q. But you're not sure when Exhibit 187</p> <p>22 depicts?</p> <p>23 A. No, sir.</p> <p>24 Q. Do you know when the barriers were tipped</p>	<p style="text-align: right;">Page 116</p> <p>1 fueler?</p> <p>2 A. I believe that's their jet truck.</p> <p>3 Q. And that's fully and completely on Lot F.</p> <p>4 Correct?</p> <p>5 A. I believe so. I can't see how much room</p> <p>6 or where it is. I can't make that determination</p> <p>7 without a better picture.</p> <p>8 Q. You said before that you thought the</p> <p>9 barriers were placed right on the lot line;</p> <p>10 right?</p> <p>11 A. It was on -- east of the lot line.</p> <p>12 Q. Correct.</p> <p>13 (Recess taken at 12:27 p.m.)</p> <p>14 (Deposition resumed at 12:51 p.m.)</p> <p>15 MR. FEE: Back on the record.</p> <p>16 (Exhibit No. 275 marked for identification.)</p> <p>17 BY MR. FEE:</p> <p>18 Q. Mr. DeLaria, 275 appears to be an e-mail</p> <p>19 from you to Eichleay and Mr. Burlingham and</p> <p>20 Mr. Putnam dated February 14, 2015.</p> <p>21 A. Uh-hmm.</p> <p>22 Q. Have you seen this before?</p> <p>23 A. Yes.</p> <p>24 Q. Did you draft it?</p>
<p style="text-align: right;">Page 115</p> <p>1 over?</p> <p>2 A. My recollection, they were placed</p> <p>3 approximately between 2 and 3 o'clock in the</p> <p>4 afternoon, and I was called back to the airport</p> <p>5 by 7 o'clock that night. That the barriers had</p> <p>6 been tipped over.</p> <p>7 (Exhibit No. 274 marked for identification.)</p> <p>8 BY MR. FEE:</p> <p>9 Q. 274 also depicts the barriers after some</p> <p>10 snow has accumulated around them.</p> <p>11 A. Uh-hmm.</p> <p>12 Q. And after the barriers were tipped over,</p> <p>13 did they move? Were they moved in any fashion</p> <p>14 from the place where they were originally put by</p> <p>15 FlightLevel?</p> <p>16 A. Yes, sir.</p> <p>17 Q. And were they moved back or forward or --</p> <p>18 A. They were pushed forward.</p> <p>19 Q. How far?</p> <p>20 A. I can't recall how far.</p> <p>21 Q. Okay. Inches?</p> <p>22 A. No. It was -- they were pushed and they</p> <p>23 slid. Again, how far? I don't know.</p> <p>24 Q. In 274, that's -- is that BEH's mobile</p>	<p style="text-align: right;">Page 117</p> <p>1 A. No.</p> <p>2 Q. Who drafted it?</p> <p>3 A. Kevin Putnam.</p> <p>4 Q. Did you confer with Mr. Putnam in the</p> <p>5 preparation of this document?</p> <p>6 A. I can't recall.</p> <p>7 Q. Why is it that Mr. Putnam drafted it but</p> <p>8 you sent it?</p> <p>9 A. Because Peter had asked me -- could I</p> <p>10 give them the events that took place. I wasn't</p> <p>11 down when they were doing the glycol filling or</p> <p>12 getting them ready. Kevin was present, so I just</p> <p>13 asked Kevin to put it together for me.</p> <p>14 Q. And as far as you know, is this a true</p> <p>15 and accurate description of what transpired on</p> <p>16 February 13, 2015, from FlightLevel's</p> <p>17 perspective?</p> <p>18 MR. HARTZELL: Objection.</p> <p>19 A. I'd say yes.</p> <p>20 BY MR. FEE:</p> <p>21 Q. And in -- three-quarters of the way down</p> <p>22 the narrative it says:</p> <p>23 "At 18:50 two individuals come out of the</p> <p>24 BEH hangar and walk around and go back in the</p>

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<p>1 hangar."</p> <p>2 Right?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Is there any reason that those</p> <p>5 individuals are not identified specifically?</p> <p>6 A. I can't answer that question.</p> <p>7 Q. It was because you didn't prepare it?</p> <p>8 A. I seen the video after, but I don't know.</p> <p>9 I can't say. I couldn't clearly say who it is,</p> <p>10 but the build of the individuals. And I didn't</p> <p>11 think that you could say it without certainty</p> <p>12 that it was them.</p> <p>13 Q. So you -- based on your observations of</p> <p>14 the video that took place at 18:50 and 18:52, as</p> <p>15 described in this Exhibit 275, you could not tell</p> <p>16 with any certainty who the individuals were that</p> <p>17 were shown on the video; is that correct?</p> <p>18 MR. HARTZELL: Objection.</p> <p>19 A. Yes.</p> <p>20 BY MR. FEE:</p> <p>21 Q. After you learned that the glycol had</p> <p>22 been spilled, what did you do?</p> <p>23 A. I came to the airport and seen that they</p> <p>24 had tipped over. When I got there, the airport</p>	<p>1 A. Yes.</p> <p>2 Q. Did you participate in any way in</p> <p>3 providing information that appears on this</p> <p>4 document?</p> <p>5 A. No.</p> <p>6 Q. Do you know who provided the information</p> <p>7 from FlightLevel?</p> <p>8 A. The inspector that came out to do the</p> <p>9 inspection did it.</p> <p>10 Q. And so turning your attention now to</p> <p>11 page 3 of 5.</p> <p>12 Do you know who this inspector was, by</p> <p>13 the way? Was it Anthony Andronico?</p> <p>14 A. It was a woman.</p> <p>15 MR. HARTZELL: He's directing your</p> <p>16 attention to this at the bottom. Just say what</p> <p>17 you remember.</p> <p>18 A. From Cyn Environmental, yes, it was this</p> <p>19 gentleman.</p> <p>20 BY MR. FEE:</p> <p>21 Q. Okay. And did Cyn Environmental prepare</p> <p>22 this document?</p> <p>23 A. I believe -- no. It was prepared by the</p> <p>24 woman from the Massachusetts Department of</p>
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<p>1 manager had called Cyn Environmental to assess</p> <p>2 where all the glycol and stuff had gone.</p> <p>3 And we were also -- we called the EPA to</p> <p>4 come out at the time and assess the incident.</p> <p>5 Q. The EPA or DEP? The state or federal</p> <p>6 agency?</p> <p>7 A. I'm not 100 percent sure which one it</p> <p>8 was.</p> <p>9 Q. Okay. I can refresh your recollection.</p> <p>10 (Exhibit No. 276 marked for identification.)</p> <p>11 BY MR. FEE:</p> <p>12 Q. Mr. DeLaria, I'm showing you a document</p> <p>13 that's been marked as 276. It appears to be a</p> <p>14 Massachusetts Department of Environmental</p> <p>15 Protection release log form. Have you seen this</p> <p>16 before?</p> <p>17 A. Yes. I have seen it.</p> <p>18 Q. And did you participate in the</p> <p>19 preparation of this document?</p> <p>20 A. No.</p> <p>21 Q. Was it prepared by Cyn Environmental?</p> <p>22 A. I believe this was prepared by the people</p> <p>23 that are on this document.</p> <p>24 Q. By DEP?</p>	<p>1 Environmental Protection.</p> <p>2 Q. So your recollection is that someone from</p> <p>3 DEP prepared this document; is that right?</p> <p>4 A. Yes.</p> <p>5 Q. Turn your attention to 5 of 5. Down</p> <p>6 below it says Julie Hutcheson.</p> <p>7 A. That's her.</p> <p>8 Q. So it's your recollection that she filled</p> <p>9 this out.</p> <p>10 A. Yeah. It's based on the information that</p> <p>11 was given to her from Cyn also, but she was</p> <p>12 on-site.</p> <p>13 Q. And also information provided by you?</p> <p>14 A. No.</p> <p>15 Q. Okay. Turning your attention back two</p> <p>16 pages to page 3 of 5. At the top, paragraph 12,</p> <p>17 it says "Description of release or threat of</p> <p>18 release." Do you see that?</p> <p>19 A. Yes, sir.</p> <p>20 Q. And the second paragraph, it says "Spoke</p> <p>21 to Mike DeLaria." Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. Does that refresh your recollection as to</p> <p>24 whether you spoke to anyone or provided any</p>

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<p>1 information in connection with the preparation of 2 this document? 3 A. I can't recall. 4 Q. So you have no recollection of speaking 5 with Ms. Hutcheson? 6 A. No, sir. Let me clarify. The 7 discussions I had with her were when we called 8 her to come out. 9 Q. Okay. 10 A. That was it, and she came out. And at 11 that time she asked me, "Why am I coming?" 12 And we told her that some barriers were 13 dumped with some glycol in it. That was it. 14 Q. And so you had a telephone call with 15 Ms. Hutcheson? 16 A. Yes. 17 Q. And you provided some information to her 18 regarding the scope of what had occurred? 19 A. Yes, sir. 20 Q. And then you told her that in some form 21 BEH was responsible for this, did you not? 22 A. Yes, sir. 23 Q. And what was that based on? 24 A. Who was going to do it. We didn't do it.</p>	<p>1 Q. So glycol is not a material that the DEP 2 considers a hazardous material. Correct? 3 MR. HARTZELL: Objection. 4 A. Yes. 5 BY MR. FEE: 6 Q. Okay. And how do you know that? 7 A. Only from what she told us. 8 Q. Okay. Did you not know that glycol was 9 not a hazardous material at the time? 10 A. Yes, I did. 11 Q. You did know? 12 A. I did know because the MSDS sheet said 13 that it was not considered a hazardous material. 14 Q. So you were familiar with the MSDS sheet. 15 Correct? 16 A. Yes. 17 Q. And, in fact, Exhibit 192 to the Eichleay 18 deposition appears to be an e-mail from you to 19 Ms. Hutcheson dated February 18, 2015, in which 20 you provide her the MSDS sheet for propylene 21 glycol. Correct? 22 A. Yes, sir. We did. 23 Q. Did you review the sheet prior to sending 24 it to Ms. Hutcheson?</p>
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<p>1 Q. So you inferred that BEH had tipped over 2 the barriers, even though you just told me that 3 you could not, with any specificity, identify the 4 individuals on the tape; is that right? 5 A. Yes, sir. 6 Q. Now, on page 3 of 5 there is a circled 7 provision -- a circled language in the middle. 8 It says: 9 "On 2/20/2015 DEP made this a 10 less-than-reportable release." 11 Do you see that? 12 A. Yes, sir. 13 Q. So is it your understanding that DEP 14 concluded for some reason that it was not a 15 hazardous chemical spill that needed to be 16 investigated further? 17 MR. HARTZELL: Objection. 18 A. Yes. 19 BY MR. FEE: 20 Q. Is that your understanding? 21 A. Yes, sir. 22 Q. And do you know why? 23 A. That it was not considered a hazardous 24 material but considered a pollutant.</p>	<p>1 A. Yes, we did. 2 Q. Did you review the sheet prior to filling 3 the barriers with propylene glycol? 4 A. No, I did not. 5 Q. Did anyone from FlightLevel review the 6 MSDS sheet prior to filling the barriers with 7 glycol? 8 A. I really can't answer that. I don't 9 know, sir. 10 Q. Okay. Showing you what's been marked as 11 Exhibit 194, I'd like you to read the second and 12 third paragraphs and then I'm going to ask you 13 some questions about it. It begins "Upon our 14 arrival --" 15 MR. HARTZELL: I'm sorry. You asked him 16 the second and third paragraphs on the first 17 page? 18 MR. FEE: Yes. 19 BY MR. FEE: 20 Q. Did you read that? 21 A. Yes. 22 Q. So this is a police report prepared on or 23 about February 16, 2015, and it talks about an 24 investigation done by Officer Costa and</p>

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<p>1 Officer Payne. Would you agree with me?</p> <p>2 A. I know that there was an investigation.</p> <p>3 I don't know who the two officers were.</p> <p>4 Q. Did you speak to them?</p> <p>5 A. No, I didn't.</p> <p>6 Q. Okay.</p> <p>7 MR. HARTZELL: Wait a minute.</p> <p>8 MR. FEE: Neil, either object or don't,</p> <p>9 but please don't coach him. Okay?</p> <p>10 MR. HARTZELL: I'm not coaching him.</p> <p>11 BY MR. FEE:</p> <p>12 Q. So in the third paragraph -- and I'll</p> <p>13 read it to you -- it says:</p> <p>14 "DeLaria told me that on Friday, 2/13/15,</p> <p>15 he hired a company to put up barriers between the</p> <p>16 FlightLevel Aviation property and the Boston</p> <p>17 Executive Helicopters property."</p> <p>18 Do you see where I read that?</p> <p>19 A. I see where you read it, but that is</p> <p>20 inaccurate.</p> <p>21 Q. You don't recall at any time meeting with</p> <p>22 or speaking to the -- Officer Payne or</p> <p>23 Officer Costa in connection with the preparation</p> <p>24 of this report?</p>	<p>1 A. It does not.</p> <p>2 Q. Do you recall speaking to Norwood police</p> <p>3 at any time?</p> <p>4 A. Yes. The day that we were putting the</p> <p>5 barriers up.</p> <p>6 Q. Okay. And what do you recall about that</p> <p>7 interaction with the police?</p> <p>8 A. I was instructed that we had to notify</p> <p>9 Mr. Donovan that we were going to place the</p> <p>10 barriers.</p> <p>11 Q. Okay.</p> <p>12 A. And that we had to -- we had to inform</p> <p>13 him. So the officer and I went upstairs to</p> <p>14 inform him of the barriers, which we did. And</p> <p>15 Mr. Donovan got quite upset and says that we</p> <p>16 couldn't do that.</p> <p>17 And I guess I wanted to confront</p> <p>18 Mr. Donovan, but the police officer at the time</p> <p>19 said, "No. We're just going to go down and we'll</p> <p>20 place the barriers," and we left.</p> <p>21 Q. What do you mean you wanted to confront</p> <p>22 Mr. Donovan?</p> <p>23 A. Because we were going to place the</p> <p>24 barriers on our leasehold, and he was trying to</p>
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<p>1 A. That is a fact.</p> <p>2 Q. So he goes on to say, in the second</p> <p>3 sentence of that photograph:</p> <p>4 "DeLaria said that the barriers contained</p> <p>5 a mixture of water and glycol."</p> <p>6 Do you remember saying that to the</p> <p>7 officers?</p> <p>8 A. I don't remember having this conversation</p> <p>9 with them but if I did -- if he asked me what was</p> <p>10 in it, it was after the incident, and I would</p> <p>11 have said yes. We would have told him what was</p> <p>12 in the barriers at that time.</p> <p>13 Q. Let's take a step back.</p> <p>14 A. Okay.</p> <p>15 Q. I want to understand, as you sit here</p> <p>16 today, whether you have any recollection</p> <p>17 whatsoever of speaking to Norwood police officers</p> <p>18 on or about the 16th of February regarding the</p> <p>19 alleged incident involving tipping the barriers?</p> <p>20 A. I do not recall.</p> <p>21 Q. And so in looking at Eichleay Exhibit</p> <p>22 194, does it refresh your recollection in any</p> <p>23 fashion regarding whether or not you spoke to</p> <p>24 Norwood police on that day?</p>	<p>1 say that we couldn't do that.</p> <p>2 Q. Had you considered at all, at this point,</p> <p>3 whether or not it would be appropriate to involve</p> <p>4 a court in determining whether or not it was</p> <p>5 appropriate to place barriers between the two</p> <p>6 leaseholds?</p> <p>7 A. That was not my decision.</p> <p>8 Q. Did you have any discussions with</p> <p>9 Mr. Eichleay regarding whether or not it would be</p> <p>10 advisable to file a suit in order to have a court</p> <p>11 determine whether or not barriers were</p> <p>12 appropriate?</p> <p>13 A. No, sir. That was not --</p> <p>14 Q. You never had a conversation --</p> <p>15 A. No, sir.</p> <p>16 Q. -- with Mr. Eichleay about that?</p> <p>17 A. No, sir.</p> <p>18 Q. When you saw Mr. Donovan you said that he</p> <p>19 got quite upset. What do you mean by that?</p> <p>20 A. He told us that we weren't going to put</p> <p>21 them out there and that it was on his property,</p> <p>22 and that was the extent of it. We didn't have a</p> <p>23 further conversation.</p> <p>24 Q. Did the police officer tell Mr. Donovan</p>

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<p>1 to move his car?</p> <p>2 A. I think he asked him to move the car.</p> <p>3 Q. Did he move his car?</p> <p>4 A. At one point I believe he did, but I</p> <p>5 can't, for 100 percent, tell you.</p> <p>6 Q. Well, did Mr. Donovan's car impede, in</p> <p>7 any way, the placement of the barriers on</p> <p>8 February 13th?</p> <p>9 A. No. But I believe that was to make sure</p> <p>10 that he was able to get his car out once the</p> <p>11 barriers were there.</p> <p>12 Q. Once the barriers were there, is there</p> <p>13 any way to remove an airplane or a helicopter</p> <p>14 from the hangar on Lot F onto the -- into the</p> <p>15 space between Lot F and G?</p> <p>16 MR. HARTZELL: Objection.</p> <p>17 A. No.</p> <p>18 BY MR. FEE:</p> <p>19 Q. Could not do it; right?</p> <p>20 A. No, sir.</p> <p>21 Q. Okay. Other than the conversation that</p> <p>22 you just described with the police officer and</p> <p>23 Mr. Donovan, did you have any other contact with</p> <p>24 Norwood police regarding the alleged barrier</p>	<p>1 authorities, including the Norwood police,</p> <p>2 airport administration, and Mass. DEP on notice."</p> <p>3 Did I read that correctly?</p> <p>4 A. Yes, sir.</p> <p>5 Q. Okay. What does SPCC mean?</p> <p>6 A. I don't recall.</p> <p>7 Q. I'll refresh your recollection in a</p> <p>8 minute.</p> <p>9 In the line above -- the paragraph above,</p> <p>10 last paragraph on the first page -- on the second</p> <p>11 page, it says:</p> <p>12 "You and your employee, Rob Silva, were</p> <p>13 witnessed emptying the contents of at least 11 of</p> <p>14 these barriers directly onto the ground on my</p> <p>15 client's property."</p> <p>16 Do you see that?</p> <p>17 A. Yes, sir.</p> <p>18 Q. And you told me that you had no way of</p> <p>19 specifically identifying whether it was Mr. Silva</p> <p>20 or Mr. Donovan in the video; is that right?</p> <p>21 A. That was my recollection, sir. You're</p> <p>22 asking me --</p> <p>23 Q. I am.</p> <p>24 A. That was my recollection.</p>
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<p>1 tipping?</p> <p>2 A. I don't recall.</p> <p>3 Q. Did you attend any court hearings or</p> <p>4 proceedings regarding the alleged barrier</p> <p>5 tipping?</p> <p>6 A. No, sir.</p> <p>7 Q. Did you give any statements to the</p> <p>8 Norwood Police Department?</p> <p>9 A. I don't recall.</p> <p>10 Q. Do you know if charges, any form of</p> <p>11 charges, were filed against Mr. Donovan or</p> <p>12 Mr. Silva or BEH regarding the alleged barrier</p> <p>13 tipping?</p> <p>14 A. No.</p> <p>15 Q. I'm going to show you what's been marked</p> <p>16 as Exhibit 185 to the Eichleay deposition. It</p> <p>17 appears to be a letter from Mr. Burlingham to</p> <p>18 Mr. Donovan dated February 14, 2015. And again,</p> <p>19 this is after the alleged tipping.</p> <p>20 And I want to direct your attention to</p> <p>21 the second page, second paragraph. In the first</p> <p>22 sentence it says:</p> <p>23 "In accordance with applicable SPCC</p> <p>24 protocol, my client has placed the appropriate</p>	<p>1 Q. That's all I'm asking you today, sir --</p> <p>2 A. Okay.</p> <p>3 Q. -- is what your recollection --</p> <p>4 A. And may I clarify?</p> <p>5 Q. Sure.</p> <p>6 A. The SPC is the spill prevention program</p> <p>7 that we have at the airport.</p> <p>8 Q. Okay. Excellent.</p> <p>9 So do you know how Mr. Burlingham came to</p> <p>10 the conclusion that Mr. Donovan and Mr. Silva</p> <p>11 were responsible for the tipping?</p> <p>12 A. Also from the videotapes that we had.</p> <p>13 Q. You know that they viewed the videotapes?</p> <p>14 A. Yes, sir.</p> <p>15 Q. And they concluded that Mr. Donovan and</p> <p>16 Mr. Silva were responsible; is that right?</p> <p>17 A. Yes.</p> <p>18 Q. But you couldn't tell.</p> <p>19 A. I couldn't tell.</p> <p>20 (Exhibit No. 277 marked for identification.)</p> <p>21 BY MR. FEE:</p> <p>22 Q. I'm showing you a document that's been</p> <p>23 marked as Exhibit 277, entitled "BEH Dumping</p> <p>24 Barrier Charges." Do you see that?</p>

<p style="text-align: right;">Page 134</p> <p>1 A. Yes, sir.</p> <p>2 Q. Do you know who prepared this?</p> <p>3 A. I did.</p> <p>4 Q. Now, in this document -- is this -- why</p> <p>5 did you prepare this document?</p> <p>6 A. Because we were trying to keep track of</p> <p>7 the costs that we were putting into it.</p> <p>8 Q. Is it your belief or position that BEH</p> <p>9 owes this money to FlightLevel?</p> <p>10 A. I would say yes.</p> <p>11 Q. And why?</p> <p>12 A. Because they dumped the fuel -- I'm</p> <p>13 sorry -- the glycol in the barriers over. We</p> <p>14 would have had a way to recover or pump this</p> <p>15 stuff out of these barriers at the time. So I</p> <p>16 mean, there's no other explanation.</p> <p>17 Q. So by virtue of the fact that BEH dumped</p> <p>18 over the barriers, you contend, it is therefore</p> <p>19 responsible for all of the costs that are</p> <p>20 outlined on Exhibit 277; is that right?</p> <p>21 MR. HARTZELL: Objection.</p> <p>22 BY MR. FEE:</p> <p>23 Q. I'm trying to understand your testimony.</p> <p>24 Is that right?</p>	<p style="text-align: right;">Page 136</p> <p>1 BY MR. FEE:</p> <p>2 Q. Total cost of the operation?</p> <p>3 A. Of the operation itself.</p> <p>4 Q. And so whether or not BEH is responsible</p> <p>5 for this is something that you can't really speak</p> <p>6 to. Is that what you're saying?</p> <p>7 A. That's true.</p> <p>8 MR. HARTZELL: Objection. Objection.</p> <p>9 THE WITNESS: Oh, sorry.</p> <p>10 MR. HARTZELL: Wait a second, please.</p> <p>11 A. Yes.</p> <p>12 BY MR. FEE:</p> <p>13 Q. Okay. So the propylene glycol per</p> <p>14 gallon, \$35 at 330-gallon spill, that's \$11,000;</p> <p>15 right? Or \$11,550; right?</p> <p>16 A. Yes, sir. It's very expensive.</p> <p>17 Q. Right. And you told me before that it</p> <p>18 was ancient glycol that had been left by a prior</p> <p>19 tenant; right?</p> <p>20 A. Right.</p> <p>21 Q. So BEH -- I'm sorry -- FlightLevel never</p> <p>22 paid anything for that glycol, did it?</p> <p>23 MR. HARTZELL: Objection.</p> <p>24 A. No.</p>
<p style="text-align: right;">Page 135</p> <p>1 A. Yes. I'd say yes.</p> <p>2 Q. So you believe they're responsible for</p> <p>3 the cost of the police detail and the forklift</p> <p>4 rental and the barriers themselves; is that</p> <p>5 right?</p> <p>6 A. Yes.</p> <p>7 Q. And why is that?</p> <p>8 A. Well, I believe that if there was --</p> <p>9 unfortunately, Mr. Donovan would get hostile at</p> <p>10 times, and we were trying to avoid any</p> <p>11 confrontation with our line crew that was placing</p> <p>12 the barriers and him. And the only way to do so</p> <p>13 was with a police detail.</p> <p>14 Q. But you're -- you contend that BEH is</p> <p>15 responsible for the police detail, the forklift</p> <p>16 rental, and the barriers themselves. Right?</p> <p>17 A. This is the way I saw it. Yes.</p> <p>18 Q. And I'm just wondering why you thought</p> <p>19 Mr. Donovan and BEH was responsible for that</p> <p>20 cost?</p> <p>21 MR. HARTZELL: Objection.</p> <p>22 A. I put down the total costs that we had</p> <p>23 within the --</p> <p>24</p>	<p style="text-align: right;">Page 137</p> <p>1 BY MR. FEE:</p> <p>2 Q. Okay. And all of the costs for labor are</p> <p>3 FlightLevel employees that were involved in the</p> <p>4 operation. Is that fair to say?</p> <p>5 A. That's fair to say.</p> <p>6 Q. Okay. And the cost of the Cyn clean up</p> <p>7 was 5,257.11; is that right?</p> <p>8 A. Yes, sir.</p> <p>9 Q. And what did do you with this document</p> <p>10 once you prepared it?</p> <p>11 A. It was given to Peter Eichleay.</p> <p>12 Q. Did you ever revise this document?</p> <p>13 A. No, sir. This was the exact document we</p> <p>14 handed him.</p> <p>15 (Exhibit No. 278 marked for identification.)</p> <p>16 BY MR. FEE:</p> <p>17 Q. I'm showing you what appears to be</p> <p>18 another version of the document, and it's</p> <p>19 entitled "BEH Illegal Dumping, Vandalism,</p> <p>20 Trespass, Direct Damages." Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. Have you seen this document before?</p> <p>23 A. This is the one I know -- I believe I</p> <p>24 prepared here.</p>

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<p>1 Q. And you're referring to 277; right?</p> <p>2 A. Yes, sir.</p> <p>3 Q. And what about 278? Who prepared that?</p> <p>4 A. I don't know who prepared that one. I</p> <p>5 know I prepared this one.</p> <p>6 Q. You prepared 277, and you don't know who</p> <p>7 prepared 278.</p> <p>8 A. I'm not 100 percent sure on this one,</p> <p>9 sir. No.</p> <p>10 Q. Do you know if you had any role in</p> <p>11 preparing 278?</p> <p>12 A. I -- in looking at them, most of this --</p> <p>13 the charges I had here is all the stuff that I</p> <p>14 had reported, so I don't know. The difference, I</p> <p>15 believe, as I can see here, was in the price of</p> <p>16 the glycol.</p> <p>17 Q. So Exhibit 277 is approximately \$25,583,</p> <p>18 and Exhibit 278 is approximately \$31,408.</p> <p>19 Correct?</p> <p>20 A. Uh-hmm.</p> <p>21 Q. And you don't know who prepared Exhibit</p> <p>22 278; is that right?</p> <p>23 A. And I'm -- agreed. And I'm not 100</p> <p>24 percent sure where the differences are.</p>	<p>1 A. Yes, sir. I believe it was.</p> <p>2 Q. And as the chief -- I'm sorry -- the</p> <p>3 operations -- the person in control of operations</p> <p>4 at FlightLevel, were you familiar with this</p> <p>5 document at that time?</p> <p>6 A. Yes.</p> <p>7 Q. And so do you know what a Spill</p> <p>8 Prevention, Control, and Countermeasure Plan</p> <p>9 addresses?</p> <p>10 A. Yes. It tells us how to react if there</p> <p>11 is a spill on the field and what we're supposed</p> <p>12 to do and the policies or the procedures we're</p> <p>13 supposed to follow.</p> <p>14 Q. Do you know if a spill prevention and</p> <p>15 countermeasure plan is required by state law or</p> <p>16 federal law?</p> <p>17 A. I believe it's state law.</p> <p>18 Q. Okay. Now, I'm going to turn your</p> <p>19 attention to paragraph 1 -- or page 1 rather.</p> <p>20 Page 1 in the introduction, first paragraph, last</p> <p>21 sentence, it says:</p> <p>22 "The purpose of this plan is to prevent</p> <p>23 discharge of oil products into navigable waters</p> <p>24 of the United States, and the plan must include</p>
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<p>1 Q. Well, let me direct your attention to the</p> <p>2 line -- to the fifth line item on the top of 278</p> <p>3 that says "Direct legal expenses from</p> <p>4 spill/vandalism." Do you see that?</p> <p>5 A. Uh-hmm.</p> <p>6 Q. Do you know what that refers to?</p> <p>7 A. No, sir.</p> <p>8 Q. Okay.</p> <p>9 (Exhibit No. 279 marked for identification.)</p> <p>10 BY MR. FEE:</p> <p>11 Q. You said earlier that SPCC referred to</p> <p>12 Spill Prevention, Control, and Countermeasure</p> <p>13 Plan. Do you recall that?</p> <p>14 A. Yes, I do.</p> <p>15 Q. And that was the plan that was referenced</p> <p>16 in Mr. Burlingham's letter to Mr. Donovan --</p> <p>17 A. I believe so.</p> <p>18 Q. -- that was previously marked as</p> <p>19 Exhibit 185; right?</p> <p>20 A. I believe so. Yes, sir.</p> <p>21 Q. So I'm showing you a document that's been</p> <p>22 marked as 279. Is that the Spill Prevention,</p> <p>23 Control, and Countermeasure Plan that was in</p> <p>24 effect in 2015?</p>	<p>1 the following general elements."</p> <p>2 Do you see that?</p> <p>3 A. Yes, sir.</p> <p>4 Q. And do you know if glycol is included in</p> <p>5 oil -- the definition of oil products?</p> <p>6 A. I'm not 100 percent sure.</p> <p>7 Q. Okay. Do you see down below on the first</p> <p>8 page where it says "What information do I need to</p> <p>9 have to report a spill"? Do you see that?</p> <p>10 A. On which page?</p> <p>11 Q. First page that we were just on.</p> <p>12 A. Uh-hmm.</p> <p>13 Q. It says:</p> <p>14 "A spill must be reported to the EPA and</p> <p>15 state if 25 gallons of fuel or oil is spilled on</p> <p>16 the soil or if any fuel or oil gets into the</p> <p>17 storm system and creates a sheen on the water."</p> <p>18 Do you see that?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Do you know if glycol constitutes fuel or</p> <p>21 oil that requires reporting to the EPA?</p> <p>22 A. No, sir.</p> <p>23 Q. Okay. So is it fair to say that the SPCC</p> <p>24 did not apply to the alleged dumping of glycol at</p>

<p style="text-align: right;">Page 142</p> <p>1 the airport on February 14th?</p> <p>2 A. That is a fact.</p> <p>3 Q. Okay.</p> <p>4 (Exhibit No. 280 marked for identification.)</p> <p>5 THE WITNESS: Can I take a quick break?</p> <p>6 MR. FEE: Absolutely. Sure.</p> <p>7 (Recess taken at 1:35 p.m.)</p> <p>8 (Deposition resumed at 1:38 p.m.)</p> <p>9 BY MR. FEE:</p> <p>10 Q. Mr. DeLaria, I'm showing you a document</p> <p>11 that's been marked as 280. It appears to be the</p> <p>12 Storm Water Pollution Prevention Plan for Norwood</p> <p>13 Memorial Airport. Have you seen this before?</p> <p>14 A. Yes, sir.</p> <p>15 Q. And you're familiar with it, are you not?</p> <p>16 A. Yes, sir.</p> <p>17 Q. Because as the person in charge of</p> <p>18 operations at FlightLevel, it's important for you</p> <p>19 to understand everything that's in this; right?</p> <p>20 A. Yes. We have to be able to perform if</p> <p>21 there is a spill.</p> <p>22 Q. And you adhere to the requirements of</p> <p>23 that plan assiduously, do you not?</p> <p>24 A. Yes.</p>	<p style="text-align: right;">Page 144</p> <p>1 A. Yes, sir.</p> <p>2 Q. And the second sentence in that paragraph</p> <p>3 says:</p> <p>4 "If used in sufficient quantities,</p> <p>5 deicing agents, such as propylene glycol,</p> <p>6 ethylene glycol, and urea can potentially reduce</p> <p>7 dissolved oxygen concentrations in nearby</p> <p>8 receiving waters."</p> <p>9 Do you see that?</p> <p>10 A. Yes, sir.</p> <p>11 Q. And so is it fair to say that the</p> <p>12 propylene glycol that was used in the barriers is</p> <p>13 subject to this provision of the Storm Water</p> <p>14 Pollution Prevention Plan, paragraph 5?</p> <p>15 MR. HARTZELL: Objection.</p> <p>16 A. Yes.</p> <p>17 BY MR. FEE:</p> <p>18 Q. And the summary of aircraft and pavement</p> <p>19 deicing, storm water control measures, which is</p> <p>20 the paragraph just below what I read, describes</p> <p>21 the amount of propylene glycol that can be used</p> <p>22 at the airport in any given year, and caps it at</p> <p>23 100,000 gallons. Is that correct?</p> <p>24 MR. HARTZELL: Objection.</p>
<p style="text-align: right;">Page 143</p> <p>1 MR. HARTZELL: Wait a minute. Objection.</p> <p>2 Go ahead.</p> <p>3 A. Yes.</p> <p>4 BY MR. FEE:</p> <p>5 Q. Okay. So turning your attention to</p> <p>6 paragraph -- I'm sorry -- page 12.</p> <p>7 A. There is no 12.</p> <p>8 MR. HARTZELL: There is no page 12.</p> <p>9 A. I have a page 11.</p> <p>10 MR. HARTZELL: It goes 11 to 13.</p> <p>11 MR. FEE: Let me get a copy of 12.</p> <p>12 (Recess taken at 1:40 p.m.)</p> <p>13 (Deposition resumed at 1:43 p.m.)</p> <p>14 BY MR. FEE:</p> <p>15 Q. Mr. DeLaria, is 280 the document -- the</p> <p>16 Storm Water Pollution Prevention Plan that was in</p> <p>17 effect at Norwood Memorial Airport in 2015?</p> <p>18 A. I believe so. Yes.</p> <p>19 Q. So I was drawing your attention to</p> <p>20 page 12.</p> <p>21 A. Okay.</p> <p>22 Q. And paragraph 5, in the middle of the</p> <p>23 page, talks about aircraft and pavement deicing.</p> <p>24 Do you see that?</p>	<p style="text-align: right;">Page 145</p> <p>1 A. Yes.</p> <p>2 BY MR. FEE:</p> <p>3 Q. So once -- is it fair to say -- and I</p> <p>4 don't operate an airport like you do -- but is it</p> <p>5 fair to say that up to 100,000 gallons of glycol</p> <p>6 annually is authorized for use at the airport?</p> <p>7 MR. HARTZELL: Objection.</p> <p>8 A. It is, but we had stopped deicing</p> <p>9 aircraft long before this. So this didn't apply</p> <p>10 to us.</p> <p>11 BY MR. FEE:</p> <p>12 Q. I understand that. I'm just wanting to</p> <p>13 know what regulations at the airport apply to the</p> <p>14 use of propylene glycol.</p> <p>15 A. Okay.</p> <p>16 Q. And paragraph 5 seems to suggest that you</p> <p>17 can use up to 100,000 gallons a year; is that</p> <p>18 right?</p> <p>19 A. Yes.</p> <p>20 MR. HARTZELL: Objection.</p> <p>21 THE WITNESS: I'm sorry.</p> <p>22 A. Yes.</p> <p>23 BY MR. FEE:</p> <p>24 Q. You're saying that you didn't use it.</p>

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<p>1 A. No, sir.</p> <p>2 Q. And how did FlightLevel deice planes?</p> <p>3 A. We don't.</p> <p>4 Q. You don't. Okay.</p> <p>5 Turning your attention now to</p> <p>6 paragraph -- I'm sorry -- page 15. It says "3.2,</p> <p>7 Good Housekeeping."</p> <p>8 A. Which number?</p> <p>9 Q. Page 15.</p> <p>10 MR. HARTZELL: Counsel, I just note that</p> <p>11 the copy we have goes from page 14 to 16.</p> <p>12 MR. FEE: Are you kidding me?</p> <p>13 (Recess taken at 1:46 p.m.)</p> <p>14 (Deposition resumed at 1:47 p.m.)</p> <p>15 BY MR. FEE:</p> <p>16 Q. I'm going to hand you page 15 and ask you</p> <p>17 to slide that in there.</p> <p>18 A. Okay.</p> <p>19 Q. Page 15 of Exhibit 280 is a section</p> <p>20 entitled "Good Housekeeping."</p> <p>21 A. Yes, sir.</p> <p>22 Q. And is it fair to say that this portion</p> <p>23 of the Storm Water Pollution Prevention Plan</p> <p>24 describes best practices regarding the use of</p>	<p>1 anyone would know that they had glycol in them?</p> <p>2 MR. HARTZELL: Objection.</p> <p>3 A. Why would anybody reasonably tip over the</p> <p>4 barriers?</p> <p>5 BY MR. FEE:</p> <p>6 Q. You're not answering my question.</p> <p>7 A. I can't answer your question.</p> <p>8 Q. Okay. Well, the answer is that there is</p> <p>9 no way for anybody to know that there was glycol</p> <p>10 in them. Correct?</p> <p>11 MR. HARTZELL: Objection.</p> <p>12 A. That's true.</p> <p>13 BY MR. FEE:</p> <p>14 Q. Okay. Turning your attention now to page</p> <p>15 18. And I guess you told me that at this point</p> <p>16 in time FlightLevel was not utilizing glycol for</p> <p>17 any purpose; is that right?</p> <p>18 MR. HARTZELL: Objection.</p> <p>19 A. We weren't deicing. Yes.</p> <p>20 BY MR. FEE:</p> <p>21 Q. But were you using it for any other</p> <p>22 purpose?</p> <p>23 A. No.</p> <p>24 Q. Do you know which employees handled the</p>
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<p>1 chemicals at the airport?</p> <p>2 MR. HARTZELL: Objection.</p> <p>3 A. I'd say yes.</p> <p>4 BY MR. FEE:</p> <p>5 Q. And does this "Good Housekeeping" section</p> <p>6 apply to propylene glycol?</p> <p>7 MR. HARTZELL: Objection.</p> <p>8 A. I would say it applies to all.</p> <p>9 BY MR. FEE:</p> <p>10 Q. And is it your belief and understanding</p> <p>11 that FlightLevel adhered to all of the good</p> <p>12 housekeeping procedures set forth in the Storm</p> <p>13 Water Pollution Prevention Plan when it utilized</p> <p>14 glycol in the barriers on February 13, 2015?</p> <p>15 MR. HARTZELL: Objection.</p> <p>16 A. Yes.</p> <p>17 BY MR. FEE:</p> <p>18 Q. Okay.</p> <p>19 A. With the caveat that we never expected</p> <p>20 the barriers to be tipped over.</p> <p>21 Q. And you never labeled the barriers, did</p> <p>22 you?</p> <p>23 A. No, sir.</p> <p>24 Q. How could you reasonably anticipate that</p>	<p>1 glycol on the day -- on February 13, 2015?</p> <p>2 A. It would have been the line staff, Kevin</p> <p>3 Putnam.</p> <p>4 Q. Were they trained in the good</p> <p>5 housekeeping procedures outlined in the Storm</p> <p>6 Water Pollution Prevention Plan?</p> <p>7 A. Yes, they were.</p> <p>8 Q. And it's your testimony that they adhered</p> <p>9 to the requirements of the Storm Water Pollution</p> <p>10 Prevention Plan; is that right?</p> <p>11 MR. HARTZELL: Objection.</p> <p>12 A. Yes.</p> <p>13 BY MR. FEE:</p> <p>14 Q. Okay.</p> <p>15 (Exhibit No. 281 marked for identification.)</p> <p>16 BY MR. FEE:</p> <p>17 Q. Exhibit 281 is the Emergency Response</p> <p>18 Plan of FlightLevel Aviation, LLC. Have you seen</p> <p>19 this before?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Is this a document -- is this Emergency</p> <p>22 Response Plan the document that was in effect in</p> <p>23 February of 2015?</p> <p>24 A. Yes, sir.</p>

<p style="text-align: right;">Page 150</p> <p>1 Q. And was this document utilized as a 2 framework for responding to the glycol spill on 3 February 13, 2015? 4 MR. HARTZELL: Objection. 5 A. Yes. 6 BY MR. FEE: 7 Q. Okay. Turning your attention now -- and 8 I'll utilize the numbers in the bottom right-hand 9 corner to orient you, but I wanted to take you to 10 document -- page 2293. 11 A. Right here? 12 Q. Yes. And at the top it says "General 13 Requirements," and then "FlightLevel Norwood, 14 LLC." 15 And the second paragraph identifies you 16 as chief operating officer and FlightLevel's 17 designated safety officer. Do you see that? 18 A. Yes. 19 Q. Was that the case in February of 2015? 20 A. No. We had changed. 21 Q. And when had that been changed? 22 A. I can't honestly tell you. I don't know 23 the date. 24 Q. And Kevin Putnam is the designated safety</p>	<p style="text-align: right;">Page 152</p> <p>1 hazardous chemicals entering the workplace. He 2 or she will ensure that the chemical containers 3 are properly labeled with a name, hazard warning, 4 name and address of manufacturer, importer, or 5 responsible parties." 6 Do you see that? 7 A. Yes, sir. 8 Q. Does this apply to glycol? 9 MR. HARTZELL: Objection. 10 A. Yes. That would be on the marked 11 containers that the glycol was in. 12 BY MR. FEE: 13 Q. And your testimony, I believe, was that 14 you had a drum of glycol that was left over from 15 Boston Air Charter; is that right? 16 MR. HARTZELL: Objection. 17 A. I believe Eastern Aviation. 18 BY MR. FEE: 19 Q. Eastern Aviation. 20 A. Yes, sir. 21 Q. And was that drum labeled? 22 A. Yes, they were. 23 Q. Now, skipping down it says: 24 "If chemicals are transferred -- are to</p>
<p style="text-align: right;">Page 151</p> <p>1 officer? 2 A. No. We went to our maintenance 3 department at the time. 4 Q. Okay. So who's the safety officer now? 5 A. I believe Jeff Kupiec, our current 6 director of maintenance. 7 Q. And you're not sure who was the safety 8 officer in February of 2015? 9 A. I want to say -- not 100 percent sure, so 10 I won't answer that. 11 Q. Turning your attention to the next page, 12 2294, it talks about container labeling. Do you 13 see that? 14 A. Yes, sir. 15 Q. And first of all, let me take a step 16 back. Do you know who the FlightLevel purchasing 17 agent or designated safety officer -- I'm sorry. 18 Do you know who the purchasing agent for 19 FlightLevel was in 2015? 20 A. Again, I'm not 100 percent sure. 21 Q. Okay. The container labeling section 22 says: 23 "FlightLevel's purchasing agent will be 24 responsible for monitoring all containers of</p>	<p style="text-align: right;">Page 153</p> <p>1 be transferred to a separate container, under the 2 direction of FlightLevel's purchasing agent or 3 Kevin Putnam, designated safety officer, will 4 ensure that the new container is properly labeled 5 and that all secondary containers are labeled." 6 Did I read that correctly? 7 A. Yes. You did. 8 Q. So does this section apply to glycol? 9 MR. HARTZELL: Objection. 10 A. I would say it did. 11 BY MR. FEE: 12 Q. So would you agree with me then that 13 according to the Emergency Response Plan, the 14 movement of glycol from the 55-gallon drum that 15 was stored in into the barriers required the 16 barriers to be labeled with glycol? 17 MR. HARTZELL: Objection. 18 A. I would probably say yes. 19 BY MR. FEE: 20 Q. Okay. You said a minute ago that 21 Mr. Donovan was hostile sometimes. What do you 22 mean by that? 23 A. He would lose his temper. 24 Q. How so? With you?</p>

<p style="text-align: right;">Page 154</p> <p>1 A. With most people he would just get 2 red-faced a lot of times. I don't think it was 3 intentional, but he did it. And it was -- I 4 can't explain -- I'm not him -- why he did it 5 but -- 6 Q. Did he ever get hostile with you? 7 A. Not with me. He never -- I never -- the 8 only confrontation, I think, I had at -- his 9 actually getting angry was the day that we went 10 up with the police to tell him about the 11 barriers. 12 Q. Okay. But otherwise, did other people 13 tell you of interactions that they had with 14 Mr. Donovan where he became hostile? 15 A. I've heard. Yes. 16 Q. And from whom? 17 A. Employees, different tenants. I mean, 18 there was -- prior to me, we had a gentleman that 19 was running FlightLevel, and he had a 20 confrontation with him. And the gentleman was, 21 at the time, I believe -- I can't think of his 22 name -- in his 70s, and he was threatened to be 23 pushed down a flight of stairs. 24 Q. How do you know that? Did you witness</p>	<p style="text-align: right;">Page 156</p> <p>1 Mr. Desrosiers to undisclosed recipients, dated 2 May 15, 2013. Have you ever seen this before? 3 A. I believe, yes. This is when we were 4 told we needed to enforce the fuel setbacks. 5 Q. Okay. And when were you told that you 6 needed to enforce the fuel setbacks? 7 A. I don't remember. 8 Q. Was it before 2013? 9 A. No. I don't want to say -- it's not -- 10 MR. HARTZELL: Don't guess. Tell him 11 your best memory. 12 A. I don't believe so. 13 BY MR. FEE: 14 Q. It was before 2012? 15 A. No. I don't believe so. 16 Q. Was it before that? 17 A. No. I believe that Steve had got the 18 information. We had got a notification from the 19 airport manager that we had to comply, and 20 whenever we got these, we complied. 21 Q. And by "comply" what do you mean? 22 A. We would make sure that we would ensure 23 that the -- all the -- what do you want to call 24 them? The setbacks were done properly.</p>
<p style="text-align: right;">Page 155</p> <p>1 it? 2 A. I did not witness it, but there was a 3 report. 4 Q. Somebody told you? 5 A. Yes, sir. 6 Q. Who told you? 7 A. I've heard it from numerous people that 8 were there. That was before my time. 9 Q. And do you know -- did you ever see 10 Mr. Donovan become violent with anyone? 11 A. No. 12 Q. Did you ever see him raise his voice to 13 anyone? 14 A. No. 15 Q. Was it your understanding that at some 16 point in time FlightLevel and BEH were in 17 competition? 18 MR. HARTZELL: Objection. 19 A. No. 20 BY MR. FEE: 21 Q. No. Okay. 22 (Exhibit No. 282 marked for identification.) 23 BY MR. FEE: 24 Q. This appears to be an e-mail from</p>	<p style="text-align: right;">Page 157</p> <p>1 Q. Are you referring to National Fire 2 Protection setbacks or OFA setbacks -- TOFA 3 setbacks? 4 A. That is the National Fire Department. 5 Q. And so -- 6 A. I want to clarify. I was getting 7 confused back in the time between the TOFA and 8 the OFA and the National Fire. 9 Q. Right. So is it your understanding that 10 the National Fire Protection setbacks are 25 feet 11 from the building for fueling of aircraft and 12 50 feet if there are other structures -- other 13 flammable items in play? 14 MR. HARTZELL: Objection. 15 A. I believe it's 25 feet from the fueling 16 vent of the aircraft. 17 BY MR. FEE: 18 Q. Right. 19 A. And it's 50 feet from any of the -- if 20 you have boilers or vents, I believe that's 21 what -- how the rule goes. 22 Q. And so at this point in time, you were 23 instructed by Mr. Maguire that you needed to 24 adhere to the National Fire Protection setbacks</p>

<p style="text-align: right;">Page 158</p> <p>1 for fueling; is that right?</p> <p>2 MR. HARTZELL: Objection.</p> <p>3 A. Yes.</p> <p>4 BY MR. FEE:</p> <p>5 Q. Okay. And so Mr. Desrosiers' e-mail is</p> <p>6 to customers at the airport explaining that you</p> <p>7 had to fuel in perhaps different places than</p> <p>8 previously was done; is that right?</p> <p>9 MR. HARTZELL: Objection.</p> <p>10 A. Yes.</p> <p>11 BY MR. FEE:</p> <p>12 Q. If you understand the question, you can</p> <p>13 answer. If you don't, I can rephrase it.</p> <p>14 A. I believe I understand it. But this</p> <p>15 wasn't -- I don't believe this was to customers.</p> <p>16 This was going to our line department to tell</p> <p>17 them to make sure that they were adhering to the</p> <p>18 instruction.</p> <p>19 MR. HARTZELL: Just a minute. I want to</p> <p>20 direct him. Make sure you read this because</p> <p>21 there's some language at the top.</p> <p>22 A. "This may help explain the recent changes</p> <p>23 around the ramps and taxi lanes."</p> <p>24 Agreed.</p>	<p style="text-align: right;">Page 160</p> <p>1 BY MR. FEE:</p> <p>2 Q. And I'm going to show you a picture of it</p> <p>3 that's been marked previously as Exhibit 50 to</p> <p>4 Mr. Burlingham's and Exhibit 88 to Mr. Eichleay's</p> <p>5 deposition.</p> <p>6 So does that -- is that a fair and</p> <p>7 accurate representation of the fueling cabinet as</p> <p>8 it appeared in 2015?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And do you know the method by</p> <p>11 which aircraft would access the fueling cabinet?</p> <p>12 A. I believe it was only used for Boston Air</p> <p>13 Charter because there were organ transplants.</p> <p>14 And if they needed fuel at night, they would tow</p> <p>15 their aircraft down, and they had a key to the</p> <p>16 self-fueling unit and they would fuel their</p> <p>17 aircraft.</p> <p>18 Q. And that was inherently a violation of</p> <p>19 the National Fire Protection setbacks. Correct?</p> <p>20 MR. HARTZELL: Objection.</p> <p>21 A. I can't answer that because this was in</p> <p>22 position before I even got there.</p> <p>23 BY MR. FEE:</p> <p>24 Q. I understand that. I'm just wanting to</p>
<p style="text-align: right;">Page 159</p> <p>1 BY MR. FEE:</p> <p>2 Q. Okay. So prior to May 15th of 2013, and</p> <p>3 this document, was fueling undertaken at the</p> <p>4 airport without recognizing National Fire</p> <p>5 Protection setbacks?</p> <p>6 MR. HARTZELL: Objection.</p> <p>7 A. I don't believe so. No. This was to</p> <p>8 ensure that we were always -- you know, that</p> <p>9 there was no chance for an error.</p> <p>10 BY MR. FEE:</p> <p>11 Q. Was it more loosely enforced prior to</p> <p>12 May of 2013?</p> <p>13 MR. HARTZELL: Objection.</p> <p>14 BY MR. FEE:</p> <p>15 Q. The National Fire Protection setbacks.</p> <p>16 MR. HARTZELL: Objection.</p> <p>17 A. That may be a fair statement.</p> <p>18 BY MR. FEE:</p> <p>19 Q. Now, you had -- or FlightLevel operated a</p> <p>20 self-fueling cabinet at the -- between Lots F and</p> <p>21 G; is that correct?</p> <p>22 MR. HARTZELL: Objection.</p> <p>23 A. Yes, sir.</p> <p>24</p>	<p style="text-align: right;">Page 161</p> <p>1 understand that when the self-fueling cabinet was</p> <p>2 in use, it -- the use of it violated National</p> <p>3 Fire Protection setbacks. Correct?</p> <p>4 MR. HARTZELL: Objection.</p> <p>5 A. Based on what you've -- we've seen, yes.</p> <p>6 BY MR. FEE:</p> <p>7 Q. Okay.</p> <p>8 (Exhibit No. 283 marked for identification.)</p> <p>9 BY MR. FEE:</p> <p>10 Q. I'm showing you a document that's been</p> <p>11 marked as Exhibit 53 -- I'm sorry. It's been</p> <p>12 remarked as Exhibit 283, and it appears to show</p> <p>13 methods by which an airplane would access the</p> <p>14 self-fueling cabinet. Do you see this?</p> <p>15 A. Yes, sir.</p> <p>16 Q. And it shows aircraft coming down</p> <p>17 Taxiway 3, turning onto the taxiway between Lease</p> <p>18 Lot G and Lease Lot F, and coming to a rest</p> <p>19 adjacent to the fueling cabinet. Do you see</p> <p>20 that?</p> <p>21 A. Yes, sir.</p> <p>22 Q. And by the way, is the way between Lease</p> <p>23 Lot G and Lease Lot F a taxiway?</p> <p>24 A. No.</p>

<p style="text-align: right;">Page 162</p> <p>1 Q. But it was used as a taxiway when the 2 self-fueling cabinet was in place? 3 A. No. 4 Q. Well, if there's an airplane on it, 5 doesn't that make it a taxiway? 6 MR. HARTZELL: Objection. 7 A. No aircraft ever went there under power. 8 It was always a towed airplane. 9 BY MR. FEE: 10 Q. And that means it's not a taxiway? 11 A. It wasn't under power. Yes, sir. 12 Q. I didn't know that. 13 And so it was towed down, filled with 14 fuel, and then pushed back out? Is that how that 15 worked? 16 A. Yeah. They would have to push it out. 17 Q. Okay. Do you know when FlightLevel 18 stopped using the self-fueling cabinet? 19 A. I can't state when. I can tell you why. 20 Q. Tell me why. 21 A. Because we were having trouble getting 22 our monies from Boston Air Charter at that point 23 in time. 24 Q. Okay. Let me refresh your recollection</p>	<p style="text-align: right;">Page 164</p> <p>1 BY MR. FEE: 2 Q. Okay. You testified that you thought it 3 was because you were having trouble getting paid 4 by Boston Air Charter; is that right? 5 A. Yes. 6 Q. And had that situation been ongoing for 7 some time? 8 A. It was on and off at that point in time. 9 Q. The e-mail that's been marked as 10 Exhibit 52 appears to suggest that the 11 self-fueling cabinet is still in -- is 12 operational; is that right? 13 MR. HARTZELL: Objection. 14 A. I couldn't say that. It hasn't been used 15 in so long. I wouldn't know if it works or not. 16 BY MR. FEE: 17 Q. The second line in this e-mail says: 18 "For emergency situations, i.e., when 19 lives are at stake, we trained BEC employee, 20 Brian O'Connor, put him through truck farm and 21 SPCC program to use our trucks. 22 "He is also a former line technician from 23 the Eastern Air Center days and very experienced 24 in all emergency procedures and all duties of</p>
<p style="text-align: right;">Page 163</p> <p>1 as to when by showing you a document that's been 2 marked as Exhibit 52. 3 It appears to be an e-mail from you to 4 Russ, dated August 20, 2014. And in the text of 5 the e-mail it says: 6 "We at FlightLevel made the determination 7 not to use the self-fueling cabinet for our 8 day-to-day operations back in September of 2013. 9 In fact, the exact date was 9/14/13." 10 Do you see that? 11 A. Yes, sir. 12 Q. Did you write this e-mail? 13 A. My name is on it. 14 Q. I'm asking you -- 15 A. Yes, sir. 16 Q. -- if you remember writing it? 17 A. Yes. I'll say I -- 18 Q. Why is it that you knew exactly the date 19 on which FlightLevel discontinued use of the 20 self-fueler? 21 A. We're talking four years. I don't know. 22 MR. HARTZELL: If you don't remember, say 23 you don't remember. 24 A. I don't remember.</p>	<p style="text-align: right;">Page 165</p> <p>1 being a line technician." 2 Did I read that correctly? 3 A. Yes, you did. 4 Q. Is it fair to say that after this e-mail 5 that you wrote on August 20, 2014, there were 6 still situations where the self-fueler cabinet 7 could be utilized in emergency situations? 8 A. Yes, sir. 9 Q. Now, when you erected the barriers, would 10 an airplane have difficulty accessing the 11 self-fueling cabinet due to the existence of 12 those impediments? 13 MR. HARTZELL: Objection. 14 A. No. 15 BY MR. FEE: 16 Q. Why not? 17 A. Because the barriers were low enough to 18 go under the wing if they were to tow the 19 aircraft out. 20 Q. So it's your testimony that those 21 barriers were low enough that an airport wing 22 would just go right over it? 23 A. The type of aircraft that was being used 24 by Boston Air Charter, it would.</p>

<p style="text-align: right;">Page 166</p> <p>1 Q. What type of aircraft did they use?</p> <p>2 A. A Citation 550.</p> <p>3 Q. Do you know what the distance between the</p> <p>4 ground and the wing is on that particular</p> <p>5 airplane?</p> <p>6 A. I don't recall. We could look it up, but</p> <p>7 I don't know.</p> <p>8 Q. But you're sure that it's taller than the</p> <p>9 height of the barriers?</p> <p>10 A. I'm pretty sure. Yes.</p> <p>11 Q. You're pretty sure, but you're not</p> <p>12 absolutely sure?</p> <p>13 A. I'm not absolutely, but I can go back and</p> <p>14 get the information for you.</p> <p>15 Q. Okay.</p> <p>16 (Exhibit No. 284 marked for identification.)</p> <p>17 BY MR. FEE:</p> <p>18 Q. Mr. DeLaria, I'm showing you a document</p> <p>19 that's been marked as Exhibit 284. Have you ever</p> <p>20 seen this before?</p> <p>21 A. I have seen it. Yes.</p> <p>22 Q. What is it?</p> <p>23 A. I'm not -- if this is the fueling plan or</p> <p>24 the --</p>	<p style="text-align: right;">Page 168</p> <p>1 Q. And why do you utilize it?</p> <p>2 A. Because it depicts exactly what we've</p> <p>3 been -- the rules that we have to follow. The 25</p> <p>4 feet, the 50 feet, the object-free areas.</p> <p>5 Q. So does it show where trucks park?</p> <p>6 A. When you say --</p> <p>7 MR. HARTZELL: Objection.</p> <p>8 BY MR. FEE:</p> <p>9 Q. Does it show where trucks park?</p> <p>10 MR. HARTZELL: Same objection.</p> <p>11 A. I don't believe it's showing where trucks</p> <p>12 park. At least not that I --</p> <p>13 BY MR. FEE:</p> <p>14 Q. Does it show where Avgas is delivered?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. Does it show the self-service</p> <p>17 cabinet?</p> <p>18 A. Yes, sir, it does (indicating).</p> <p>19 Q. Can you point me to it?</p> <p>20 A. It's right there (indicating).</p> <p>21 Q. Okay.</p> <p>22 A. It's not labeled but that would be the</p> <p>23 self--</p> <p>24 Q. Does it show the north ramp?</p>
<p style="text-align: right;">Page 167</p> <p>1 MR. HARTZELL: Please take a minute and</p> <p>2 review it.</p> <p>3 BY MR. FEE:</p> <p>4 Q. Mr. DeLaria, would it help if I gave you</p> <p>5 a larger version of it?</p> <p>6 A. It might help a little bit. Thank you.</p> <p>7 MR. FEE: It's the same thing blown up.</p> <p>8 A. Well, I can see it's depicting the NFPA</p> <p>9 and the object-free fueling areas for fueling.</p> <p>10 So it's basically a fueling diagram.</p> <p>11 BY MR. FEE:</p> <p>12 Q. Right. And do you know what -- do you</p> <p>13 know who prepared this?</p> <p>14 A. I believe it was prepared by Norwood</p> <p>15 Engineering.</p> <p>16 Q. Do you know for whom it was prepared?</p> <p>17 A. I believe we had to prepare it for the</p> <p>18 airport commission.</p> <p>19 Q. Okay. And are you familiar with this</p> <p>20 document?</p> <p>21 A. I didn't prepare it. I was not involved</p> <p>22 when this was being done.</p> <p>23 Q. Do you utilize it?</p> <p>24 A. Yes, we do.</p>	<p style="text-align: right;">Page 169</p> <p>1 A. North ramp. It does not.</p> <p>2 Q. Does it --</p> <p>3 A. Wait, wait. Hold on. No. It does not.</p> <p>4 Q. Does it show the location and the size of</p> <p>5 your fuel tanks?</p> <p>6 A. I don't believe this document shows it.</p> <p>7 No, sir.</p> <p>8 Q. Does it show how mobile fuelers for</p> <p>9 FlightLevel will be filled?</p> <p>10 A. No.</p> <p>11 Q. Does it show where mobile fuelers will</p> <p>12 park?</p> <p>13 A. Not this document.</p> <p>14 Q. Is there any other document that outlines</p> <p>15 FlightLevel's fueling procedures?</p> <p>16 A. I believe this is it.</p> <p>17 Q. Okay. Does it show the location of where</p> <p>18 FlightLevel will fuel aircraft on the airport?</p> <p>19 A. Not entirely. No.</p> <p>20 Q. Does it show how the bulk delivery of</p> <p>21 fuel is introduced into the underground tanks and</p> <p>22 the storage system?</p> <p>23 MR. HARTZELL: Objection.</p> <p>24 A. It doesn't show how, but it shows you how</p>

<p style="text-align: right;">Page 170</p> <p>1 the truck will get in. 2 BY MR. FEE: 3 Q. But no other information? 4 A. It doesn't show -- no, sir. 5 Q. Okay. Does it show operations on Lots A, 6 B, and C at all? 7 A. No. 8 Q. Does it show fueling operations on the 9 DC3 ramp? 10 A. We're not allowed to fuel on the DC3 11 ramp. 12 Q. Right. Does it show operations on the 13 west ramp? 14 A. When you say the "west ramp," please 15 clarify. 16 Q. West ramp immediately contiguous to Lot G 17 on the easterly side. 18 A. No. It doesn't show that. 19 Q. Doesn't show that? 20 A. No. 21 Q. You can self-fuel on the DC3 ramp; right? 22 MR. HARTZELL: Objection. 23 A. Not to my knowledge. 24</p>	<p style="text-align: right;">Page 172</p> <p>1 fuelers within the TOFA? 2 MR. HARTZELL: Objection. 3 A. I don't believe so. 4 BY MR. FEE: 5 Q. And is it your belief that vehicles can't 6 operate in the TOFA? 7 MR. HARTZELL: I'm sorry. That vehicles 8 what? 9 BY MR. FEE: 10 Q. Can't operate in the TOFA. 11 A. They can move in the TOFA area. 12 Q. Right, but they can't park. 13 A. They can't park. 14 Q. Right. They have to be ready, willing, 15 and able to yield to oncoming aircraft; right? 16 MR. HARTZELL: Objection. 17 A. Yes, sir. 18 BY MR. FEE: 19 Q. And that's governed by FAA regulations; 20 right? 21 A. That is a fact. Yes, sir. 22 Q. And there's an advisory circular on that 23 point. Correct? 24 A. Okay. Yeah.</p>
<p style="text-align: right;">Page 171</p> <p>1 BY MR. FEE: 2 Q. Okay. Does it show any fueling 3 restrictions on Lots W, X, Y, and Z? 4 A. No, sir. 5 Q. Okay. 6 THE WITNESS: With that, I need a break. 7 (Recess taken at 2:13 p.m.) 8 (Deposition resumed at 2:18 p.m.) 9 BY MR. FEE: 10 Q. Prior to the creation of 284, did 11 FlightLevel have any formalized fueling plan in 12 place? 13 MR. HARTZELL: Objection. 14 A. No. 15 BY MR. FEE: 16 Q. No written document identifying fueling 17 procedures? 18 A. I believe we had -- it was just safety 19 about where the placement of the truck was. But 20 into total detail, no, sir. 21 Q. Right. So does FlightLevel operate 22 mobile fuelers within the TOFA? 23 A. Within the TOFA? No, sir. 24 Q. Never does FlightLevel operate any mobile</p>	<p style="text-align: right;">Page 173</p> <p>1 Q. Do you know that or not? 2 A. I'm not 100 percent familiar with it, but 3 I know we can't do it. 4 MR. HARTZELL: Slow down. Slow down. 5 THE WITNESS: Okay. 6 BY MR. FEE: 7 Q. If there was an advisory circular on 8 point that said what you can and cannot do in 9 terms of operating mobile fuelers in a TOFA, you 10 would defer to that FAA document, would you not? 11 MR. HARTZELL: Objection. 12 A. That's a fact. Yes, sir. 13 BY MR. FEE: 14 Q. Do you believe that there's any other 15 authority that would govern whether or not a 16 mobile fueler can operate in the TOFA? 17 A. I don't believe so. 18 Q. Okay. 19 (Exhibit No. 285 marked for identification.) 20 BY MR. FEE: 21 Q. Mr. DeLaria, 285 is a series of four 22 pictures. I would ask you to look at that, and 23 tell me if it fairly and accurately depicts the 24 operation of FlightLevel's fueling trucks.</p>

<p style="text-align: right;">Page 174</p> <p>1 MR. HARTZELL: Objection.</p> <p>2 A. This is not one of our fueling trucks.</p> <p>3 This is a fuel delivery.</p> <p>4 BY MR. FEE:</p> <p>5 Q. I misspoke. I apologize.</p> <p>6 Does this fairly and accurately represent</p> <p>7 how FlightLevel receives fuel deliveries?</p> <p>8 A. Yes. This would be an Avgas delivery.</p> <p>9 Q. And if you see on the second picture, it</p> <p>10 looks like the truck is traversing the west ramp.</p> <p>11 Do you see that?</p> <p>12 MR. HARTZELL: Objection.</p> <p>13 A. On the second picture?</p> <p>14 BY MR. FEE:</p> <p>15 Q. On the second picture.</p> <p>16 A. Yes, sir.</p> <p>17 Q. Okay. Now, does FlightLevel have an</p> <p>18 easement to pass and repass over the west ramp?</p> <p>19 A. I believe we do.</p> <p>20 Q. And do you know what the source -- how</p> <p>21 that -- do you know when that easement was</p> <p>22 granted?</p> <p>23 A. No. I couldn't tell you.</p> <p>24 Q. Okay. And the fourth picture, does that</p>	<p style="text-align: right;">Page 176</p> <p>1 BY MR. FEE:</p> <p>2 Q. All right. I'm going to show you what's</p> <p>3 been marked as Exhibit 44. It appears to be</p> <p>4 FlightLevel Norwood's 2018 commercial permit</p> <p>5 application. Have you seen this before?</p> <p>6 A. I did not prepare this one.</p> <p>7 Q. Do you know who did?</p> <p>8 A. I'm not 100 percent sure. I don't know</p> <p>9 if it was Eileen. It could have been Nick. I</p> <p>10 can't say who.</p> <p>11 Q. The writing on page 2, that's not your</p> <p>12 handwriting?</p> <p>13 A. No, sir.</p> <p>14 Q. Okay. Do you know who Alan Radlo is?</p> <p>15 A. Yes, I do.</p> <p>16 Q. How do you know him?</p> <p>17 A. He is the owner of our company.</p> <p>18 Q. When did he become the owner of your</p> <p>19 company?</p> <p>20 A. I'm not 100 percent sure so I -- of the</p> <p>21 date, so I'd prefer not to --</p> <p>22 Q. It's been over a year. Correct?</p> <p>23 A. I would say it's over a year now.</p> <p>24 Q. Have you met Mr. Radlo?</p>
<p style="text-align: right;">Page 175</p> <p>1 represent how Avgas is off-loaded?</p> <p>2 MR. HARTZELL: Objection.</p> <p>3 A. Yes.</p> <p>4 BY MR. FEE:</p> <p>5 Q. Okay. Do you know how close that --</p> <p>6 A. Well --</p> <p>7 Q. Wait a second. Do you know whether that</p> <p>8 truck is parked during the operation of</p> <p>9 off-loading of Avgas?</p> <p>10 MR. HARTZELL: Objection.</p> <p>11 A. Want to rephrase that for me?</p> <p>12 BY MR. FEE:</p> <p>13 Q. Yes. Do you know if the truck is parked</p> <p>14 and stopped?</p> <p>15 MR. HARTZELL: Objection.</p> <p>16 A. I would assume it is.</p> <p>17 MR. HARTZELL: Don't assume anything.</p> <p>18 You don't know who took these pictures or</p> <p>19 anything else.</p> <p>20 A. I don't.</p> <p>21 MR. FEE: Anything else you want to tell</p> <p>22 him?</p> <p>23 MR. HARTZELL: There's plenty of things,</p> <p>24 but I'll wait.</p>	<p style="text-align: right;">Page 177</p> <p>1 A. Yes, sir, I have.</p> <p>2 Q. And in what context did you meet him?</p> <p>3 A. He visits the airport.</p> <p>4 Q. Okay. Does Mr. Radlo also own the other</p> <p>5 FlightLevel operations in other parts of the</p> <p>6 country?</p> <p>7 A. No. He does not.</p> <p>8 Q. He just owns FlightLevel Norwood?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Did you ever have any meetings with or</p> <p>11 conversations with Mr. Maguire regarding</p> <p>12 FlightLevel's fuel plan?</p> <p>13 A. I don't recall.</p> <p>14 Q. Did you ever have any meetings or</p> <p>15 discussions with any member of the Norwood</p> <p>16 Airport Commission regarding FlightLevel's</p> <p>17 fueling plan?</p> <p>18 A. No.</p> <p>19 Q. Did you ever have any meetings or</p> <p>20 discussions with Mr. Maguire prior to</p> <p>21 FlightLevel's placement of the barriers on</p> <p>22 February 13, 2015?</p> <p>23 A. I believe we notified him.</p> <p>24 Q. And was that you who notified him --</p>

<p style="text-align: right;">Page 178</p> <p>1 strike that.</p> <p>2 Did you notify him or someone else from</p> <p>3 FlightLevel?</p> <p>4 A. I did not notify him. I believe Peter</p> <p>5 notified him.</p> <p>6 Q. And that was prior to the placement of</p> <p>7 the barriers?</p> <p>8 A. Yes, sir.</p> <p>9 Q. And did Mr. Maguire authorize FlightLevel</p> <p>10 to proceed with placement of the barriers?</p> <p>11 A. I don't believe so.</p> <p>12 Q. And what's the basis for that belief?</p> <p>13 A. I can't answer that other than that was</p> <p>14 our leasehold at that point in time.</p> <p>15 Q. So it was your understanding that it was</p> <p>16 your leasehold and you could do what you wanted.</p> <p>17 MR. HARTZELL: Objection.</p> <p>18 A. Basically. Yes, sir.</p> <p>19 BY MR. FEE:</p> <p>20 Q. Did you tell anyone else -- and I mean</p> <p>21 tenants in Lot G -- about the fact that you were</p> <p>22 going to place these barriers?</p> <p>23 MR. HARTZELL: Objection.</p> <p>24 A. I didn't. No.</p>	<p style="text-align: right;">Page 180</p> <p>1 MR. HARTZELL: Objection.</p> <p>2 A. No, sir.</p> <p>3 BY MR. FEE:</p> <p>4 Q. And you began to say that you didn't</p> <p>5 think notices to airmen were required; is that</p> <p>6 right?</p> <p>7 A. That's correct.</p> <p>8 Q. And why do you think that?</p> <p>9 A. Because that is not a taxiway. It is a</p> <p>10 movement area.</p> <p>11 Q. You are aware of the fact, are you not,</p> <p>12 that people or tenants of FlightLevel in Lot G</p> <p>13 will open their hangar door, pull their plane</p> <p>14 out, start it, and taxi down the space between</p> <p>15 Lot F and G to access the taxiway on Gate 3?</p> <p>16 MR. HARTZELL: Objection.</p> <p>17 A. Yes.</p> <p>18 BY MR. FEE:</p> <p>19 Q. Okay. So it is used as a taxiway because</p> <p>20 there are planes under power; right?</p> <p>21 MR. HARTZELL: Objection.</p> <p>22 A. They do it under power. I'm not going to</p> <p>23 say that one way or another if they should be</p> <p>24 doing it. I'm not -- I can't answer it.</p>
<p style="text-align: right;">Page 179</p> <p>1 BY MR. FEE:</p> <p>2 Q. Did anyone from FlightLevel advise any of</p> <p>3 the tenants in the Lot G condo hangars that</p> <p>4 barriers were going to be erected in the taxiway</p> <p>5 between Lots F and G?</p> <p>6 A. I don't know.</p> <p>7 Q. Do you know if any notices to airmen were</p> <p>8 given as a result of FlightLevel's decision to</p> <p>9 place barriers in the middle of the taxiway</p> <p>10 between Lots F and G?</p> <p>11 MR. HARTZELL: Objection.</p> <p>12 A. First of all, it's not a taxiway, and</p> <p>13 there was no notice to airmen that had to be</p> <p>14 given at that point in time.</p> <p>15 BY MR. FEE:</p> <p>16 Q. Let me rephrase that.</p> <p>17 Do you know if there were any notices to</p> <p>18 airmen given in connection with FlightLevel's</p> <p>19 erection of barriers on Lot G?</p> <p>20 A. No, sir.</p> <p>21 Q. And you say -- I'm sorry. Did you give</p> <p>22 any notices regarding construction barriers to</p> <p>23 anyone regarding -- in connection with the</p> <p>24 erection of barriers on Lot G?</p>	<p style="text-align: right;">Page 181</p> <p>1 BY MR. FEE:</p> <p>2 Q. Well, you said earlier that you were very</p> <p>3 strict about the rules; right?</p> <p>4 MR. HARTZELL: Objection.</p> <p>5 BY MR. FEE:</p> <p>6 Q. I mean, you believe that FlightLevel</p> <p>7 operates pursuant to the rules and everyone else</p> <p>8 should operate pursuant to the rules. Correct?</p> <p>9 A. Agreed.</p> <p>10 Q. And so in this instance that you're aware</p> <p>11 of, where your tenants in Condo Hangar G pull</p> <p>12 their planes out of their condo hangar, start</p> <p>13 them up, and taxi down the area between F and G,</p> <p>14 is that a violation of the rules?</p> <p>15 MR. HARTZELL: Objection.</p> <p>16 A. I'd have to take it under advisement. I</p> <p>17 can't answer that question.</p> <p>18 BY MR. FEE:</p> <p>19 Q. Okay.</p> <p>20 MR. FEE: I just need two minutes with my</p> <p>21 client, and then I'll wrap this up.</p> <p>22 THE WITNESS: Sure.</p> <p>23 (Recess taken at 2:28 p.m.)</p> <p>24 (Deposition resumed at 2:29 p.m.)</p>

<p style="text-align: right;">Page 182</p> <p>1 MR. FEE: I have no further questions. 2 MR. HARTZELL: Take a break for a minute. 3 I might have some questions. 4 (Recess taken at 2:29 p.m.) 5 (Deposition resumed at 2:42 p.m.) 6 EXAMINATION 7 BY MR. HARTZELL: 8 Q. Mr. DeLaria, I think I might have a 9 question or two. Directing your attention back 10 to Exhibit 284, do you know if Exhibit 284 is a 11 complete copy of the fuel plan that FlightLevel 12 has out at Norwood Airport? 13 A. I don't believe so. 14 Q. And it's -- actually, if you direct your 15 attention to the bottom right-hand corner, it 16 says "Fueling Restriction Plan." Do you see 17 that? 18 A. Yes, sir. 19 Q. And do the outlines of red around the 20 building show where you cannot fuel? 21 A. Yes, sir. That depicts the -- like the 22 25-foot NPA, NPPA, and the yellow is depicting 23 the object-free zone for no fueling. 24 Q. Earlier today in response to Mr. Fee's</p>	<p style="text-align: right;">Page 184</p> <p>1 FURTHER EXAMINATION 2 BY MR. FEE: 3 Q. I have a question. 4 Just to follow up on that, Mr. DeLaria, 5 you said you thought Exhibit 284 was not 6 complete. 7 A. It doesn't show our whole airport. 8 Q. You believe that there's more to 9 FlightLevel's fueling restriction plan? 10 A. The restrictions, no. Because they're 11 all depicted here. 12 Q. Right. But are you suggesting that 13 there's another document that illustrates -- 14 A. No, no. 15 Q. -- FlightLevel's -- 16 A. I'm not saying that. What I'm saying is 17 that this isn't a true depiction of our whole 18 leasehold. That's what I mean by that. 19 Q. Excellent. 20 MR. FEE: Thank you very much. 21 MR. HARTZELL: Nothing further. 22 (Whereupon the deposition concluded at 23 2:45 p.m.) 24</p>
<p style="text-align: right;">Page 183</p> <p>1 questions, you were talking about -- in response 2 to the questions from Mr. Fee about what has been 3 marked as Exhibit 284, he was asking you: Are 4 there any other fueling procedures or things that 5 FlightLevel follows in connection with its 6 fueling operations out at Norwood Airport? Do 7 you remember those questions? 8 A. Yes, I do. 9 Q. Are there any others? 10 A. Well, we require all of our FlightLevel 11 people to go through the flight safety training 12 and -- before they can be signed off to fuel by 13 themselves. 14 Q. Anything else? 15 A. Other than the training, we send Kevin to 16 the Eastern Aviation fuel seminar down in 17 Connecticut every other year. 18 Q. And what about you? Do you attend any 19 seminars? 20 A. No, I do not. 21 Q. Do you attend any FBO seminars? 22 A. Yes, I do. 23 Q. Okay. 24 MR. HARTZELL: That's all I have.</p>	<p style="text-align: right;">Page 185</p> <p>1 COMMONWEALTH OF MASSACHUSETTS 2 PLYMOUTH, SS. 3 4 I, Kimberley J. Bouzan, Certified 5 Shorthand Reporter and Notary Public in and for 6 the Commonwealth of Massachusetts, do hereby 7 certify that WARREN M. DELARIA, the witness whose 8 deposition is hereinbefore set forth, was duly 9 sworn by me and that such deposition is a true 10 record, to the best of my ability, of the 11 testimony given by the witness. 12 I further certify that I am neither 13 related to nor employed by any of the parties in 14 or counsel to this action, nor am I financially 15 interested in the outcome of this action. 16 In witness whereof, I have hereunto 17 set my hand and seal this 27th day of April, 18 2018. 19 20 21 22 Notary Public 23 My commission expires: 24 August 27, 2021</p>

8	Page	Line	Correction/Reason
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20 Signed under the pains and penalties
21 of perjury this day of , 2018.

24 WARREN M. DELARIA

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