

COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES
APPROPRIATIONS COMMITTEE HEARING
BUDGET HEARING

STATE CAPITOL
MAJORITY CAUCUS ROOM
HARRISBURG, PENNSYLVANIA

TUESDAY, MARCH 4, 2008, 9:00 A.M.

VOLUME I OF V

PRESENTATION BY
DEPARTMENT OF ENVIRONMENTAL PROTECTION

BEFORE:

HONORABLE DWIGHT EVANS, CHAIRMAN
HONORABLE MARIO J. CIVERA, JR., CHAIRMAN
HONORABLE STEPHEN E. BARRAR
HONORABLE STEVEN W. CAPPELLI
HONORABLE H. SCOTT CONKLIN
HONORABLE CRAIG A. DALLY
HONORABLE GORDON R. DENLINGER
HONORABLE BRIAN ELLIS
HONORABLE DAN B. FRANKEL
HONORABLE JOHN T. GALLOWAY
HONORABLE WILLIAM F. KELLER
HONORABLE THADDEUS KIRKLAND
HONORABLE BRYAN R. LENTZ
HONORABLE KATHY M. MANDERINO
HONORABLE MICHAEL P. MCGEEHAN
HONORABLE FRED McILHATTAN
HONORABLE DAVID R. MILLARD
HONORABLE RON MILLER
HONORABLE JOHN MYERS
HONORABLE CHERELLE PARKER
HONORABLE JOSEPH A. PETRARCA

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BEFORE: (cont.'d)
HONORABLE SCOTT A. PETRI
HONORABLE SEAN M. RAMALEY
HONORABLE DAVE REED
HONORABLE DOUGLAS G. REICHLEY
HONORABLE DANTE SANTONI, JR.
HONORABLE MARIO M. SCAVELLO
HONORABLE JOSHUA D. SHAPIRO
HONORABLE JOHN SIPTROTH
HONORABLE MATTHEW SMITH
HONORABLE KATIE TRUE
HONORABLE GREGORY S. VITALI
HONORABLE DON WALKO
HONORABLE JAKE WHEATLEY, JR.

ALSO PRESENT:
MIRIAM FOX
EDWARD NOLAN

JEAN M. DAVIS, REPORTER
NOTARY PUBLIC

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1 CHAIRMAN EVANS: Good morning, everyone.

2 The hour of 9 o'clock having arrived, I
3 would like to convene the House Appropriations
4 Committee.

5 We have the Secretary of the DEP before us
6 this morning. Good morning, Madam Secretary.

7 SECRETARY MCGINTY: Good morning,
8 Mr. Chairman.

9 CHAIRMAN EVANS: As you know, the rules
10 basically are that we go right to questions rather
11 than any type of prepared testimony.

12 SECRETARY MCGINTY: Yes.

13 CHAIRMAN EVANS: I would like to start off
14 with the Governor's proposed budget relating to your
15 department and telling me, you know, just tell us a
16 little bit about in terms of his recommendations to
17 you in terms of your department, the kinds of things
18 that you think you will be able to do in the year and
19 any other additional things.

20 Can you start off with that?

21 SECRETARY MCGINTY: Sure.

22 Thank you, Mr. Chairman, and it's a pleasure
23 to have the opportunity to present the Governor's
24 budget to you. I appreciate your leadership and the
25 members of the committee for your interest in the

1 Department of Environmental Protection's work.

2 The budget we present for your consideration
3 is essentially a flat budget from last year's
4 funding. Where you see differentials from last
5 year's funding, they primarily fall into the
6 following categories.

7 First, you'll see increases in our major
8 line items. Those are mostly reflective of cost
9 increases in salaries and benefits under the State
10 employment contract.

11 The other changes that are notable, Mr.
12 Chairman, though, do go to some new initiatives or
13 reflect initiatives that the Legislature supported us
14 in last year. Let me start with that latter
15 category.

16 The Legislature supported us in the Black
17 Fly and West Nile Virus Programs in extending and
18 enhancing our funding there that enabled us to keep
19 current with our bills. What that then enabled us to
20 do is to renegotiate the service contracts we had in
21 those programs. And we achieved appreciable savings
22 to the tune of \$850,000 specifically under the Black
23 Fly Program, and through some administrative changes
24 we were able to save \$500,000 in the West Nile Virus
25 Program.

1 The other major notable in our budget,
2 Mr. Chairman, is our New Start, and that is the
3 Governor's initiative to repair unsafe high-hazard
4 dams that are in the ownership of the Commonwealth
5 and to support municipalities to that end as well,
6 and the Governor's initiative to provide enhanced
7 flood protection in communities across the
8 Commonwealth.

9 The flood protection initiative is \$100
10 million, which enables us to triple our capital flood
11 protection projects and double the grants we provide
12 to municipalities for flood protection. And our dam
13 safety initiative is \$37 million to upgrade
14 Commonwealth-owned projects, as well as a new
15 program, \$6.6 million, to help municipalities to that
16 end as well.

17 And the last point on that, Mr. Chairman,
18 then, as it is reflected in the budget and again
19 finally to highlight what's different in this budget,
20 you'll see two pieces.

21 One is a \$1.25 million enhancement in our
22 environmental program management line item. That's
23 for nine engineers to implement the flood and dam
24 safety initiative. And an additional \$3 million in
25 our 391 grants and subsidies program, and that

1 represents the doubling of the grants we offer
2 municipalities to shore up their flood protection
3 devices.

4 Thank you, Mr. Chairman.

5 CHAIRMAN EVANS: Can you talk a little bit
6 about the Governor's economic stimulus program? You
7 talked about New Start. Can you in any specific way
8 talk about what that will mean in terms of job
9 creation?

10 SECRETARY MCGINTY: I can indeed, in two
11 ways.

12 One, in terms of the opportunities that are
13 involved, these are capital projects. They are steel
14 in the ground, bricks and mortar. They are
15 construction jobs related on both the flood
16 protection as well as the dam-safety side.

17 But I will underscore for your
18 consideration, because you will hear from local
19 governments and your constituents on this as well,
20 some of these investments we have to make because the
21 rules at the Federal level are changing, and if we
22 want to keep flood insurance rates and premiums down
23 in the Commonwealth, we have to meet new standards
24 for the integrity of flood protection measures.

25 If we don't meet the standards, our

1 communities will be considered under Federal law to
2 have no flood protection, and therefore, the cost of
3 living and doing business in those communities will
4 go up because their flood insurance premiums will be
5 higher from that perspective.

6 CHAIRMAN EVANS: Thank you, Madam Secretary.

7 SECRETARY MCGINTY: Certainly.

8 CHAIRMAN EVANS: I'm want to go to
9 Representative Ron Miller.

10 REPRESENTATIVE MILLER: Thank you,
11 Mr. Chairman.

12 Good morning, Madam Secretary.

13 SECRETARY MCGINTY: Good morning.

14 REPRESENTATIVE MILLER: I'd like to focus a
15 little bit on alternative energy, but not quite in
16 the way you might expect.

17 SECRETARY MCGINTY: Okay.

18 REPRESENTATIVE MILLER: The local soil and
19 water conservation district assistance appropriation
20 decreases by \$500,000. I have a concern with that.
21 The Administration is pushing alternative energy.
22 We're looking at biodiesel, ethanol.

23 The conservation districts expect that this
24 is going to leave a lot of land that has been idol
25 for agriculture production to be put back into

1 production. They have major concerns as regards the
2 Chesapeake Bay and that initiative. How do you
3 justify this decrease with their concerns?

4 SECRETARY MCGINTY: Actually,
5 Representative, our proposed funding is flat from
6 last year. The \$500,000 represents the additional
7 dollars the Legislature had provided to the
8 conservation districts. But the \$3.1 million is what
9 we asked for last year, and in fact for the last 3 or
10 4 years running.

11 REPRESENTATIVE MILLER: So your contention
12 is that that \$500,000 was not necessary?

13 SECRETARY MCGINTY: Well, actually I think
14 that the conservation districts do amazing work,
15 essential work, for the Commonwealth. And while we
16 all need additional resources -- and I'm sure the
17 conservation districts could very capably invest
18 additional resources -- the \$3.1 million is what our
19 budget could carry.

20 REPRESENTATIVE MILLER: Well, I would ask
21 that you take a new look at that, especially in light
22 of the Chesapeake Bay issues and everything else
23 there.

24 I'm also looking at an article that appeared
25 just last week: "Loss of wind causes Texas power

1 grid emergency." Are you familiar with ERCOT, which
2 is their equivalent of PJM, and what they were forced
3 to do, because they had a significant load being
4 supplied by wind for their electric grid and
5 basically the wind stopped blowing.

6 SECRETARY MCGINTY: Yes.

7 REPRESENTATIVE MILLER: Could that happen in
8 Pennsylvania where we get these rolling blackouts,
9 brownouts?

10 SECRETARY MCGINTY: PJM is very much
11 involved in the development of planning of the use of
12 our renewable energy resources, including wind, and
13 they do have various formulas that inform where they
14 believe a wind resource enhances the reliability and
15 the service provided by the grid. And they will step
16 in if they think in any given area there would be an
17 overabundance of any particular energy source,
18 because no energy source, including wind, is on line
19 100 percent of the time.

20 If you've seen the PJM command center, it is
21 a very sophisticated, almost Starship Enterprise-type
22 of capability where they are able to dispatch various
23 energy resources depending on price and demand. And
24 they are very much involved, as I say, in our
25 deployment of various resources, including wind, and

1 do not believe that we have a reliability issue with
2 the wind we're deploying.

3 In fact, to the contrary. The reliability
4 issue comes with the fact that we now have demand for
5 energy outstripping what we have seen in increased
6 energy-generating capability across the PJM system.

7 REPRESENTATIVE MILLER: Well, as you know, I
8 have a major concern that pricing is not being done
9 appropriately, because there is a backup requirement
10 when you rely on energy sources that are not
11 predictable.

12 SECRETARY MCGINTY: Sure.

13 REPRESENTATIVE MILLER: And certainly solar
14 and wind probably carry a premium that is not being
15 reflected in the pricing to the people that opt to
16 purchase those.

17 SECRETARY MCGINTY: Yes.

18 REPRESENTATIVE MILLER: It's not that I
19 don't support those forms of energy; I just have
20 concerns about reliability and making sure that we
21 protect the customers in Pennsylvania.

22 SECRETARY MCGINTY: Yes.

23 REPRESENTATIVE MILLER: One last question.

24 Could you please explain the resources,
25 financial and personnel, devoted to biosolids

1 management in the Commonwealth of Pennsylvania?

2 SECRETARY MCGINTY: Yes. We do have a staff
3 that focuses on the biosolids issue. I would have to
4 report back for the record the exact number of staff
5 that we do have overseeing that work.

6 But they have a variety of responsibilities,
7 including setting and then reviewing and updating the
8 standards that govern the use of biosolids, and that
9 has two aspects: the biological parameters of what
10 can or cannot be in the biosolids; and the second is
11 a series of best-management practices that govern
12 what types of lands on which the biosolids can be
13 used, the slopes, the conditions, the weather
14 conditions, related to that application.

15 There also are a number of conservation
16 districts that oversee the biosolids program in the
17 field, if you will. So it's a combination of those
18 two sets of organizations that are involved in
19 biosolids -- oversight and management.

20 REPRESENTATIVE MILLER: How do we compare to
21 other States with what we're doing?

22 SECRETARY MCGINTY: Well, in terms of the
23 overall statistics, biosolids are widely and
24 abundantly used and are not landfilled in most parts
25 of the country. So up to 50 percent of the biosolids

1 that are generated and treated in sewage treatment
2 systems are either used for some type of energy
3 application and combustion or are used in land
4 application. And I think that those are statistics
5 you would see in many parts, if not completely across
6 the country.

7 Our standards for the use of biosolids
8 ultimately are governed by Health and EPA standards,
9 so there should be some consistency there across the
10 country as well.

11 REPRESENTATIVE MILLER: Okay. Thank you,
12 Madam Secretary.

13 SECRETARY MCGINTY: Thank you.

14 REPRESENTATIVE MILLER: Thank you,
15 Mr. Chairman.

16 CHAIRMAN EVANS: Representative John Myers.

17 REPRESENTATIVE MYERS: Thank you,
18 Mr. Chairman.

19 Madam Secretary, good morning.

20 SECRETARY MCGINTY: Good morning.

21 REPRESENTATIVE MYERS: How are you?

22 SECRETARY MCGINTY: Very well. Thank you.
23 And yourself?

24 REPRESENTATIVE MYERS: I'm okay.

25 SECRETARY MCGINTY: So far. Not jumping to

1 any rash conclusions.

2 REPRESENTATIVE MYERS: Well, you know me
3 being a city guy, you know, I'm trying to understand
4 all this agriculture and stuff, you know?

5 SECRETARY MCGINTY: Right.

6 REPRESENTATIVE MYERS: Actually, I have a
7 couple of questions, but in your budget when you
8 talked about energy independence and then after that
9 you talked about fuel initiatives, I wanted to try to
10 tie the two of those together.

11 SECRETARY MCGINTY: Okay.

12 REPRESENTATIVE MYERS: Are they tied
13 together? Let me ask that question.

14 SECRETARY MCGINTY: Yes, they are tied
15 together in two ways: first in terms of us making
16 and generating our own energy resources for
17 electricity and fuels; and second, in terms of
18 enabling energy to be affordable in the Commonwealth.

19 We broke a record yesterday globally again
20 with oil going north of \$104 a barrel. So these
21 initiatives are about keeping money in
22 Pennsylvanians' pockets.

23 REPRESENTATIVE MYERS: Okay. Well, that's a
24 good segue.

25 When I look at alternative fuels and look at

1 some of the line items you have in here, like the
2 greenhouses, venture capital---

3 SECRETARY MCGINTY: Right.

4 REPRESENTATIVE MYERS: ---is there a list of
5 energy crops that you're looking at? I mean, you
6 know, I keep hearing about, you know, wood chips and
7 switchgrass, hardwood, softwood. I mean, is there---

8 SECRETARY MCGINTY: You're sounding like a
9 farmer more every minute.

10 REPRESENTATIVE MYERS: I mean, is there a
11 list of ingredients that can be used as energy crops?

12 SECRETARY MCGINTY: Yes, indeed, and we'd be
13 happy to provide that to you.

14 REPRESENTATIVE MYERS: Okay.

15 The next issue that I have -- not an issue,
16 but a question. These various developmental items
17 that you have here as we begin to create this new
18 industry, have you been able to determine -- it's a
19 two-part question.

20 In what region do what energy crops do best
21 as opposed to, say, in the southwest as opposed to
22 the southeast -- you know, switchgrass might grow in
23 the southwest and not in the southeast. I mean, as
24 you begin to look at that, have you been able to
25 discern what urban parts of Pennsylvania could be a

1 part of this industry? What energy crops, if any,
2 could be produced in urban Pennsylvania like through
3 hydroponics or something like that---

4 SECRETARY MCGINTY: Sure.

5 REPRESENTATIVE MYERS: ---as well as the
6 refining and processing? I mean, have you begun to
7 look at, you know, how we regionalize this production
8 of this new generation of energy?

9 SECRETARY MCGINTY: Yes. And the answer is
10 that Pennsylvania is, in every corner of the State, a
11 robust agricultural State. We are one of the leading
12 producers of soy, for example. We're a net exporter
13 of soy.

14 REPRESENTATIVE MYERS: Okay.

15 SECRETARY MCGINTY: We import corn. On the
16 other hand, we grow a lot of corn as well.

17 In urban areas, there are all kinds of
18 resources that have tremendous energy value. So, for
19 example, there is a company that has been very
20 successful that we have funded in the heart of
21 Philadelphia that is called Fry-o-Diesel, and that
22 company basically is working with restaurants, taking
23 some of the most difficult-to-manage greases that are
24 produced in those restaurants.

25 It saves the restaurant money in having to

1 dispose of those greases. They have cleaned it up,
2 and they have made a beautiful biodiesel product from
3 that resource.

4 And in fact there are several big recycling
5 companies, trash-recycling companies, in the
6 Philadelphia area that now are customers to
7 Fry-o-Diesel, and they are running their trash trucks
8 or are proposed to run their trash trucks on that
9 resource.

10 REPRESENTATIVE MYERS: Okay.

11 I just have another two-part question, Mr.
12 Chairman, and then I'll be done.

13 When you mentioned corn and soy, that's kind
14 of old school as we speak today.

15 SECRETARY MCGINTY: That's true, in terms of
16 the cellulosic fuel, sir.

17 REPRESENTATIVE MYERS: Cellulosic; I mean,
18 that's kind of where I'm going now. That's the new
19 generation.

20 SECRETARY MCGINTY: Right.

21 REPRESENTATIVE MYERS: I mean, even if we
22 produce all the corn in America, it would only get us
23 to 15 percent of where we want to go, and we're going
24 to have to bridge that gap with cellulose.

25 So to the extent that you can, provide to

1 the committee these questions I'm asking you about:
2 the urbanization of this; what this cellulosic
3 industry is going to look like; to what extent can
4 urban Pennsylvania as well as rural Pennsylvania.

5 But I read something very interesting. How
6 do you convince a farmer not to grow tomatoes but to
7 grow switchgrass?

8 SECRETARY MCGINTY: Price, price, price.
9 The farmers will grow what's bringing in the best
10 price, right?

11 REPRESENTATIVE MYERS: Well, I just think
12 that we haven't gotten there with regards to that
13 whole educational process around this.

14 SECRETARY MCGINTY: Absolutely.

15 REPRESENTATIVE MYERS: And I just need to
16 get some more information. You can see I'm a little
17 hyped up about this.

18 I mean, I just think that this is a emerging
19 industry where not only can white-collar jobs be
20 created, blue-collar jobs, but also green-collar
21 jobs, which I see as a new market.

22 SECRETARY MCGINTY: That's exactly right.
23 Thank you, Representative. I'd be very, very happy
24 to work with you on that.

25 REPRESENTATIVE MYERS: Okay. Thank you very

1 much.

2 SECRETARY MCGINTY: Thanks.

3 REPRESENTATIVE MYERS: Thank you,
4 Mr. Chairman.

5 CHAIRMAN EVANS: Did you want to comment on
6 that?

7 SECRETARY MCGINTY: Well, only to say that I
8 think that we have a happy situation in terms of
9 being able to get started today with corn-based
10 ethanol and then move into the cellulosic feedstocks
11 that you're pointing to, because something on the
12 order of 78 to 80 percent of the entire capital plant
13 and equipment that you need for a corn-based ethanol
14 operation is the very same equipment you would use
15 for cellulose.

16 So while we are encouraging the development
17 of these new resources, we can get started today.

18 CHAIRMAN EVANS: Thank you.

19 Representative David Reed.

20 REPRESENTATIVE REED: Thank you,
21 Mr. Chairman.

22 Good morning, Madam Secretary.

23 SECRETARY MCGINTY: Good morning.

24 REPRESENTATIVE REED: Good to see you again
25 this morning.

1 SECRETARY MCGINTY: Thank you. You, too.

2 REPRESENTATIVE REED: I want to start out by
3 talking a little bit about mine reclamation dollars
4 from the Federal government. It's my understanding
5 with the reauthorization of the Federal program that
6 the Commonwealth will see a number of funds come
7 available over the next several years for the
8 reclaiming of our mine projects.

9 And to begin with, from what I understand,
10 your department has held a series of outreach
11 meetings across the Commonwealth to gather public
12 input on how those dollars should be used.

13 SECRETARY MCGINTY: Yes.

14 REPRESENTATIVE REED: Is the department
15 currently preparing a report to the Legislature and
16 to the public in general in regard to those hearings?

17 SECRETARY MCGINTY: Two things are happening
18 now.

19 One of the recommendations in the hearings
20 was to have a more technically detailed set of focus
21 groups; and then second, to gather the more
22 generalized comments. The report is being written on
23 the generalized comments as we are now finalizing the
24 more detailed focus group sessions as well.

25 REPRESENTATIVE REED: Okay. So the focus

1 group sessions have not begun yet?

2 SECRETARY MCGINTY: No, no, no; they are
3 underway as well.

4 REPRESENTATIVE REED: Oh; okay.

5 SECRETARY MCGINTY: How many more of them we
6 have, I'm not quite sure, but I think we're pretty
7 much reaching the tail end of that. And I can tell
8 you that the draft of the more generalized report is
9 nearly done, and I expect it for my own review within
10 the next week.

11 REPRESENTATIVE REED: And when do you
12 anticipate that being available for the Legislature's
13 review?

14 SECRETARY MCGINTY: Within the next several
15 weeks to a month.

16 REPRESENTATIVE REED: And when you have the
17 information from the focus groups, when do you
18 anticipate that final report coming?

19 SECRETARY MCGINTY: I need to ask my staff
20 about that, because I haven't had much of a detailed
21 briefing on that. But my guess is that the focus of
22 those focus groups, if you will, are detailed things
23 like, are there advances in the design of passive
24 treatment systems or active treatment systems that we
25 ought to be more heavily investing in or encouraging,

1 those kinds of analyses, and I haven't seen any of
2 that work product yet.

3 REPRESENTATIVE REED: Are you able at all at
4 this point to give us a general idea of some of the
5 trends that you found through those public hearings?

6 SECRETARY MCGINTY: Yes, and I will tell you
7 the biggest trend is the justifiable pride and
8 support that watershed groups have for the tremendous
9 work that they have done in partnering with the
10 Commonwealth in cleaning up abandoned mine
11 discharges.

12 And the tough question will be, given that
13 in total the Commonwealth has \$1.5 billion coming to
14 us, that number is derived just from cleaning up the
15 surface, the land-based abandoned mine features. It
16 didn't give us direct dollars for water, but the
17 Federal law, with our support, allows us to take up
18 to 30 percent of that \$1.5 billion and dedicate it to
19 water reclamation.

20 So the conversation that we will want to
21 have with the Legislature, as you examine this, is,
22 one, what percentage of the money should go to water
23 as opposed to remediating the unsafe features from
24 abandoned mine workings; and the second is, is there
25 an investment vehicle we can think about creating so

1 that whatever dollars go to water can be growing over
2 time to ensure perpetual maintenance and operation of
3 those abandoned mine discharge reclamation systems?

4 REPRESENTATIVE REED: Okay. So then you are
5 taking into account the operation and maintenance
6 dollars of these systems? Because I know in my area,
7 that has been an area of great concern, to not put in
8 all these systems up front and then not to have the
9 dollars to maintain them in the years ahead.

10 SECRETARY MCGINTY: Exactly. And, you know,
11 we all love to go to the ribbon-cuttings of new
12 projects, but that water will turn orange immediately
13 if the money doesn't keep coming to keep the system
14 running. And to me, that's going to be one of the
15 most important pieces of the equation for us to work
16 with all of you on in trying to fix.

17 REPRESENTATIVE REED: Are you aware of the
18 timetable as of yet on when Pennsylvania will start
19 to draw down these funds from the Federal government?

20 SECRETARY MCGINTY: There is a tentative or
21 a timetable in theory, and that would be that this
22 year, again, we would get pretty much level funding
23 on the order of \$27 million.

24 I think it's 2009-2010 when we can
25 anticipate seeing the first appreciable bump up of

1 that into the \$50 million-plus range and hopefully
2 see that level for the balance of the time, and
3 increasing, actually, over the 15 years that's
4 envisioned in the program.

5 REPRESENTATIVE REED: Okay. Just one final
6 question on an unrelated topic.

7 We've dealt with the issue of rate caps, the
8 caps coming off of electricity prices in a number of
9 hearings---

10 SECRETARY MCGINTY: Yes.

11 REPRESENTATIVE REED: ---both Appropriations
12 hearings and a hearing with the Environmental
13 Resources and Energy Committee a couple of weeks ago.

14 SECRETARY MCGINTY: Yes.

15 REPRESENTATIVE REED: There are proposals
16 out there in both the House and the Senate that would
17 extend rate caps for a number of years.

18 SECRETARY MCGINTY: Yes.

19 REPRESENTATIVE REED: My question to you is,
20 do you believe that is a good idea? And if not, what
21 steps do you believe that we need to take to help
22 mediate that situation in the next few years?

23 SECRETARY MCGINTY: Right. I think that
24 Representative McCall has it right in his
25 legislation, and his legislation, through a series of

1 interventions, like allowing long-term contracting,
2 like allowing and requiring, actually, a portfolio
3 of resources to be put together to serve the public,
4 et cetera, is the right approach that will stabilize
5 rates over time, phasing in rate increases.

6 But I appreciate that the clock ticks, and
7 all of you now are faced with a decreasing amount of
8 time to put in place complicated new policy levers to
9 ensure against rate shocks.

10 So it has been the Governor's position that
11 the best policy is a policy that keeps us on track in
12 a deregulated marketplace but enables a glide pass so
13 there's no rate shock here in a year and a half.

14 On the other hand, your options get less
15 attractive, not more, as the clock ticks, and it
16 takes time for the Legislature to act, for the PUC to
17 put implementing regulations in place, et cetera.

18 So I can imagine a day might come when you
19 would feel that that's your only option, to give
20 everyone some additional breathing room. But no, I
21 do not believe that that's the preferred policy.

22 REPRESENTATIVE REED: Okay. Thank you very
23 much, Madam Secretary.

24 SECRETARY MCGINTY: Thank you.

25 REPRESENTATIVE REED: Thank you,

1 Mr. Chairman.

2 CHAIRMAN EVANS: Representative John
3 Siptroth.

4 REPRESENTATIVE SIPTROTH: Thank you,
5 Mr. Chairman.

6 Good morning, Madam Secretary.

7 SECRETARY MCGINTY: Good morning.

8 REPRESENTATIVE SIPTROTH: Good to see you
9 again.

10 SECRETARY MCGINTY: Thank you.

11 REPRESENTATIVE SIPTROTH: First of all, a
12 little bit of praise and then a question.

13 Mike Bedrin in the northeast has been
14 extremely helpful in trying to move some of those
15 permits, so that leads me into the question as to how
16 are we doing in the northeast region regarding the
17 significant backlog of permits that we saw last year
18 at this time?

19 SECRETARY MCGINTY: Well, Representative,
20 let me thank you for your leadership, and to state
21 more generally, the Representative and some of his
22 colleagues from the northeast region have been very
23 concerned and worked with the department on our
24 construction-related permits.

25 Federal law changed, which dramatically

1 raised the difficulty of getting those permits. The
2 good news is, that was accompanied by a lot of
3 economic growth in the region so we had a lot of
4 construction applications.

5 With your support, we have both changed the
6 permitting process, redeployed staff, and worked with
7 the developers, so now they have a unique opportunity
8 to use a third-party permit reviewer. Add it all up,
9 and we have cleared out the backlog.

10 Everyone has received now a response to
11 their application, most of them approved, some of
12 them not, but everyone at least has their answer.
13 There may be a few that are remaining back and forth,
14 but at least no one is just not hearing from us.
15 There's no longer a big pile or stack.

16 REPRESENTATIVE SIPTROTH: Okay. Thank you
17 on that question.

18 I would like to also thank Secretary Desmond
19 for his help with the energy initiatives, that we
20 have been moving some projects through our area.

21 SECRETARY MCGINTY: Good.

22 REPRESENTATIVE SIPTROTH: Let's talk a
23 little bit about the flood mitigation.

24 SECRETARY MCGINTY: Yes.

25 REPRESENTATIVE SIPTROTH: There's no

1 question that I have in my district a number -- the
2 entire district basically lies along the Delaware.
3 Those individuals are very, very concerned,
4 especially now with the New York DEP closing the
5 aqueduct, which would give relief into the Hudson.

6 What legal action can the State of
7 Pennsylvania do to try to force the New York DEP to
8 take into consideration the non-voids that are being
9 left in those reservoirs that would help reduce the
10 potential for flooding?

11 And secondly, in the budget, is there enough
12 money to possibly do the floodplain mapping so that,
13 you know, we have a true -- and I posed this question
14 to FEMA when they were here -- a true flood
15 delineation mapping so that folks can obtain
16 insurance, is the other issue.

17 So if you could address those two, and I
18 have one more then after that.

19 SECRETARY MCGINTY: Let me start with the
20 second.

21 The Governor's initiative provides
22 \$2.4 million -- not in my budget, in DCNR's budget --
23 for LIDAR technology. That's the overflight
24 technology that we've been involved in as a
25 Commonwealth completely to chart and remap for

1 flooding purposes the entire Commonwealth.

2 Secretary DiBerardinis would be able to
3 speak to this in more detail, but I believe that will
4 enable a finalizing of that activity so that the
5 entire Commonwealth would have been flown over and
6 we'd have the data then to update those maps. So I
7 think we're on our way to doing that.

8 With respect to the management of the
9 Delaware River Basin, that is something, I think as
10 you are aware, that we participate in through the
11 Delaware River Basin Commission. It's governed by
12 that compact as well as by a U.S. Supreme Court
13 decision. And while the risk of flooding is always
14 there, there are steps that have been taken through
15 that commission that are meaningful in reducing,
16 hopefully, the chances or the severity of flooding.

17 For example, we are managing now those
18 reservoirs in a way that enhances spill mitigation.
19 And after the news of the tunnel that you're
20 referring to being shared, which we only learned
21 about on February 14, within a couple of days of
22 that, there was a spill out of the reservoirs as part
23 of the strategy there.

24 But beyond that, we're also now keeping room
25 in those reservoirs for snowpack, which had not

1 previously been the case. And maybe by way of
2 anticipating some things that the Legislature might
3 find controversial, we've also been moving forward on
4 some of the more difficult recommendations out of the
5 task force that was formed; namely, more demanding
6 floodplain regulations.

7 And we are talking now and have a proposal
8 out there that would invite comment on whether we
9 should have mandatory buffers and setbacks from every
10 river and stream in the Commonwealth for all kinds of
11 property development. We're at the earliest stages
12 of that, but we already have some incoming with
13 respect to that, that you can imagine is not boring.

14 REPRESENTATIVE SIPTROTH: With Act 67, a lot
15 of our municipalities have already adopted a buffer,
16 whether it be the 150 feet or 75 feet or 10 feet.
17 You know, still science hasn't proven which is really
18 the prudent fashion to use, the standard to use.

19 How about as far as the smaller streams and
20 tributaries, the debris that has been left there, and
21 not necessarily construction debris but trees and
22 that type of thing which contribute to altered flows
23 of those tributaries?

24 SECRETARY MCGINTY: Yes.

25 REPRESENTATIVE SIPTROTH: Is there money in

1 the budget for some cleanup this year?

2 SECRETARY MCGINTY: In the doubling of what
3 we call our 391 Program, the Governor proposes to
4 double that program. That is a passthrough, a grant
5 program to local governments that has a variety of
6 purposes that are flood related, including stream
7 improvements.

8 And so if there were projects that were to
9 improve the flow and reduce the flooding incidents
10 in a stream, it could be qualifying for that
11 391 Program, which, again, the Governor would double
12 in this budget proposal.

13 REPRESENTATIVE SIPTROTH: And I would assume
14 that the municipalities would be required to obtain a
15 permit from either the conservation district or DEP
16 to get in those streams?

17 SECRETARY MCGINTY: Possibly,
18 Representative. It depends. If there is debris that
19 is a consequence of a flood, then we typically issue
20 emergency-related permits that enable the immediate
21 removal of that debris.

22 If it's also an activity where the hardware
23 is going to be on the banks of the river and not in
24 the bed of the river, then often you don't need a
25 permit from us.

1 If you are intruding into the bank of the
2 river and it's not immediately flood related, then
3 yes, you do need to come knock on our door.

4 REPRESENTATIVE SIPTROTH: Okay.

5 Is there a time frame with the emergency
6 permits? I thought that there was.

7 SECRETARY MCGINTY: Usually we are issuing
8 them on the spot, on site, in real time, in the event
9 of an incident and in the course of responding to the
10 incident.

11 REPRESENTATIVE SIPTROTH: Okay.

12 Well, let's just assume that there's debris
13 still remaining from a 2006 flood.

14 SECRETARY MCGINTY: I understand. We'd
15 probably come out and look at it. I think what we
16 would probably do is do that by a permit by rule or
17 general permit. If it genuinely is debris resulting
18 from a flood incident, the paperwork is not
19 cumbersome.

20 REPRESENTATIVE SIPTROTH: Okay. Thank you
21 very much, Madam Secretary.

22 SECRETARY MCGINTY: Thank you,
23 Representative.

24 REPRESENTATIVE SIPTROTH: Thank you,
25 Mr. Chairman.

1 CHAIRMAN EVANS: Representative Dave
2 Millard.

3 REPRESENTATIVE MILLARD: Thank you,
4 Mr. Chairman.

5 Good morning, Secretary McGinty.

6 SECRETARY MCGINTY: Good morning.

7 REPRESENTATIVE MILLARD: I would like to
8 bring full circle -- excuse the pun -- one issue back
9 in my district that we've worked on for a number of
10 years, and that is the tire-pile cleanup.

11 SECRETARY MCGINTY: Okay.

12 REPRESENTATIVE MILLARD: Just a couple
13 comments and one question for you on it.

14 It has been a pleasure to work with your
15 office up in the Columbia County/Williamsport area.
16 Dan Spadoni, Jim Miller and company -- fabulous --
17 Kevin with the gravel road tires program, End of the
18 Road.

19 I think that what I'd like to do -- I know
20 that we're probably a couple months away from having
21 this all cleaned up, and that will be my question to
22 you, what the time frame is.

23 But I'd like to expand on the program that
24 you and I have discussed before, a pilot program, at
25 least in Columbia County and then possibly statewide,

1 because I think that if we were to incorporate within
2 Earth Day every year a delivery site for people who
3 have tires, that we can actually prevent a lot of
4 problems in the future with individuals that simply
5 have no method or means other than paying somebody to
6 haul them away with disposal of scrap tires.

7 So my question to you, first of all, is the
8 time frame on the completion in Columbia County, and
9 secondly, whether you're receptive to that idea?

10 SECRETARY MCGINTY: Yes. I think the time
11 frame will be this summer, and so I think we are
12 mostly exactly on track.

13 As you probably know, our original
14 contractor for this very last piece of the work wound
15 up having some non-deliverable issues, and so we have
16 moved on to a different contractor. But we're well
17 along in finalizing the arrangements with that
18 contractor.

19 My guess is that we're talking a July/August
20 time frame as opposed to the June time frame that we
21 were previously shooting for. So it hasn't resulted
22 in too much of a delay or a problem.

23 I think we're on track, and it is a terrific
24 tribute to you and your leadership and this committee
25 in having provided us the dollars to do that project.

1 So we're very grateful as well.

2 In terms of your idea with respect to a tire
3 drop-off, I think it's a great idea, not only from an
4 environmental cleanup point of view, but Pennsylvania
5 is one of the leading States in the country in the
6 recycling of tires.

7 In fact, the largest tire recycler in the
8 country is located in Pennsylvania, and if anything,
9 they need more supply of those tires because the
10 demand is so great, and I think your initiative would
11 help in that regard.

12 REPRESENTATIVE MILLARD: Thank you.

13 Now, I'd like to shift gears here a little
14 bit and talk about flood control.

15 SECRETARY MCGINTY: Okay.

16 REPRESENTATIVE MILLARD: I read your
17 comments that the Governor's proposal calls for
18 \$100 million for flood-control projects over the next
19 3 years, and of that, you mention that \$91 million
20 would be for capital flood protection projects.

21 SECRETARY MCGINTY: Yes.

22 REPRESENTATIVE MILLARD: Now, my questions
23 are somewhat specific, following up with
24 Representative Siptroth's. Have you considered
25 developing a program such as in cooperation with

1 county conservation districts to address these
2 flood-related projects that really are not eligible
3 for Federal or State funding?

4 It seems that many times if we allow the
5 local governments, the local soil conservation groups
6 who really have firsthand knowledge, firsthand
7 involvement, with knowing the problematic areas, that
8 it seems to me those dollars are better spent than
9 sifting through several hands or several levels of
10 government.

11 SECRETARY MCGINTY: Yes.

12 REPRESENTATIVE MILLARD: So my question to
13 you is, does the 391 Program that you talked about,
14 does that address that specifically?

15 SECRETARY MCGINTY: Those dollars go
16 directly to local governments, and they are in
17 furtherance of those local governments' flood control
18 projects. So I think the answer to that is yes.

19 Also, let me underscore this: That
20 391 Program is also the fund that we use to fulfill
21 the local government's required match when they're
22 able to access the national Natural Resources
23 Conservation Service, which are typically more rural
24 types of projects. That's a 75/25 program. We can
25 pick up the 25 through the 391 Program.

1 REPRESENTATIVE MILLARD: And that seems to
2 have been the difficulty, at least in the rural area
3 of Columbia County that I represent, that it's
4 virtually impossible for these townships and local
5 governments to come up with one nickel, let alone
6 several thousand.

7 SECRETARY MCGINTY: It has been a tough
8 lift. And you supported the Governor's initiative
9 last year where we provided the extra dollars, I
10 think it was \$1 1/2 million, so that we could fully
11 pick up that 25 percent cost share. The Governor
12 proposed it, you supported it, so we were able to get
13 those projects done.

14 REPRESENTATIVE MILLARD: Now, outside the
15 scope of that but still keeping mainstream with the
16 thought process, what funding, if any, is available
17 present day, present time, for removing gravel bars
18 and obstructions in streams that really are changing
19 the footprint of the stream in causing collateral
20 damage?

21 SECRETARY MCGINTY: Just by that
22 description, I would say most likely in our
23 department, our Growing Greener program would be a
24 place to start and to look.

25 Again, if that circumstance is creating a

1 flood problem, it may also be eligible under the
2 391 initiative.

3 REPRESENTATIVE MILLARD: Thank you very
4 much.

5 SECRETARY MCGINTY: Thank you.

6 REPRESENTATIVE MILLARD: Thank you,
7 Mr. Chairman.

8 CHAIRMAN EVANS: Representative Michael
9 McGeehan.

10 REPRESENTATIVE MCGEEHAN: Thank you,
11 Mr. Chairman.

12 Good morning, Madam Secretary.

13 SECRETARY MCGINTY: Good morning.

14 REPRESENTATIVE MCGEEHAN: I'm going to
15 follow up with comments from Representative Myers,
16 who talked about the emphasis of the DEP in an urban
17 environment.

18 SECRETARY MCGINTY: Yes.

19 REPRESENTATIVE MCGEEHAN: I want to
20 particularly laud you and your department for your
21 activity in Philadelphia and in your concentration on
22 urban environmental issues.

23 SECRETARY MCGINTY: Thank you.

24 REPRESENTATIVE MCGEEHAN: I don't think it's
25 an initiative that I've seen in my 18 years in the

1 Legislature. And I particularly want to thank you
2 for the work you've done in the restoration of the
3 Pennypack Creek and in the work you have done on the
4 Delaware and the Schuylkill Rivers, too.

5 SECRETARY MCGINTY: It's a pleasure, but
6 we're very literally following your lead there, and I
7 think that you have put that on the map more than
8 anyone else, that the environment is for city
9 dwellers as well as the great countryside.

10 So thank you for your leadership and vision.

11 REPRESENTATIVE MCGEEHAN: Well, thank you
12 for that. But there's a serious issue, particularly
13 in Philadelphia.

14 SECRETARY MCGINTY: Yes.

15 REPRESENTATIVE MCGEEHAN: As you know, I
16 represent a district along the Delaware River, and
17 you and I have worked closely on some development
18 projects there---

19 SECRETARY MCGINTY: Yes.

20 REPRESENTATIVE MCGEEHAN: ---always with the
21 emphasis of maintaining public access to the Delaware
22 River and ensuring that the progress we've made is
23 sustained for future generations.

24 However, there's a troubling development, as
25 you have read, where the city of Philadelphia and

1 other entities have essentially end-runned it, the
2 long precedent in Pennsylvania in the granting of
3 riparian rights along the Delaware River.

4 My concern is that the Department of
5 Environmental Protection is also cut out of decisions
6 that affect the health and wealth and well-being of
7 the river and the residents who live along that
8 river. My concern is that the DEP's concerns won't
9 be addressed.

10 SECRETARY MCGINTY: Okay.

11 REPRESENTATIVE MCGEEHAN: Right now, as you
12 know, the DEP weighs in on any matters that affect
13 the use and the encroachment on the Delaware River
14 front. We've seen that precedent thrown out the
15 window.

16 I'm not talking about casinos, whether it's
17 anti-casino, pro-casino. I honestly don't care. My
18 concern is that the long precedent we've established
19 in the Legislature and the precedent of the DEP
20 having great weight in making those decisions in
21 granting those permits are being thrown out the
22 window simply because people have deep pockets and
23 political influence.

24 SECRETARY MCGINTY: Well, I'm grateful to
25 you for recognizing that in fact we do have some

1 jurisdiction in this regard.

2 On the other hand, while I'm jealous of that
3 jurisdiction, it has its limits. So our jurisdiction
4 is governed in the Dam Safety and Encroachments Act,
5 and it applies, as you know, where there is an
6 encroachment on the submerged lands of the
7 Commonwealth that are 25 feet or smaller and also
8 where the purposes are such that they are considered
9 appropriate purposes under the law.

10 Where it's a different kind of development
11 or not a development that has those purposes
12 identified in the law, it is a jurisdiction that's
13 reserved then to the Legislature in terms of whether
14 or not, for the most part in the Commonwealth, as to
15 whether or not there is a license to be granted.

16 And the only footnote there, of course, is
17 the question on which we don't take a position, in
18 the particulars of Philadelphia.

19 REPRESENTATIVE MCGEEHAN: Well, we're going
20 to see that -- as you know, Madam Secretary, there
21 are navigable waters---

22 SECRETARY MCGINTY: Yes.

23 REPRESENTATIVE MCGEEHAN: ---that obviously
24 are subjected to the rights of riparian rights, and
25 we're going to see this problem expanded, and I would

1 caution to you and your department -- and obviously
2 you are a forward-thinking person and understand that
3 this issue isn't just going to rest in Philadelphia;
4 this issue is going to sprout up in other areas of
5 the Commonwealth -- and I think the department should
6 be cognizant of that and weigh in on, not the
7 economic impact, the environmental impact of any
8 development, and I would hope that the DEP reasserts
9 its right in these negotiations.

10 SECRETARY MCGINTY: Yeah; I can assure you
11 where we have jurisdiction under the Dam Safety and
12 Encroachments Act, we will be there and asserting
13 that jurisdiction, as we need to. I mean, we are a
14 representative of the interests of the citizens of
15 the Commonwealth and their right to have access to
16 the waters of the Commonwealth.

17 REPRESENTATIVE MCGEEHAN: Thank you, Madam
18 Secretary.

19 SECRETARY MCGINTY: Thank you.

20 REPRESENTATIVE MCGEEHAN: Thank you,
21 Mr. Chairman.

22 REPRESENTATIVE KELLER: Representative Katie
23 True, please.

24 REPRESENTATIVE TRUE: Thank you,
25 Mr. Chairman.

1 Good morning, Madam Secretary.

2 SECRETARY MCGINTY: Good morning.

3 REPRESENTATIVE TRUE: Can we jump into the
4 Chesapeake Bay tributary issue?

5 SECRETARY MCGINTY: Yes; sure.

6 REPRESENTATIVE TRUE: I was wondering --
7 obviously there's a lot of controversy going on
8 around it. I saw in Lancaster County -- I represent
9 part of Lancaster County -- two municipalities have
10 joined in a lawsuit.

11 SECRETARY MCGINTY: Yes.

12 REPRESENTATIVE TRUE: Of course, you know,
13 everybody is very concerned about cost. In moving
14 around the county, I have not run into anybody that
15 doesn't want to try to do something for the Bay. I
16 know I certainly am supportive of that, but the cost
17 is so huge.

18 I just wondered if you would comment on the
19 status of where we are since all the controversy
20 erupted, if you wouldn't mind, please.

21 SECRETARY MCGINTY: Yes.

22 Well, first, I think it is understandable
23 that people have a bit of shock in terms of where the
24 situation now is, because, you know, in many ways,
25 the Chesapeake Bay issue has been talked about and

1 Pennsylvania has been engaged in it for 20 years, but
2 it's only since August of 2005 that the conversation
3 became a Federal mandate.

4 So now we are in the context of real as
5 rain, we have to do it, and the Feds are laying out
6 what we have to do and the time is upon us. I do
7 think that the issue is finding the funds to support
8 our response to the Chesapeake mandate.

9 And I think, though, that while that will be
10 challenging enough, it is really the tail on a much
11 bigger dog, which is to the tune of about \$20 billion
12 of backlogged drinking water and sewerage upgrades.

13 That number, by the way, is a Federal
14 number, and it is from 2004, and so my guess is that
15 the tab that we are looking at now is even much
16 higher than that. And that, of course, is why the
17 Governor, in conversation with the legislative
18 leadership, issued his Executive Order last week
19 calling for a task force that would wrestle with this
20 issue and report back in October with some funding
21 solutions.

22 REPRESENTATIVE TRUE: Would you -- I mean, I
23 have here a cost for the 184 sewage treatment plants
24 as \$650 million to over a billion. Is that right?

25 SECRETARY MCGINTY: Yes. We had originally

1 proposed a plan that enabled sewage treatment plants
2 to take advantage of unused capacity in meeting their
3 obligation.

4 People have asked, where is that
5 \$190 million that the department has talked about?
6 It derives from that set of assumptions.

7 Then we held a stakeholders task force
8 meeting, which included the municipalities. They
9 said, we would rather use the unused capacity to
10 grow, and so it was a different program design that
11 now is in place. And then the task force came up
12 with numbers. The median and what they considered
13 the best available number was the \$620 million.

14 There were numbers that extended lower than
15 that into a couple hundred million dollars, or
16 \$300 million, and there were numbers that extended
17 higher than that into a billion dollars plus. And
18 there are various assumptions that go with each of
19 those points. I think any way you slice it, it
20 certainly isn't free and it certainly is costly, and
21 municipalities need additional support to get there.

22 REPRESENTATIVE TRUE: Well, I certainly
23 concur with that. And I just might add on that, I
24 represented the 37th District some years ago -- I'm
25 in my second district now -- and I know one of the

1 townships there, those were the days where we always
2 had sewer grant money in the budget, and then every
3 year people talked about cutting it. And then those
4 of us from counties, like Lancaster County, would go
5 back and we would try to get the money back in.

6 And just something to put on the record. I
7 mean, I know some of these townships, and I know that
8 if they are not growing, for whatever reason, they
9 just don't have the money to do this. So obviously
10 it's a big problem to look at.

11 SECRETARY MCGINTY: Right.

12 REPRESENTATIVE TRUE: And just as one final
13 note.

14 Agriculture, of course, gets hit. I'm going
15 to say 86 percent of the nutrient-loading problem
16 comes from nonpoint sources.

17 SECRETARY MCGINTY: That's right.

18 REPRESENTATIVE TRUE: Could you tell me how
19 you measure that runoff? This is a big question all
20 the time in my district. How do you measure that?

21 SECRETARY MCGINTY: Yes. Let me start from
22 a different point of it.

23 The measurements are pretty precise in terms
24 of actual stream gauges that monitor how much
25 nitrogen, how much phosphorus, and how much sediment

1 is heading south out of our tributaries down to the
2 Chesapeake.

3 And then further precise, in terms of the
4 division between point sources and nonpoint sources,
5 the numbers for point sources literally came from
6 3 years of data that was measured and sent to the
7 department from each of the municipal sewage
8 treatment plants. So we have a pretty high degree of
9 precision around those numbers.

10 And I'm very glad that you are pointing out
11 that agriculture is mandated under this program as
12 well and is carrying its fair share. It is not just
13 the sewage treatment plants that have been singled
14 out. Everyone is called upon to reduce pollution in
15 like amount to which they contribute, and it's a
16 burden across the board.

17 REPRESENTATIVE TRUE: Are we still talking
18 about the suburbanites that like to put all the
19 chemicals on their lawns? That is certainly -- I
20 like to point that out when I'm in the ag area,
21 especially those of us -- we don't do it, but those
22 that want a very green lawn don't help the problem
23 either. So just to put that on the record.

24 SECRETARY MCGINTY: Well, it's an important
25 point, and the major suppliers of those lawn

1 chemicals, under the EPA initiative, have
2 reformulated those products now and are supplying a
3 low nitrogen-low phosphorous product.

4 REPRESENTATIVE TRUE: Well, that's good. We
5 hope that education point makes its way out into
6 suburban land.

7 I thank you, Madam Secretary.

8 SECRETARY MCGINTY: Thank you.

9 REPRESENTATIVE TRUE: Thank you,
10 Mr. Chairman.

11 REPRESENTATIVE KELLER: Thank you.

12 Representative Jake Wheatley, please.

13 REPRESENTATIVE WHEATLEY: Thank you,
14 Mr. Chairman.

15 Good morning, Madam Secretary.

16 SECRETARY MCGINTY: Good morning.

17 REPRESENTATIVE WHEATLEY: Let me ask you a
18 couple of quick questions, and I will apologize
19 offhand if they are not appropriate for your
20 department. If they are for some other department,
21 you can just tell me that.

22 SECRETARY MCGINTY: Sure.

23 REPRESENTATIVE WHEATLEY: I was visiting a
24 university out in the southwest, and one of the
25 things that they were asking me about is the fact

1 that we are doing a lot of investing in startup for
2 biotech and life sciences companies, but we haven't
3 developed a process by which those companies who have
4 ideas and now they are ready to take it to the next
5 phase, the model phase, where there are a lot of
6 capital investments for them to do pilot projects.

7 SECRETARY MCGINTY: I understand.

8 REPRESENTATIVE WHEATLEY: The particular one
9 I'm talking about, they have an offer from Florida
10 with \$5 million on the table, but they have to move
11 their headquarters there. They want to produce the
12 cellulose product to make plastic here, but there's
13 no money available.

14 SECRETARY MCGINTY: Right.

15 REPRESENTATIVE WHEATLEY: Help me understand
16 the new package that is coming out of the Governor's
17 Office that we are talking about. Are there any
18 moneys for that type of second stage/phase
19 development?

20 SECRETARY MCGINTY: That is exactly the
21 sweet spot where the Governor's Energy Independence
22 Fund is aimed.

23 In the financial world, it is referred to as
24 the valley of death, where the Federal government is
25 very good at giving early, early stage research

1 dollars, for basic research. And then you have
2 Wall Street and the private sector, once all the bugs
3 are worked out and all the risk is gone, then they
4 are happy to invest as something is fully
5 commercialized or ready to be commercialized. And
6 that is that inner period that there is not a funding
7 source and that if we want to see those companies
8 prosper, we need to be able to put some money in, and
9 the Governor's Energy Independence Fund, which the
10 Legislature -- Representative DePasquale, many of you
11 have been involved in -- would provide exactly those
12 critical dollars to bring those companies through the
13 valley of death to commercialization.

14 REPRESENTATIVE WHEATLEY: So that I'm clear,
15 help me understand, how much in that packet -- or
16 maybe it is not determined yet -- how much of that
17 would be for that type of development, meaning you
18 have an idea that is already researched---

19 SECRETARY MCGINTY: Right.

20 REPRESENTATIVE WHEATLEY: ---you are ready
21 to make the product, a model product, to try to
22 produce some form of it---

23 SECRETARY MCGINTY: Right.

24 REPRESENTATIVE WHEATLEY: ---how much of
25 that energy package will be for that type of

1 development?

2 SECRETARY MCGINTY: \$150 million is
3 earmarked specifically for those earlier, not just
4 beginning stage but earlier-stage companies to be
5 able to incubate those companies into commercially
6 profitable enterprises.

7 A little bit further on, the Governor's
8 package and Representative DePasquale's bill would
9 provide \$500 million when they are ready to take that
10 next step, actually put some steel in the ground,
11 actually hire some people, and begin to build a going
12 enterprise.

13 REPRESENTATIVE WHEATLEY: Okay.

14 Now, my second question goes to this whole
15 idea around how we coordinate statewide, but
16 specifically in the southwest. As you know, we are
17 having a serious conversation around some of our
18 water and sewer issues, and we are thinking about
19 moving to a more collaborative 11- or 13-county
20 region type of task force to look at what is going
21 on.

22 But, quite frankly, when you talk about
23 water, I mean, you are talking about the flows that
24 come from out of State as well as outside of those
25 11 counties.

1 What is the role that either your department
2 or some other department plays in helping to
3 coordinate and actually helping to enforce agreements
4 around the uses of our waterways?

5 SECRETARY MCGINTY: Yes; thanks.

6 Well, let me start on one side of it, which
7 is on the sewerage side, and your neck of the woods
8 is not just talking about it but under the set of
9 agreements, you have got 83 different municipalities
10 that are working together in enforceable agreements.

11 But there is a movement led, I think, in the
12 southwest to look at storm-water issues as well, and
13 I think that may be part of where you are referring
14 to, where communities upstream, for example, may
15 develop very intensively, and it is the communities
16 downstream then that see the flooding.

17 Two things, I think, are interesting there.
18 One is the initiative of the Council of Governments
19 in the southwest. I think you have something on the
20 order of 26 different municipalities that are now
21 signed up, and they are basically putting together an
22 integrated storm-water management plan.

23 We are supporting that effort in two ways.
24 One is substantively at the table, technical support,
25 making sure we are working right side by side so that

1 there are no legal surprises. The plan is done, and
2 then we have to say, well, but it doesn't meet our
3 regulations. We have not run into any of that, but
4 we are at the table to ensure against it.

5 We also do have a program in our budget that
6 provides funding and reimburses municipalities for
7 their storm-water management planning, and the
8 details of that, I think it is a 75-percent recovery
9 of expenses that we provide.

10 So there are dollars here, too, that enable
11 those plans to get done, because they are complex,
12 and it is better when they are done at larger scale,
13 frankly, so that all the pieces fit together.

14 REPRESENTATIVE WHEATLEY: And I can
15 appreciate that answer.

16 And I won't take up a lot more of the
17 committee's time on this, but I will encourage, and
18 I'm sure your people have been actively involved, but
19 I know that there is a move afoot to really try to
20 look at the southwest and to try to form some real
21 stronger partnerships and maybe even come to the
22 State for additional support in what we are trying to
23 do in the southwest, so I would---

24 SECRETARY MCGINTY: Yes. I think it's a
25 terrific model. It's a wonderful model, and we are

1 happy to support it and would be happy to continue
2 the conversation to see what more we can do.

3 REPRESENTATIVE WHEATLEY: Sure.

4 And, Mr. Chairman, my final question is one
5 that I ask all the time, and I'm sure you are ready
6 for it, the whole thing around environmental justice.

7 SECRETARY MCGINTY: Yes.

8 REPRESENTATIVE WHEATLEY: Can you give me an
9 update on what is going on? And also if you could
10 just briefly -- and you can respond in writing, too
11 -- if you just let me know where the Commonwealth
12 stands as it relates to our air quality and water
13 quality.

14 SECRETARY MCGINTY: Sure.

15 REPRESENTATIVE WHEATLEY: Especially the
16 geographic areas that may be struggling with
17 producing clean water, clean air, and so on and so
18 forth. Thank you.

19 SECRETARY MCGINTY: Environmental justice --
20 one, people power. I think as I had mentioned to you
21 before, we had an impressive board before. I think
22 the board now is top in class, the skill sets
23 represented on that board, in physicians, in members
24 of the clergy, and environmental grassroots people.
25 I mean, it is just a very, very impressive group.

1 They now are moving, and we have pledged some
2 financial support to do a statewide summit on
3 environmental justice. So there should be big things
4 coming from that.

5 In terms of where we are, I will just focus,
6 if I can, on air quality. Across the Commonwealth,
7 with some of our new regulations, the Pennsylvania
8 Clean Vehicles Program, et cetera, we have been
9 successful in having many, many counties, including
10 counties in the southwest, reclassified as being in
11 attainment with Federal air quality standards.

12 Having said that, the job is never done, and
13 EPA is in the process of finalizing more stringent
14 regulations, and so we will have to re-up if we want
15 to stay in a place where we are considered in
16 attainment with those regulations.

17 REPRESENTATIVE WHEATLEY: Thank you very
18 much.

19 SECRETARY MCGINTY: Thank you.

20 REPRESENTATIVE KELLER: Thank you.

21 Representative Steve Barrar, please.

22 REPRESENTATIVE BARRAR: Thank you, Mr.
23 Chairman.

24 Madam Secretary, I wanted to get back to the
25 Chesapeake Bay Tributary Strategy. I think your

1 department has identified 184 treatment plants that
2 will be affected by this mandate---

3 SECRETARY MCGINTY: Yes.

4 REPRESENTATIVE BARRAR: ---and the cost
5 estimates are in the area of \$650 million to a
6 billion dollars. That is just dealing with this.

7 Are you saying that there's a chance that
8 this could be or is it going to be implemented
9 statewide and that is where the \$20 billion cost
10 could come in?

11 SECRETARY MCGINTY: Well, there are nitrogen
12 and phosphorus requirements that are taking hold
13 across the Commonwealth in a process that is driven
14 by a different part -- well, actually the same part,
15 but it's a different piece. It is a set of Federal
16 action under the Federal Clean Water Act called the
17 TMDLs, the total maximum daily load requirements. So
18 that is coming.

19 But what I was referring to in the
20 \$20 billion is as this task force is formed to
21 wrestle with water and sewer infrastructure needs,
22 the Chesapeake piece is one piece of it, but the
23 overall price tag in antiquated sewerage and drinking
24 water systems across the State is on the order of
25 \$20 billion, and I think it is probably north of

1 that.

2 In the Pittsburgh situation, that plant
3 alone is probably a \$3 billion lift for it to meet
4 the combined sewerage overflow of Federal mandates
5 that it now faces.

6 REPRESENTATIVE BARRAR: And right now, I
7 guess the only help that our municipalities can look
8 for from the Administration is the Nutrient Trading
9 Credit Program? Is that a help to them?

10 SECRETARY MCGINTY: No; no. The Nutrient
11 Trading Program is another compliance option that is
12 available and has proven to be cost effective for the
13 communities that have taken advantage of it. But the
14 bread and butter, if you will, of dollars that are
15 available for water infrastructure in the
16 Commonwealth are two. One, the biggest piece is the
17 PENNVEST program where PENNVEST does on the order of
18 about \$180 to \$200 million a year in sewer
19 investments and I think about the same in drinking
20 water investments. And then the other, which is much
21 smaller, is the Growing Greener innovative
22 technologies program, which is an annual grant on the
23 order of a couple million dollars.

24 REPRESENTATIVE BARRAR: Is part of this
25 problem caused by our elimination of the Act 339

1 grants? I mean, I know I fought for that for years,
2 every I came here until the year the Rendell
3 Administration finally killed it. But, you know, I
4 think it was very shortsighted to take that out.
5 That was money, I think, our sewer authorities could
6 have used to upgrade their plants at this point.

7 The disagreement was---

8 SECRETARY MCGINTY: He could not use that
9 money--- Pardon me. He could not use that money to
10 upgrade the plant, no. It was operation and
11 maintenance dollars.

12 REPRESENTATIVE BARRAR: Okay. Okay then.

13 Now, we are under the Federal requirements
14 here. These nutrient levels are set by the Federal
15 regulations?

16 SECRETARY MCGINTY: Under the standards that
17 came into effect in August of 2005, under the Federal
18 Clean Water Act, those water quality standards then
19 led to the imposition of nutrient caps, cap loads as
20 they are referred to, for each jurisdiction in the
21 Chesapeake Bay basin.

22 REPRESENTATIVE BARRAR: What are the levels
23 -- what levels are they today, and what are the
24 levels that we have to meet. Do you know?

25 SECRETARY MCGINTY: You know, I would need

1 to respond to the record exactly how many pounds of
2 nitrogen and how many pounds of phosphorus we are
3 required to achieve.

4 REPRESENTATIVE BARRAR: Okay. So we are
5 under the Federal requirements.

6 My concern is that some of my sewer
7 authorities in the southeast have complained that the
8 new interpretation of this State law claims that
9 extremely restrictive nutrient levels were required
10 for them to prevent the -- I guess their definition
11 of excessive plant growth in Pennsylvania streams.
12 Are they being asked to meet a higher level than we
13 are even being required to in the southeast?

14 SECRETARY MCGINTY: Well, in the southeast,
15 I was referring a moment ago to the fact of the
16 nitrogen and phosphorus requirements that are on the
17 radar screen in the central part of the State with
18 the Chesapeake requirements. The rest of the State
19 faces those limits as well. And some of the toughest
20 limits that are under revision right now but that are
21 very real are, for example, in the Wissahickon and
22 some of the other southeast watersheds -- very, very
23 stringent, more stringent than the Chesapeake
24 nitrogen and phosphorus requirements.

25 REPRESENTATIVE BARRAR: Why are we being

1 required to meet such a more stringent level than any
2 other State is?

3 SECRETARY MCGINTY: Well, first of all, in
4 terms of the Chesapeake requirements, those Federal
5 water quality standards apply across the Chesapeake
6 Bay jurisdiction. So we face the same water quality
7 standards that Maryland, Virginia, et cetera, face.
8 And in fact, in terms of compliance, U.S. EPA was
9 here last week and testified in a public meeting that
10 we have been given more flexibility actually than
11 Maryland or Virginia have been given.

12 But in the southeast, for example, or any
13 other watershed, I mean, basically the way the proces
14 works is this: The Clean Water Act requires every
15 State to inventory every single one of their
16 watersheds and to determine whether or not those
17 watersheds are impaired. It is called a 316 process.

18 If they are impaired, then you have to
19 specify, what is the cause of the impairment? And in
20 some of our streams, we have a nitrogen impairment.
21 In some streams, many streams, we have an abandoned
22 mine discharge impairment, for example.

23 So that is where you will see the
24 difference, but it is derivative of the analysis as
25 to what is causing the impairment to that particular

1 stream.

2 REPRESENTATIVE BARRAR: Are the definitions
3 the same within the DEP and EPA of the term
4 "impairment"?

5 SECRETARY MCGINTY: Yes.

6 REPRESENTATIVE BARRAR: They are exactly --
7 how about excessive plant growth? They would all be
8 pretty much the same?

9 SECRETARY MCGINTY: Yes, but the excessive
10 plant growth is the symptom. It is the manifestation
11 of what would be considered under the Clean Water Act
12 not to be allowable, and how you know it is, darn,
13 the stream just got choked with plant growth.

14 REPRESENTATIVE BARRAR: Okay.

15 SECRETARY MCGINTY: But the underlying issue
16 is the impairment or the loss of use of that water
17 body from a biological or a chemical point of view or
18 a usability point of view.

19 REPRESENTATIVE BARRAR: In 2005,
20 House Resolution 539 directed the DEP to place a
21 moratorium on all actions related to implementation
22 of this and that there would be a report issued by
23 your agency. Has that report been completed and
24 filed with the House?

25 SECRETARY MCGINTY: Yes. The moratorium, we

1 did respect that resolution. We put the moratorium
2 in place. We engaged then in a very lengthy
3 stakeholder process.

4 Each municipality was given the option of
5 sticking with the original permit limits that we had
6 proposed or participating in the stakeholder process
7 and opting for the different formula that PMAA had
8 suggested.

9 At any rate, yes, that all was done in the
10 final report. The whole stakeholder process was
11 posted, I think, in November of 2006.

12 REPRESENTATIVE BARRAR: Would the
13 Administration support another resolution asking for
14 a moratorium until we find---

15 SECRETARY MCGINTY: No.

16 REPRESENTATIVE BARRAR: ---a funding
17 resolution?

18 SECRETARY MCGINTY: No, we would not,
19 because we are out of time. The Federal clock has
20 more than ticked.

21 REPRESENTATIVE BARRAR: Okay.

22 Have we done anything -- have any of these
23 studies -- and I think you state in here there have
24 been over 200 meetings held with stakeholders.

25 SECRETARY MCGINTY: Yes.

1 REPRESENTATIVE BARRAR: Have any of these
2 meetings included a cost-benefit analysis?

3 SECRETARY MCGINTY: Yes. Well, it has
4 included various costs for various approaches of
5 achieving the benefit of compliance with the Federal
6 mandate, and those costs are the ones you referred to
7 before that the task force had devised, again, with
8 their conclusion that the, quote, "best available
9 estimate" was \$620 million.

10 REPRESENTATIVE BARRAR: Several of the sewer
11 authorities, municipal authorities, down in the
12 southeast are facing a huge fine for particulate
13 matter, I guess failure to meet certain particulate
14 matters in the water there.

15 I know my sewer authority is one that was
16 being fined \$200,000.

17 SECRETARY MCGINTY: Yes.

18 REPRESENTATIVE BARRAR: I have been in touch
19 with Joe Feola, who really does a great job down
20 there.

21 When a sewer authority or any authority is
22 fined in that situation, where does that money go?

23 SECRETARY MCGINTY: In that situation,
24 probably into our Clean Water Fund. That fund
25 supports our clean water programs, as we have a

1 similar Clean Air Fund and Solid Waste Abatement
2 Fund, for example.

3 They are special funds that will be
4 reflected in this budget. They are restricted
5 accounts, and the Legislature restricts how those
6 dollars can be used. But they are used to support
7 the staff and programs that are engaged in clean
8 water exercises in the Commonwealth.

9 REPRESENTATIVE BARRAR: And basically, I
10 guess, the Legislature determines where that money is
11 spent, or do you determine it as the department head?

12 SECRETARY MCGINTY: Well, the Legislature
13 prescribes the purpose---

14 REPRESENTATIVE BARRAR: Right.

15 SECRETARY MCGINTY: ---so they are
16 restricted accounts in every sense of the word, where
17 it is laid out what we can and what we cannot use
18 those dollars for.

19 But they are used almost exclusively or
20 exclusively for the purpose of supporting the staff
21 that implement our water programs, and also the
22 hardware. So stream gauges, as I was referring to
23 before. The General Fund doesn't support that
24 activity. That activity is supported through fees,
25 fines, and penalties that come into the Clean Water

1 Fund, which, to me, is not a very good situation, a
2 scary situation, that we have some very basic
3 services in the Commonwealth that depend on fees,
4 fines, and penalties, not on the General Fund.

5 REPRESENTATIVE BARRAR: What has been the
6 history -- just another couple of question, Mr.
7 Chairman, if I could -- what is the history on fines
8 coming into the Commonwealth---

9 REPRESENTATIVE KELLER: Maybe not a couple;
10 maybe one.

11 REPRESENTATIVE BARRAR: What is the history
12 of fines coming into the Commonwealth to the DEP
13 since your tenure here as the Secretary? Has it
14 increased dramatically or just gradually over the
15 years?

16 SECRETARY MCGINTY: I would respond more
17 fully for the record, but I think it's nothing
18 remarkable in terms of trends.

19 REPRESENTATIVE BARRAR: Okay.

20 SECRETARY MCGINTY: Neither on the downside
21 nor the upside.

22 REPRESENTATIVE BARRAR: Okay.

23 Thank you, Mr. Chairman.

24 REPRESENTATIVE KELLER: Thank you.

25 REPRESENTATIVE BARRAR: Thank you, Madam

1 Secretary.

2 SECRETARY MCGINTY: Thank you.

3 REPRESENTATIVE KELLER: Representative Scott
4 Conklin, please.

5 REPRESENTATIVE CONKLIN: Thank you, Madam
6 Secretary.

7 Believe it or not, today I'm not going to
8 ask you about biofuels. But I do want to thank you
9 for all the great help you have given me and other
10 folks in that area.

11 SECRETARY MCGINTY: It has been a pleasure.
12 Thank you.

13 REPRESENTATIVE CONKLIN: Mine has to do,
14 again, with the Chesapeake Bay Initiative that is
15 happening, and I actually have two questions, because
16 I'm fortunate enough to have part of State College
17 but also more rural Pennsylvania as well.

18 I was meeting with some of the
19 Representatives from what we like to call the center
20 region, a group of municipalities.

21 A few years ago they went together and put
22 their unified sewage plant in, and one of the things
23 they have done is that they have been able to clean
24 the water so clean, it is actually too clean to put
25 back into the stream. We actually have to put it

1 into the groundwater and allow it to filtrate back in
2 again.

3 What they were telling me is, under this new
4 program, everybody is mandated to reduce by a certain
5 number their nitrates and everything that goes in to
6 it. But what they were telling me is they are
7 already so low, that it is impossible for them to
8 reduce. Is that true?

9 SECRETARY MCGINTY: No, they do not have to
10 do that. No, the mandate is not a percentage
11 reduction -- for example, no matter where you are you
12 have to reduce by 10 percent. It is a cap load, as I
13 was mentioning before. It is an absolute physical
14 number in terms of how many pounds of nitrogen or how
15 many pounds of phosphorus.

16 If they already have such a small discharge,
17 then presumably that aggregate amount is under
18 whatever that discharge limit would be. But it's
19 pounds; it's not percent.

20 REPRESENTATIVE CONKLIN: Thank you. I told
21 them I would ask. They knew we would be in the
22 hearings today. But my other question is a lot more
23 prudent to what is happening.

24 As you know, in almost all of Pennsylvania,
25 we are an older commonwealth, and most of the towns

1 and cities are 200, 150 years old, so in my more
2 rural communities, the infrastructure has totally
3 crumbled.

4 SECRETARY MCGINTY: Right.

5 REPRESENTATIVE CONKLIN: DEP, rightfully so,
6 has come in, and because of the Chesapeake Bay
7 Initiative and others, we need now to -- a lot of
8 these areas, because of the sulphur coal, which folks
9 in maybe the cities don't realize, they actually
10 would put their raw sewage into the streams, but the
11 sulphur would destroy anything as soon as it hit.

12 Under the new initiatives, these new sewer
13 disposal plants are going in. They have to tap all
14 the homes onto sewer lines. A lot of what people
15 would use for their septic systems, they are now
16 being told that they must take out.

17 For instance, one community, its 3,500
18 residents have an \$18 million price tag of putting
19 new infrastructure in. Another community of 2,500
20 folks have about a \$12 million infrastructure.

21 My question is simply this: Not long ago in
22 the Environmental Committee, which I am fortunate to
23 be on, we had looked at -- Dan Surra had put a bill
24 forward, which was a \$2.75 tipping fee -- \$2.25 to
25 hazardous waste but 50 cents to Growing Greener. And

1 I'm listening today to a lot of Representatives
2 asking for money for infrastructure, but at the same
3 time, we passed over an opportunity to add money to
4 Growing Greener II, which would have given us that
5 designated funding source.

6 One is, do you have any idea approximately
7 how much a year of Growing Greener II over that
8 50 cents -- and most of that would have been
9 out-of-State waste coming in -- that we would be able
10 to raise by that and how it could help, especially
11 these communities, whether it is Philadelphia,
12 Pittsburgh, or rural Pennsylvania, for a funding
13 source to help now correct a lot of problems that now
14 our backs are against the wall?

15 SECRETARY MCGINTY: Yes.

16 REPRESENTATIVE CONKLIN: If you could just
17 elaborate on that a little bit.

18 SECRETARY MCGINTY: We import more trash
19 than any other State in the nation, and therefore, if
20 you have fees that are geared towards the management
21 or handling of trash, some substantial amount of that
22 is coming from people paying fees outside the State
23 for projects then we can build in the State, and
24 typically those numbers are north of 40 percent of
25 all the trash that comes into the State -- or of all

1 the trash we handle in the State is imported.

2 And those numbers have ranged higher. My
3 guess is we are probably in the 40-, 42-percent range
4 at the present time. An appreciable amount of the
5 tab could be picked up by residents from other
6 States.

7 REPRESENTATIVE CONKLIN: You have no dollar
8 amount on how many millions or tens of millions of
9 dollars a year that we could use to correct these
10 Chesapeake Bay problems and other problems that we
11 could be correcting right now?

12 SECRETARY MCGINTY: Well, we typically get
13 on the order of, is it 20-some million tons a year or
14 40-some million tons a year trash, total, that we
15 handle? Twenty-one; yeah.

16 So 21 million tons of trash; 40 percent of
17 that would be, oh---

18 REPRESENTATIVE CONKLIN: \$8 million; \$7 1/2
19 million.

20 SECRETARY MCGINTY: So if you put that in a
21 fund and it was able to grow and become available in
22 a revolving way to municipalities, it wouldn't be
23 inconsequential.

24 REPRESENTATIVE CONKLIN: Thank you, Madam
25 Secretary.

1 SECRETARY MCGINTY: Thank you.

2 REPRESENTATIVE KELLER: Thank you.

3 Representative Mario Scavello.

4 REPRESENTATIVE SCAVELLO: Thank you,
5 Mr. Chairman.

6 Good morning, Madam Secretary.

7 SECRETARY MCGINTY: Is it still morning,
8 Representative?

9 REPRESENTATIVE SCAVELLO: Yes.

10 I also want to get on the bandwagon and
11 commend Mike Bedrin in the northeast and his staff.

12 SECRETARY MCGINTY: Thank you.

13 REPRESENTATIVE SCAVELLO: They do a fabulous
14 job for us in Monroe County.

15 SECRETARY MCGINTY: That's great.

16 REPRESENTATIVE SCAVELLO: I would like to go
17 back to the issue of the flooding and the Delaware.

18 SECRETARY MCGINTY: Yes.

19 REPRESENTATIVE SCAVELLO: You know, PPL has
20 done a fabulous job at the lake, Lake Wallenpaupack.
21 Before an event, they will let some water out. They
22 will keep an eye on the height of the lake. However,
23 why can we not pressure New York City to keep those
24 three reservoirs at 75 percent?

25 I have been told, as far back as 8 days ago,

1 that they are at 100 percent, and if we have any type
2 of rain, we are going to have -- you know, we are
3 going into April. You know what happens in April.

4 SECRETARY MCGINTY: Yes.

5 REPRESENTATIVE SCAVELLO: I am really
6 dreading another flooding situation down there at the
7 Delaware.

8 SECRETARY MCGINTY: Right. Well,
9 Representative, I think the answer to that is that we
10 can have a program that would enable that 20-
11 25-percent void that you are talking about, and in
12 the proposed flexible-flow management program, it
13 does include a management curve, if you will, that
14 would call for those 25-percent reserves.

15 I think where the disagreement is and where
16 there has been tension around these issues is, can we
17 manage the reservoirs in anticipation of snow or rain
18 events such that we have the appropriate voids, and I
19 think with one exception that I will come back to,
20 that the answer to that is yes. That is what the
21 flexible-flow management program is about.

22 On the other hand, the tension, though,
23 comes because some want to see always and forever
24 there is the 20-percent void.

25 REPRESENTATIVE SCAVELLO: Yes.

1 SECRETARY MCGINTY: And there we have
2 problems for a couple of reasons. One is that unlike
3 Lake Wallenpaupack, these are drinking-water
4 reservoirs. The physical gears aren't such that you
5 can so fine-tune manage them at any given point.
6 They are meant to hold water because they are
7 drinking-water reservoirs. So we have some physical
8 limitations.

9 On the other hand, while 20 percent seems to
10 be the void that people want, there are times of the
11 year when we are below. So by the time the end of
12 the summer comes, you know, the drinking-water
13 resource has been drawn down such that we probably
14 have 40 percent voids at that point. There is no way
15 to make it a 20-percent void at that point.

16 REPRESENTATIVE SCAVELLO: Yeah.

17 SECRETARY MCGINTY: And then I think you
18 know the other pieces.

19 There is a balance to be struck in terms of
20 being sure that we are doing our all to protect
21 against flooding, at the same time not jeopardizing
22 Bucks County's or Philadelphia's drinking-water
23 resource.

24 At any rate, I guess the short answer is
25 that I think we can do the 25 percent you are talking

1 about if we can do that according to the management
2 curves that are in the flexible-flow program. What I
3 think we can't do is every day of the week, every
4 season of the year, have it at a 25-percent void.

5 REPRESENTATIVE SCAVELLO: You know, I can
6 understand that, but especially going into the rainy
7 season---

8 SECRETARY MCGINTY: I understand.

9 REPRESENTATIVE SCAVELLO: ---and that's the
10 concern.

11 SECRETARY MCGINTY: Yes.

12 REPRESENTATIVE SCAVELLO: And it is right
13 now at 100 percent.

14 SECRETARY MCGINTY: It is just about at
15 100 percent; that is exactly right, yes. And I do
16 think it is a situation that, at the very least, we
17 certainly have to watch that, and you are right to
18 point it out.

19 REPRESENTATIVE SCAVELLO: I'm going to bring
20 up a situation that occurred in Monroe about a year
21 and a half ago after one of these events.

22 SECRETARY MCGINTY: Yes.

23 REPRESENTATIVE SCAVELLO: The levy system
24 that goes through, that carries the storm water
25 through Monroe County to the heart of the county,

1 in one area of the county, in the lower end in
2 East Stroudsburg Borough, an area of 600 feet by, oh,
3 I would say about 200 feet and about 100 feet high
4 just washed away. And we had to restore that bank,
5 and your department was very helpful in helping us.

6 Is there any ongoing plan to take a look at
7 that? The Army Corps of Engineers built that levy
8 system in the sixties.

9 SECRETARY MCGINTY: Yes.

10 REPRESENTATIVE SCAVELLO: And we have got
11 some areas in that levy that if we get any type of --
12 you know, we can punch holes through it up further,
13 and it could really create a tremendous loss, and
14 maybe lives in some cases.

15 In one particular location up north, there
16 was Paradise Stream Resort, where the resort had to
17 close for about 2 or 3 months. It punched a hole up
18 toward the northern piece, and it just flooded out
19 the whole resort.

20 SECRETARY MCGINTY: Well, the piece of the
21 Governor's initiative that may be relevant to that
22 and certainly is relevant to levies across the
23 Commonwealth is the proposed tripling of our capital
24 budget dollars for flood protection.

25 We do, on average, about \$10 million worth

1 of capital flood protection projects every year --
2 that's an average number -- and this would kick us
3 up to \$91 million total, or basically a tripling of
4 the activity we otherwise would see.

5 The only reason I am hesitating is I would
6 need to get back to you if there is any change to
7 that or exception to that in light of the fact that
8 you say this particular levy is federally owned.

9 REPRESENTATIVE SCAVELLO: Okay.

10 SECRETARY MCGINTY: And I'm just not sure if
11 the Commonwealth law allows us to use Commonwealth
12 dollars on a Federal project, and my guess is maybe
13 not.

14 REPRESENTATIVE SCAVELLO: I think they built
15 it, but I don't think it's State owned.

16 SECRETARY MCGINTY: Oh, well, then if the
17 municipality owns it, then absolutely.

18 REPRESENTATIVE SCAVELLO: The property
19 owners and municipality in that stretch.

20 SECRETARY MCGINTY: Absolutely. I would
21 just say to you---

22 REPRESENTATIVE SCAVELLO: But they built it
23 after the storm, the '55 storm.

24 SECRETARY MCGINTY: I would just say to you
25 then, Representative, if it is not already part of a

1 capital budget bill, it would need to be, and then we
2 could work with you on moving it up in the queue.

3 REPRESENTATIVE SCAVELLO: Yeah; I was
4 looking at that. I see that there has been a cut in
5 the Governor's proposed budget of \$12 million for the
6 safe-water appropriations. Could that have been used
7 on a project like this?

8 SECRETARY MCGINTY: Well, I just turned the
9 question around, because safe water is a line item
10 that is fully and completely in the control of the
11 Legislature, and we just fill out the paperwork when
12 you tell us to.

13 REPRESENTATIVE SCAVELLO: Two last
14 questions.

15 The first one, we talk about, you know,
16 wastewater treatment plants all the time, and I'm
17 told that in other countries they have a system where
18 the affluent comes into the system, and it is
19 separated, the solids and the liquids are separated.

20 SECRETARY MCGINTY: Yes.

21 REPRESENTATIVE SCAVELLO: The liquids, when
22 they are treated separately, the final end product is
23 99.9 percent -- like Representative Conklin had said
24 -- it is very pure, and it goes into the stream, you
25 know, at a much better number. And the solids, they

1 create methane and sell power.

2 SECRETARY MCGINTY: Yes; yes.

3 REPRESENTATIVE SCAVELLO: Do we have any
4 systems in PA? Are we promoting that type of
5 concept?

6 SECRETARY MCGINTY: Well, on the one hand,
7 we were talking earlier about the biosolids program.
8 So the solids piece of it we do use to great extent,
9 and sometimes not to great joy in some communities,
10 but we do use that material either for land
11 application or sometimes for energy sources.

12 The water piece, I think that what you are
13 pointing to is a reflection of the fact that we have
14 and we are a water-rich State, and we have not
15 husbanded those resources as other places have done.

16 In fact, there is now a project that has
17 been in the news in California, a water-deficit
18 State, where they are doing exactly what you are
19 talking about, and then infiltrating that water back
20 into the groundwater, and after, I think it is
21 2 years or something, it is suitable to be a
22 drinking-water resource.

23 REPRESENTATIVE SCAVELLO: Okay.

24 SECRETARY MCGINTY: We have not taken that
25 step, I think largely because we have always had such

1 an abundant water resource and haven't felt the need
2 to be particularly miserly about it.

3 REPRESENTATIVE SCAVELLO: Okay. My last
4 question.

5 Am I accurate -- the Governor's proposed
6 budget has approximately \$37 million for dam repair?

7 SECRETARY MCGINTY: Yes. Unsafe high-hazard
8 dams owned by the Commonwealth, yes.

9 REPRESENTATIVE SCAVELLO: And an average dam
10 is about \$2 to \$3 million. Do we have enough money
11 in there to do all the dams by 2010?

12 SECRETARY MCGINTY: We have enough in that
13 proposal to do the 17 remaining Commonwealth-owned
14 unsafe high-hazard dams. There are 781 high-hazard
15 dams across the State.

16 The initiative also includes, though,
17 \$6.6 million to support the municipalities who own
18 21 unsafe high-hazard dams and to provide 30 percent
19 of the costs that they would see in removing or
20 repairing those dams.

21 REPRESENTATIVE SCAVELLO: Okay.

22 SECRETARY MCGINTY: And just as a footnote
23 there, for those municipalities, they would also be
24 eligible for PENNVEST funding for the most part,
25 because almost all of those 21 are drinking-water

1 reservoirs, and the dams are a part of that
2 infrastructure.

3 REPRESENTATIVE SCAVELLO: Okay. Thank you
4 very much.

5 SECRETARY MCGINTY: Thank you.

6 REPRESENTATIVE KELLER: Thank you.

7 Representative Brian Ellis, please.

8 REPRESENTATIVE ELLIS: Thank you, Mr.
9 Chairman.

10 Madam Secretary, thanks for coming in today.

11 SECRETARY MCGINTY: Sure.

12 REPRESENTATIVE ELLIS: If I could start off
13 with a follow-up question to what Representative Reed
14 was asking about the mine reclamation.

15 SECRETARY MCGINTY: Yes.

16 REPRESENTATIVE ELLIS: I know it has been an
17 hour since we talked about that, but I was just
18 curious---

19 SECRETARY MCGINTY: The report is in.

20 REPRESENTATIVE ELLIS: Oh; good.

21 Will we need legislation basically to
22 implement the spending proposals?

23 SECRETARY MCGINTY: I think we should talk
24 about that. I'm not 100 percent sure. I think it
25 might be a good idea to look at that, at least on the

1 piece of it that would create maybe a dedicated
2 investment vehicle so that the funds could grow and
3 be there for the perpetual maintenance and operation.

4 REPRESENTATIVE ELLIS: But you think it's
5 probably going to have to be you working with the
6 Legislature to figure something out?

7 SECRETARY MCGINTY: I think so. I just
8 think what we should probably do is have the
9 Treasurer join with us in that conversation, because
10 there may already be vehicles that are available that
11 the Treasurer can invest the dollars and maybe be
12 able to generate an appreciable return. I just don't
13 know, but it's certainly something that we will bring
14 back at the Legislature for your guidance on how to
15 proceed.

16 REPRESENTATIVE ELLIS: Okay. Thank you very
17 much on that.

18 Now, I have several additional questions
19 that go in many different directions, so let's just
20 start real quick for something that I'm a little
21 confused on.

22 You know, the department obviously receives
23 fees, fines, penalties for various things. Do we
24 have anywhere a list of the fees and the penalties
25 and the fines that were assessed last year, and could

1 we get a copy of that?

2 SECRETARY MCGINTY: Oh, sure; sure.

3 REPRESENTATIVE ELLIS: Okay.

4 SECRETARY MCGINTY: Absolutely. In fact, we
5 provide that every year, because through separate
6 legislation, we are required to take 5 percent of
7 that and dedicate it to environmental education. So
8 that's a number that we put out there every year as
9 well.

10 REPRESENTATIVE ELLIS: It is a little bit
11 confusing because, I mean, you put it into a lot of
12 different funds, you know.

13 SECRETARY MCGINTY: There are different
14 funds; sure.

15 REPRESENTATIVE ELLIS: How much did the
16 department collect in fees, penalties, and fines last
17 year?

18 SECRETARY MCGINTY: No idea. I would have
19 to report and respond for the record.

20 REPRESENTATIVE ELLIS: If you can get that
21 to me as well, that would be great.

22 And then obviously, if you can just give me
23 an explanation of how that augments the budget for
24 your department.

25 SECRETARY MCGINTY: Yes. It augments it

1 because it picks up the salary and the costs of
2 supporting the personnel that are charged with
3 implementing those various programs.

4 I can also give you the numbers; in fact,
5 it's displayed in our budget in terms of
6 augmentations. You will see line items for
7 augmentations, and that is what that refers to.

8 Now, some of it, just when you look in the
9 budget, you will see there are some Federal
10 augmentations and then there are some State
11 augmentations, and that is broken out. But I will be
12 happy to pull that out of the budget and give that to
13 you.

14 That is what we mean by that, though.

15 REPRESENTATIVE ELLIS: Okay. And this year
16 we would anticipate using that money for similar
17 expenses? Or do you have anticipation of using it
18 for something else?

19 SECRETARY MCGINTY: We have to use it for
20 those purposes.

21 Again, I don't think it's a good way to do
22 business when we have essential functions and
23 responsibilities to the citizens of the Commonwealth
24 and we are dependent on fees, fines, and penalties
25 coming in. But the General Fund to date has not

1 found room fully to accommodate the cost of doing
2 business, so that is what we are left with.

3 REPRESENTATIVE ELLIS: Okay.

4 Now, in the Governor's budget proposal,
5 there is one little line item that says \$9.1 million
6 for DEP, basically increased revenue based on fees.

7 Do you know which specific fees we are going
8 to increase to achieve that \$9.1 million?

9 SECRETARY MCGINTY: We don't have any fee
10 proposals, increased fee proposals in our budget, so
11 that must be in anticipation of additional permitting
12 or other activity under our current programs. I
13 would have to respond again more fully.

14 REPRESENTATIVE ELLIS: Okay. If I can
15 switch gears here real quick.

16 Another thing that was not very, in my mind,
17 not very clear. In part of the proposed energy
18 program is an issue entitled the "Energy Independence
19 Capital Assistance Program."

20 SECRETARY MCGINTY: Yes.

21 REPRESENTATIVE ELLIS: Now, this program's
22 objective, according to the Administration's fact
23 sheet, is to "provide grant funding for the
24 acquisition, construction and improvement of regional
25 energy programs."

1 SECRETARY MCGINTY: Yes.

2 REPRESENTATIVE ELLIS: Can you give me an
3 example of what a regional energy program would be
4 that we are looking at funding?

5 SECRETARY MCGINTY: Well, this would be
6 that part of the Energy Independence Fund which is
7 \$500 million out of the \$850 million proposed that is
8 literally steel in the ground, and so what would be
9 an example of that?

10 Our waste coal plants, three new ones that
11 we have permitted, those waste coal plants are aiming
12 to provide electrical service not only into the
13 wholesale grid but actually in some of those projects
14 with dedicated off-takers in the southwest part of
15 the Commonwealth. One of those projects is proposed
16 for the north-central part of the Commonwealth. That
17 would be the kind of example that is involved there.

18 REPRESENTATIVE ELLIS: Now, is that capped
19 per project at a certain amount?

20 SECRETARY MCGINTY: Usually the limitations
21 there are twofold. One is the overall demand for
22 dollars, which we are seeing many multiples, greater
23 interest in building energy projects than we have
24 money to support. And then the other is the
25 particulars of tax-free bond financing.

1 So since these proposals are based on
2 revenues that would be derived from the Commonwealth
3 floating bonds, IRS tax rules apply, which mean, for
4 example, no operations maintenance, no overhead,
5 steel on the ground capital projects. It also means
6 that the project has to have a beneficial life, a
7 valuable life of 20 years or so in terms of being a
8 long-lived capital project. And there are other
9 rules that apply as well.

10 REPRESENTATIVE ELLIS: If I can ask a
11 question: This program, why is that being controlled
12 by the Office of the Budget instead of you? Did you
13 recommend to the Governor that you not be in charge
14 of that and give it to Secretary Masch, or---

15 SECRETARY MCGINTY: There are various pieces
16 of it that we proposed we would do, although
17 actually, as I am recalling the details of the
18 initiative, there are a few things that DEP per se
19 would invest. We would invest through the
20 Pennsylvania Energy Development Authority. But that
21 piece then that you are referring to is one that
22 would plus-up the RCAP program, I believe, or the
23 economic development capital program.

24 The idea was to not create a whole new
25 series of programs, but where there are programs that

1 are working, to invest in those.

2 So the Ben Franklin Partnerships had the
3 economic development programs that the Budget
4 Secretary is involved in -- and DCED.

5 REPRESENTATIVE ELLIS: So if we implement
6 the whole \$850 million borrowing scheme, \$500 million
7 is going to be controlled by them. Will you be
8 controlling the other \$350 million?

9 SECRETARY MCGINTY: I don't think that
10 that's the way it broke out in the Governor's
11 proposal. Some piece, some appreciable piece of the
12 \$500 million was for the Pennsylvania Energy
13 Development Authority to invest; \$244 million was
14 direct rebates to consumers; \$150 million was DCED
15 working with the Ben Franklin Partnerships.

16 REPRESENTATIVE ELLIS: Okay. So the--- Can
17 I just ask a quick question?

18 How did we come up with \$850 million, and
19 why not a billion? Why not \$500 million? How did we
20 settle in on \$850 million and that is going to make
21 us the leader in the country?

22 SECRETARY MCGINTY: Well, it would far from
23 make us the leader in the country. It is just that
24 the dollars are a combination of two things: one,
25 the volume of activity we have seen in our energy

1 programs and the huge unmet need for good projects
2 and good opportunities that we have been missing; and
3 then the realities of the budget and what we think
4 the traffic can bear.

5 It is not a precise science. It is a number
6 that is reflective of what can enable us to better
7 win the game in energy development. But that is also
8 reflective of a lot of other priorities that are
9 needed to be accommodated in the budget.

10 REPRESENTATIVE ELLIS: Okay. And then
11 finally, if I can just go in another direction, you
12 know, a few months ago there was an article in the
13 paper that Pennsylvania had joined the lawsuit with
14 California as far as with their lawsuit against the
15 EPA.

16 SECRETARY MCGINTY: Sure.

17 REPRESENTATIVE ELLIS: Now, you having
18 worked for the EPA---

19 SECRETARY MCGINTY: EPA worked for me.

20 REPRESENTATIVE ELLIS: Oh; that is what I
21 meant. I'm sorry.

22 Just can you give me an update on two things
23 on that? One, how is the lawsuit going? And
24 essentially was it your idea to join the lawsuit or
25 was it the Governor's idea to join the lawsuit, and

1 why did we join the lawsuit if no matter how the
2 lawsuit comes out, we have to deal with whatever
3 California says anyway?

4 SECRETARY MCGINTY: Well, first of all, and
5 to not be so smart, the other executive branch
6 agencies reported to the President through me.

7 REPRESENTATIVE ELLIS: Right.

8 SECRETARY MCGINTY: I was not at EPA.

9 We joined the lawsuit because a program that
10 has worked well for Pennsylvania, instituted by
11 Governor Ridge, is implicated and in jeopardy with
12 the EPA's decisionmaking. Namely, the Pennsylvania
13 Clean Vehicles Program depends on California
14 receiving the waiver under the Federal Clean Air Act
15 -- that it always in history has always received, and
16 this is the first time it has been denied it -- to be
17 able to set tailpipe standards that are more rigorous
18 than those that EPA might set.

19 Now, we are fortunate in that there are
20 three different provisions, at least of the latest
21 round of those tailpipe standards, and only one of
22 them, those related to greenhouse gas pollutants, has
23 been jeopardized by EPA's decisionmaking.

24 So the rest of our rule stands and is in
25 full force and effect today in the Commonwealth.

1 REPRESENTATIVE ELLIS: Okay. I don't know
2 if I heard my answer to that.

3 REPRESENTATIVE KELLER: Excuse me.

4 Representative, any more questions, could
5 you submit them in writing?

6 REPRESENTATIVE ELLIS: Just one quick
7 follow-up? I didn't hear; was it your decision or
8 the Governor's decision to join the lawsuit?

9 SECRETARY MCGINTY: It is my decision in
10 consultation with the Governor.

11 REPRESENTATIVE ELLIS: Thank you.

12 Thank you, Mr. Chairman.

13 REPRESENTATIVE KELLER: Thank you.

14 Madam Secretary, any correspondence, if you
15 could send it to the chair and the chair will
16 distribute it to the members.

17 SECRETARY MCGINTY: Will do.

18 REPRESENTATIVE KELLER: Representative
19 Gordon Denlinger, please.

20 REPRESENTATIVE DENLINGER: Thank you, Mr.
21 Chairman.

22 Good morning, Madam Secretary.

23 SECRETARY MCGINTY: Good morning.

24 REPRESENTATIVE DENLINGER: The Chesapeake
25 Bay issue has been hit thoroughly. I'm not going to

1 spend more time except to add this comment to it.

2 There is certainly a concern in my area of
3 the State, Lancaster County, that without prudent,
4 careful Executive Branch leadership, that this thing
5 could degenerate into a lot of finger-pointing back
6 and forth between the interest groups, and to add the
7 thought and the comment that in my particular area,
8 we have been deep plowing for the last 300 years, and
9 we have streams that are 10 to 12 feet full of legacy
10 soils, and that no amount of point source cleanup
11 effort will ever deal with those legacy-soil issues
12 when we have a major rain event. It just loosens
13 everything up and washes it right on down the line.
14 So I will just lay that out there for you.

15 But I do want to move on to Growing Greener
16 II briefly. We are now in the second fiscal year of
17 that initiative, which was broadly supported here in
18 the Legislature, and I do think it is probably time
19 for a bit of a report back on how DEP has proceeded
20 with that.

21 In the interests of time, if you want to
22 submit the responses here. But I'm specifically
23 looking for, if you could detail for us the number of
24 acres of wetlands that have been restored---

25 SECRETARY MCGINTY: Sure.

1 REPRESENTATIVE DENLINGER: ---miles of
2 stream buffers restored, acres of abandoned mine
3 lands that have been reclaimed, and the number of
4 abandoned wells that have been plugged.

5 SECRETARY MCGINTY: I would be happy to, and
6 in fact those are reflected in the performance report
7 that we submit together with our budget to you. But
8 I will pull those out and be happy to share them
9 through the Chairman.

10 REPRESENTATIVE DENLINGER: If you could
11 highlight that, that would be great.

12 Two quick additional questions. We are all
13 kind of following in the news the tragedy of
14 eco-terrorism. One had just happened, and I'm
15 wondering, does DEP get involved in these issues?

16 That obviously was the Earth Liberation
17 Front, ELF. I realize that probably gets into the
18 law enforcement area, but what does DEP do in the
19 area of eco-terrorism?

20 SECRETARY MCGINTY: Well, first of all, and
21 I guess to be legally precise, there is a thought
22 that the Earth Liberation force was responsible, and
23 the situation is being handled as a matter of
24 domestic terrorism, but it is still in the
25 investigation stages.

1 Having said that, we have not had an
2 incident that I am familiar with that would be --
3 thank God -- of a nature like that. We do work
4 closely, however, in various cases with our law
5 enforcement personnel.

6 For example, the Legislature acted and
7 supported us now in having our Hazardous Sites
8 Cleanup Program funded. The relevance is that that
9 is the program that supports our work supporting law
10 enforcement in tracking down methamphetamine labs and
11 working in that criminal context.

12 But in terms of the specifics of what you
13 have mentioned, I am not aware of any incident that
14 we would have in that regard.

15 REPRESENTATIVE DENLINGER: Does DEP maintain
16 a list of groups that are active in the Commonwealth
17 that could be a potential threat?

18 SECRETARY MCGINTY: I would have to check
19 with our Bureau of Investigations, for example, which
20 we do have.

21 But maybe it would be helpful to share with
22 you, when a situation becomes clear that it is
23 criminal in nature and needs to be prosecuted as
24 criminal in nature, it is our practice to refer that
25 situation then to the Attorney General, and through

1 the Attorney General and other law enforcement
2 channels, it is typically handled that way.

3 Our Bureau of Investigations sometimes is
4 called upon for their technical expertise to help to
5 investigate the situation, but we are not typically
6 the lead in enforcement when it comes to criminal
7 violations.

8 REPRESENTATIVE DENLINGER: Very good. And
9 then one last, more positive thought to conclude on.

10 SECRETARY MCGINTY: Yes.

11 REPRESENTATIVE DENLINGER: Thinking about
12 the future, 25 and 30 years out, Pennsylvania, of
13 course, you mentioned has been a corn-importing State
14 before we ever got into the whole ethanol issue, and
15 so I think more and more our folks are saying that's
16 a short-lived solution, it's a place to start, and
17 then we move into other technologies.

18 Has the department done any research and
19 future thought into the issue of use of currently
20 landfilled materials and converting those into fuel
21 sources?

22 SECRETARY MCGINTY: Yes, we have, both in
23 terms of the methane that is generated from those
24 landfill resources, and in fact we have been
25 recognized as the leading State in the country in

1 that kind of effort for the last several years
2 running.

3 We also are engaged with a couple of
4 different projects. One was proposed, and it looks
5 like they are not going to proceed, but Limerick
6 Township was looking at a gasification project
7 involving municipal solid waste.

8 Having said that, the Pirelli Company,
9 Pirelli Tires, has a project that they would like to
10 come in and talk about that would involve a co-firing
11 of municipal waste in coal-fired power plants. I
12 have not seen their data yet, but they say that it
13 pretty dramatically brings the emissions profiles
14 down. So we will be inviting them to come and to
15 present what their project ideas are.

16 REPRESENTATIVE DENLINGER: Those
17 technologies would involve the current waste stream
18 and converting those.

19 SECRETARY MCGINTY: Yes.

20 REPRESENTATIVE DENLINGER: Anything as far
21 as what we currently have landfilled, mining them
22 back out and utilizing them?

23 SECRETARY MCGINTY: Oh, I agree with you,
24 yes, and I think that, well, I think at least some of
25 the proposals were aimed at doing that, at extracting

1 some of the resources that were already there.

2 Probably, though, the economics would say it
3 is easier to divert the materials before they are
4 entombed rather than digging them back up. But let
5 me just agree with the thrust of your question.

6 I think that we have a resource in many of
7 those materials that are buried, and they are high
8 BTU-containing energy value resources as well as
9 resources that can be recycled into many different
10 consumer products. So it is a very interesting and
11 important line of inquiry.

12 REPRESENTATIVE DENLINGER: Good. I
13 appreciate those answers.

14 SECRETARY MCGINTY: Thank you.

15 REPRESENTATIVE DENLINGER: Thank you, Mr.
16 Chairman.

17 REPRESENTATIVE KELLER: Thank you.

18 Representative Scott Petri, please.

19 REPRESENTATIVE PETRI: Thank you,
20 Mr. Chairman.

21 Thank you for appearing today,
22 Madam Secretary.

23 To answer Representative Scavello's earlier
24 question about, is there a plan in Pennsylvania that
25 has a recharge? Yes. There's a municipally-owned

1 plant in Washington Crossing, Pennsylvania, that was
2 built as a public-private partnership. It received
3 the Governor's Award of Excellence, and what it does,
4 it combines wastewater, treats it to tertiary
5 standards, combines it with rainwater in a series of
6 ponds, and then recharges it into the aquifer.

7 So, yes, there is a plan in Pennsylvania
8 that is probably cutting edge if you ever want to
9 tour it.

10 A couple of questions.

11 One area that I have recently had a lot of
12 constituent contact with, which indicates to me that
13 there are probably even more issues out there than I
14 am aware of because not all constituents call, we are
15 having a problem and there's a disconnect with our
16 local conservation districts, and the disconnect is
17 between the mandates of the economy and needing to
18 move projects forward and their regulatory function.

19 I notice that this budget, again, cuts some
20 of the money available to assist counties, but my
21 real question is, as a policy, how do we reconnect
22 the mandates, the legitimate mandates, of regulatory
23 enforcement with the needs of the economy? And I'll
24 give you the hypothetical or the actuality that
25 occurred.

1 We had a constituent who waited 75 days to
2 receive a permit so they could do some landscaping
3 work around their house, setting into winter, and as
4 I approached them the comment was, well, you know,
5 August is our busy time. Well, of course it is.
6 With the weather beginning to change, all the
7 contractors want to get in the ground.

8 So meanwhile I am reading in the newspaper
9 about how the housing market is coming to a point of
10 stagnation, and on the other hand I have what I would
11 call a regulatory person saying, well, I do have
12 30 days, and they are taking 75 and 80 days.

13 So how do we reinvigorate them? Do we
14 withhold some of those moneys and say that if you are
15 consistently late -- yet respect, I will share with
16 you, I'm not a big fan of deemed approvals in this
17 area, because there may actually be problems in the
18 plan. We don't know; they haven't reviewed it.

19 SECRETARY MCGINTY: Well, I think it's a
20 thoughtful question, and just seeing Representative
21 Reichley there sitting at the table, I think it's a
22 combination of two or three things.

23 I mean, one is, sometimes it's additional
24 resources that are needed because the workload is
25 beyond what is available. You are pointing out that

1 we have flat-funded in terms of our requests for the
2 conservation districts. I said before, they could
3 very responsibly and capably invest more dollars; it
4 is just what the budget bears.

5 But as Representative Reichley helped us to
6 do, with Representative Siptroth who spoke before,
7 sometimes our procedures need to be changed, and at
8 least in one of our programs we have instituted an
9 opportunity for a third-party review that could at
10 least do some of the paperwork for us. Maybe that is
11 something that could be looked at here as well.

12 REPRESENTATIVE PETRI: Okay.

13 Last year the Legislature unanimously passed
14 a flood bill that created a revolving loan grant
15 fund. It went over the Senate, and it unfortunately
16 didn't receive action. And I have asked the question
17 of the Secretary of PEMA what other implementations
18 or ideas the Governor has.

19 My big concern is not only dealing with
20 people not building in the floodplain but also all
21 those people that are currently in the floodplain,
22 and how do we create an incentive for mitigation?
23 What ideas does the Governor have in going forward in
24 trying to deal with mitigation and making, or
25 encouraging people to come out of the floodplain,

1 either through buyouts or elevations?

2 SECRETARY MCGINTY: Yeah, that's exactly it,
3 buyouts and flood proofing, and we do have
4 legislation that we have worked with many of you on
5 that we hope will pass.

6 Right now, the department does not have the
7 authority to use the flood protection dollars we have
8 for nonstructural interventions, which would include
9 buyouts and flood proofing, namely lifting structures
10 up.

11 We hope, as part of the flood protection
12 initiative, that we will see that authorizing
13 legislation move.

14 REPRESENTATIVE PETRI: As a follow-up to
15 that, we obviously have to engage our Federal
16 delegation, because you have to comply with FEMA
17 requirements and the like. Do you think it is time
18 to call upon them to call for some sort of summit to
19 just totally revamp all the FEMA rules?

20 It's just ridiculous that constituents have
21 to wait 18 months for a decision so that they can
22 decide whether they want a buyout or mitigation.

23 SECRETARY MCGINTY: Well, I think that is a
24 good point, and I have certainly heard that terrible
25 frustration, if not tragedy, in many, many cases.

1 I think the good news is that FEMA now does
2 have the authority to provide dollars for buyouts on
3 the nonstructurals, which is still, in this game,
4 relatively new. Just the last few years they have
5 ben able to do that.

6 REPRESENTATIVE PETRI: Yeah, and I know that
7 that is done through the specific authorization, that
8 if Congress doesn't have the forethought to authorize
9 money for that purpose, it doesn't happen.

10 The final area of question I have is an area
11 of deepening concern that I have.

12 As I understand it, your department has
13 almost exclusive jurisdiction over whether new
14 landfills come into Pennsylvania. And I understand
15 the argument that if you left it to locals, you would
16 probably never have a landfill anywhere in
17 Pennsylvania.

18 But what role do you think that either a
19 county planning agency or a local facility should
20 have in trying to stop unwanted landfills, new
21 landfills that the residents don't want, they are
22 concerned about the long-term impacts, and quite
23 frankly, you have Pennsylvanians and
24 non-Pennsylvanians trying to profiteer from trash.

25 SECRETARY MCGINTY: Well, the process starts

1 with the county solid waste management plan. Each
2 county is required under the law to have a solid
3 waste management plan, and I think that's the
4 opportunity for the county to put in place policy and
5 initiative that, for example, might reduce the flow
6 of waste materials in that county.

7 Where that is relevant is when we have to do
8 our harm's benefit analysis for any new or proposed
9 expanded landfill. If there's no need for additional
10 capacity, that obviously is a consideration that
11 would weigh against a new or expanded proposal in
12 terms of landfills.

13 REPRESENTATIVE PETRI: Well, could a county
14 actually enact in their plan that they want nothing,
15 ever?

16 SECRETARY MCGINTY: They cannot.

17 REPRESENTATIVE PETRI: Well, see, therein
18 lies the problem, and I know of numerous
19 circumstances where beautiful parts of Pennsylvania
20 are being destroyed by profiteers.

21 SECRETARY MCGINTY: They cannot, but I do
22 think that legislation, Act 167, enables multiple
23 municipal planning? At any rate, no. There is
24 legislation now that is land-use related that enables
25 municipalities to work together.

1 It used to be, before you changed the
2 land-use law -- 167, I think -- that every
3 municipality had to accommodate every essential use.
4 That is no longer the case, and municipalities can
5 work together.

6 REPRESENTATIVE PETRI: Thank you, Madam
7 Secretary.

8 REPRESENTATIVE KELLER: Thank you.

9 Madam Secretary, I would like to follow-up
10 on Representative McGeehan's questions.

11 SECRETARY MCGINTY: Yes.

12 REPRESENTATIVE KELLER: I know you are
13 protecting your rights under the Dam Safety and
14 Encroachments Act.

15 SECRETARY MCGINTY: That's right.

16 REPRESENTATIVE KELLER: I would just like to
17 reiterate that the Legislature also believes -- we
18 don't believe; we will stand by that only the
19 Legislature has the right to grant or lease riparian
20 lands and that no political subdivision can do that.
21 There is no law that says that.

22 And even as recently as last week when we
23 passed Acts 4 and 5 of this session, we reiterated
24 again that it is the right of the Legislature to
25 grant riparian rights. So I would just like to get

1 that on the record again.

2 And I always ask you my favorite question,
3 but I already know the answer to it: How is the
4 channel deepening project going?

5 SECRETARY MCGINTY: Well, I think with your
6 leadership it is going well, and I'm feeling more
7 optimistic about it probably than we collectively
8 have in many years.

9 REPRESENTATIVE KELLER: Yes, and I would
10 like to thank you and your department and Joe Feola
11 down in our area for the great job you have done.

12 SECRETARY MCGINTY: Thanks.

13 REPRESENTATIVE KELLER: And I believe that
14 will be the biggest economic development project the
15 State has ever seen, and it starts with the channel
16 deepening project.

17 So I would like to thank you for coming and
18 your department for the great work you do.

19 SECRETARY MCGINTY: Thank you very much.

20 REPRESENTATIVE KELLER: And also for the
21 grasp of the issues you have. I think you
22 demonstrate that every year.

23 Thank you very much.

24 SECRETARY MCGINTY: Just following your
25 lead. Thank you, Mr. Chairman and members of the

1 committee.

2 REPRESENTATIVE KELLER: We are going to
3 break for a couple of minutes, and we will be back
4 with the Department of Conservation and Natural
5 Resources.

6 Thank you.

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8 (The hearing concluded at 10:40 a.m.)

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I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me on the within proceedings and that this is a correct transcript of the same.

Jean M. Davis, Reporter
Notary Public