

PENNSYLVANIA HOUSE OF REPRESENTATIVES
GAME AND FISHERIES COMMITTEE

WEDNESDAY, FEBRUARY 17, 2010, 10:04 A.M.

MAIN CAPITOL
EAST WING
ROOM 60
HARRISBURG, PENNSYLVANIA

BEFORE:

HONORABLE EDWARD STABACK, MAJORITY CHAIRMAN
HONORABLE RONALD MILLER, MINORITY CHAIRMAN
HONORABLE DOM COSTA
HONORABLE NEAL GOODMAN
HONORABLE DEBERAH KULA
HONORABLE DAVID LEVDANSKY
HONORABLE MICHAEL MCGEEHAN
HONORABLE KEVIN MURPHY
HONORABLE BRYAN CUTLER
HONORABLE KEITH GILLESPIE
HONORABLE MARK KELLER
HONORABLE DAN MOUL
HONORABLE CURTIS SONNEY

HILLARY M. HAZLETT, REPORTER
NOTARY PUBLIC

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1 CHAIRMAN STABACK: The hour of 10:00 a.m.
2 having arrived, I will call this hearing of the House
3 Game and Fisheries Committee to order.

4 The purpose of today's hearing is to take
5 testimony on the annual report from the Fish and Boat
6 Commission. Here today representing the Commission is
7 Mr. Brian Barner, the Acting Director of the Commission.

8 Before we get started, I would like the members
9 of the Committee present to identify themselves and the
10 area that they represent, starting on my right.

11 REPRESENTATIVE CUTLER: Good morning. Bryan
12 Cutler, Southern Lancaster County, 100th District.

13 REPRESENTATIVE KELLER: Good morning. Mark
14 Keller, 86th District, Perry and Franklin Counties.

15 REPRESENTATIVE COSTA: Dom Costa, 21st
16 District, Allegheny County.

17 REPRESENTATIVE SONNEY: Good morning. Curt
18 Sonney, 4th District, Eastern Erie County.

19 SUBCHAIRMAN MILLER: Ron Miller, 93rd District,
20 York County, Republican Chairman.

21 CHAIRMAN STABACK: Ed Staback, Democratic
22 Chairman, Norther Lackawanna and Southern Wayne
23 Counties.

24 REPRESENTATIVE MCGEEHAN: Mike McGeehan,
25 Philadelphia.

1 REPRESENTATIVE GILLESPIE: Good morning. Keith
2 Gillespie, 47th District, Eastern York County, right
3 along the Susquehanna River.

4 REPRESENTATIVE MOUL: Good morning. Dan Moul
5 from Adams and Franklin County.

6 REPRESENTATIVE KULA: Good morning. Deberah
7 Kula, Fayette and Westmoreland County, 52nd District.

8 CHAIRMAN STABACK: Thank you.

9 With that, I will turn the floor over to Deputy
10 Director Mr. Barner. Brian, welcome. You can start
11 your testimony whenever you're ready.

12 MR. BARNER: Good morning, Chairman Staback,
13 Chairman Miller, and members of the House Game and
14 Fisheries Committee.

15 My name is Brian Barner, and I am the Acting
16 Executive Director for Pennsylvania Fish and Boat
17 Commission.

18 On behalf of our Board of Commissioners and
19 Pennsylvania's anglers and boaters, thank you for the
20 opportunity to share this report with you today.

21 The Commissioners asked me to serve in this
22 capacity upon the retirement of Executive Director
23 Austen, and I will do so until they name a permanent
24 replacement.

25 I already know some of you through my position

1 as the agency's Deputy for Administration, Boating, and
2 Engineering.

3 CHAIRMAN STABACK: Would you move the
4 microphone closer to you?

5 MR. BARNER: As most of you are aware, the
6 mission of the Pennsylvania Fish and Boat Commission is
7 to protect, conserve, and enhance the Commonwealth's
8 aquatic resources and provide fishing and boating
9 opportunities.

10 The Commission is an independent administrative
11 agency with statutory authority and responsibility for
12 these matters.

13 From stocking waterways and managing native
14 populations of fish, reptiles, and amphibians to
15 patrolling lakes and restoring habitats, our employees
16 strive to protect the resource, for the resource is the
17 foundation for everything we do.

18 We accomplish this mission with a relatively
19 small, full-time complement of 432 employees, consisting
20 of dedicated waterways conservation officers,
21 biologists, fish culturists, engineers, and other
22 professional and support staff.

23 We have approximately 150 temporary and
24 seasonal employees who are hired during periods of peak
25 operation, and we also rely on a network of volunteers

1 and other partners to carry out our work.

2 These volunteers include 170 deputy waterways
3 conservation officers and scores of water rescue
4 trainers.

5 We explain our activities more fully in our
6 2009 Annual Report, which is included in your packets
7 and can also be found on our website at fishandboat.com.

8 Before I share some of the highlights from last
9 year, I would like to thank you and your colleagues in
10 the Senate for continuing to support our work in the
11 Lake Erie Watershed.

12 This past year, you passed Act 40, which
13 provides that proceeds from the sale of Lake Erie
14 permits will continue to be deposited into a restricted
15 revenue account until December 31st, 2014.

16 In addition to continuing to provide for public
17 access, these funds may now be used for projects that
18 protect or improve fish habitat.

19 Since this program was established in 2005, and
20 with the help of many partners, we have acquired
21 permanent fishing easements or outright ownership of
22 over 12.5 miles of tributary streams near the watershed.

23 Pennsylvania's steelhead fishery is nationally
24 renowned, and our Erie Access Improvement Program shows
25 how dedicated funding for access can be leveraged to

1 connect people with the resource.

2 Thanks also to Chairman Staback for introducing
3 House Bill 2233, which will update and improve the Fish
4 and Boat Code.

5 While many of the changes are technical in
6 nature, two in particular will benefit many
7 Pennsylvanians.

8 One change simplifies the process for the
9 issuance of free institutional fishing licenses and
10 allows for more facilities to provide fishing as a
11 therapeutic opportunity.

12 The other provides for an exemption for fishing
13 licenses to participants in structured educational
14 programs, including those offered by parks, nature
15 centers, and conservations districts.

16 Let's now turn to some of the highlights from
17 this past year. During our report for 2008, we told you
18 that we expected to see Pennsylvanians continue to fish
19 throughout the economic downturn.

20 Historically, fishing license sales tend to
21 increase during lean economic times and periods of high
22 unemployment, and 2009 was no exception.

23 License sales increased by more than 4 percent
24 in 2009. We sold nearly 871,000 fishing licenses, a
25 little over 500,000 trout/salmon permits, and a total of

1 more than 112,000 Lake Erie and Combination Lake Erie
2 and trout/salmon permits.

3 These increases reinforce the notion that
4 people return to fishing as an affordable,
5 family-oriented activity in hard economic times.

6 Fishing continues to be an important part of
7 local, regional, and statewide economies. The most
8 recent figures from the US Fish and Wildlife Service
9 estimate that fishing generates an overall annual
10 economic benefit of over 1.65 billion dollars in
11 Pennsylvania.

12 Fishing also supports nearly 18,000 jobs and
13 generates about 120 million dollars per year in state
14 and local tax revenues.

15 Pennsylvania's lakes, ponds, reservoirs, and
16 thousands of miles of rivers and streams also hosted a
17 lot of activity for the Commonwealth's 2.5 million
18 resident and nonresident boaters in 2009.

19 These individuals registered 338,000 boats,
20 enjoyed boating privileges with tens of thousands of
21 unpowered and unregistered boats, and collectively
22 produced an estimated impact of 1.7 billion dollars for
23 the Commonwealth's economy.

24 Combined, anglers and boaters contribute nearly
25 3.4 billion dollars to Pennsylvania's economy each year.

1 This was most evident last summer when
2 Pittsburgh hosted the prestigious Forest Wood Cup
3 fishing tournament, the world's richest bass fishing
4 tournament with a one million dollar first prize.

5 Professional anglers spent four days pursuing
6 bass on the Three Rivers while fans flocked to
7 tournament venues and local businesses.

8 We were honored to partner with tournament
9 organizers to, once again, show the world one of the
10 Commonwealth's first-class fisheries.

11 Please note that Pittsburgh will draw
12 international attention again this fall as we cohost the
13 2010 annual meeting of the American Fisheries Society
14 from September 12th through September 16th.

15 The Commission remains committed to playing an
16 active role in the study and management of the Three
17 Rivers system, and this work will be highlighted when
18 fisheries professionals from around the world come to
19 the Steel City this fall.

20 Speaking of large rivers, our biologists also
21 spent a lot of time last year working to protect the
22 long-term health of the Upper Delaware River.

23 In particular, we crafted a joint
24 recommendation with the New York State Department of
25 Environmental Conservation for better management of

1 water released from New York City water supply
2 reservoirs to Delaware River tributaries.

3 The recommendation calls for improved flow
4 management to better support cold water fisheries and
5 species such as the federally and state endangered dwarf
6 wedgemussel.

7 Moving from the Delaware to the Susquehanna
8 Watershed, the Commission worked in partnership with the
9 US Geological survey and the Pennsylvania Department of
10 Environmental Protection to diagnose ongoing problems
11 with smallmouth bass.

12 Problems were first detected in the middle
13 reaches of the river in 2005, when Commission biologists
14 found unusually high numbers of dead and distressed
15 smallmouth bass.

16 We later determined that the affected fish were
17 suffering from infections related to a common soil and
18 water bacterium called Columnaris.

19 The disease is considered a secondary infection
20 brought on by environmental factors that stress fish,
21 weakening their ability to cope with the bacteria. The
22 same bacterium was discovered again in 2007 and 2008.

23 In October 2009, the US Geological Survey
24 released a two-year water quality study, which found
25 stress factors such as elevated water temperature and

1 low dissolved oxygen concentrations during the critical
2 May through July development period for smallmouth bass.

3 While the causes of this degradation have yet
4 to be pinpointed, we remain committed to working with
5 the US Geological Survey, DEP and the US EPA to figure
6 out what is happening and we will continue to encourage
7 that the necessary steps be taken to improve the health
8 of the river.

9 While the Commission is responsible for all
10 fish, amphibians, reptiles, and other aquatic organisms,
11 we know that trout are of special interest to you and
12 your constituents.

13 Since they are both indicators of healthy
14 ecosystems and prized gamefish, we take a very
15 deliberate approach to managing our wild and stocked
16 trout fisheries.

17 In the past ten years, we have conducted a
18 number of evaluations to help us refine trout
19 management.

20 These evaluations include statewide angler use
21 and harvest assessments of both wild trout and stocked
22 trout waters. A Trout Summit with the angling public;
23 economic and cost-benefit assessments and stocked trout
24 residency studies.

25 Armed with all of this information, we convened

1 a 37-member Trout Work Group to help us develop a
2 five-year Strategic Plan for the Management of Trout
3 Fisheries in Pennsylvania.

4 Our Board of Commissioners adopted the plan in
5 October of 2009, and it sets the immediate direction of
6 trout management within the agency, identifies priority
7 needs and actions and provides a means of measuring
8 progress. The full plan is available on our website.

9 Trout management illustrates how we rely on
10 partnerships to accomplish just about everything we do.
11 Partnerships are particularly critical to leveraging
12 habitat projects.

13 One of the most exciting current initiatives
14 for fish habitat is the National Fish Habitat Action
15 Plan, which is receiving Congressional attention through
16 the National Fish Habitat Conservation Act.

17 Pennsylvania has been a leader in developing
18 this plan and is committed to working towards
19 congressional passage.

20 If enacted, the Bill is expected to authorize
21 up to 75 million dollars per year nationally for the
22 implementation of the plan, providing critical support
23 for projects across Pennsylvania.

24 Six members of our congressional delegation are
25 cosponsors in the House and Senator Casey is a cosponsor

1 in the Senate.

2 A few examples of some of our other effective
3 partnerships are worth mentioning as well:

4 We rely on an incredible network of cooperative
5 nurseries. In 2009, we supplied approximately 1.2
6 million trout fingerlings to cooperative nurseries to
7 help us meet angler expectations; and we provided grant
8 funding to 35 of these nurseries totaling nearly \$80,000
9 for nursery improvement projects.

10 This past year, we awarded 1.3 million dollars
11 to 14 grantees under the Sinnemahoning Creek Watershed
12 Restoration Grant Program to develop and benefit
13 recreational fishing and boating and the aquatic
14 resources of Elk, Cameron, McKean, and Potter Counties.

15 We provided over \$52,000 for 12 Sportfishing
16 and Aquatic Resource Education Grants to develop or
17 expand programs that teach fishing and boating skills or
18 to educate participants about waterways and the
19 organisms that live within them.

20 We provided more than one million dollars in
21 Boating Facility Grants to 14 entities to acquire or
22 improve public boating access.

23 We awarded two grants totaling more than 2.5
24 million dollars in federal pass-through funding to
25 venues in the Pittsburgh area for the development of

1 boating mooring facilities for large, transient
2 recreational boats.

3 We awarded nine State Wildlife Grants totaling
4 almost \$800,000 in federal pass-through funding to help
5 conserve priority species and habitats identified in
6 Pennsylvania's State Wildlife Action Plan.

7 These grant programs allow us to achieve more
8 than we ever could with just our own staff and
9 resources.

10 This is especially noteworthy given that these
11 grants account for less than 5 percent of our entire
12 annual budget.

13 To round out this section of the report, I
14 would like to give you a quick update on our major
15 Growing Greener II funded hatchery improvement projects
16 and work on two of our large dam projects.

17 We have successfully completed effluent and
18 production upgrades at our Tylersville, Pleasant Gap,
19 and Bellefonte State Fish Hatcheries.

20 We are actively working to make much-needed
21 improvements at our Benner Spring and Huntsdale
22 facilities, both of which are scheduled for completion
23 in 2010.

24 Work at our Reynoldsdale hatchery is also
25 scheduled to begin sometime this coming summer or early

1 fall and will be the final project funded with our
2 allocation of Growing Greener II bond funds.

3 I am pleased to report that the upgrades at the
4 three completed facilities are working as designed and
5 will leave a legacy of cleaner, safer water for both the
6 fish and the anglers who pursue them.

7 We are proud of this work and would welcome the
8 opportunity to host a tour of the projects for the
9 Committee.

10 By working with local partners, Legislators,
11 and the Governor's Office, we also matched Growing
12 Greener II dollars at ratios as high as 3-to-1 to
13 upgrade the dams at Leaser Lake in Lehigh County and
14 Opossum Lake in Cumberland County.

15 In 2009, we were also awarded 10.2 million
16 dollars through the H2O PA Act to support our efforts
17 with making needed repairs and upgrades to five
18 Commonwealth-owned high hazard dams.

19 Like we did with the Leaser and Opossum Lakes,
20 we hope to work with partners to leverage these funds to
21 help ensure the long-term, safe operation of the five
22 facilities.

23 While this is a great start, please note that
24 the Commissions manages nine other high hazard dams that
25 will require an estimated 50 million dollars in

1 improvements to bring them into compliance with current
2 dam safety standards.

3 I'd prefer to continue sharing our success
4 stories, but it is important that I mention some of our
5 challenges.

6 Like other agencies, the Commission is
7 struggling to keep up with the rapid pace of natural gas
8 exploration and development in the Marcellus shale zone.

9 One way to help ensure that aquatic resources
10 are protected is through the wise use of revenues
11 generated by the proposed severance tax on these natural
12 gas development activities.

13 We agree with the need for this development,
14 there are critical concerns that must be addressed.
15 These include the potential for the spread of invasive
16 species, impacts of drilling and drilling infrastructure
17 on the quality of our streams, and the handling of
18 wastewater.

19 Prompted by concerns over the possible spread
20 of invasive species associated with the widespread
21 movement of drilling equipment and water, we began
22 working with DEP, the Delaware River Basin Commission,
23 and the Susquehanna River Basin Commission to encourage
24 the disinfection of the Marcellus-related equipment that
25 comes into contact with water. We are optimistic that

1 the protocols will minimize this risk.

2 Many people do not realize that there are still
3 tens of thousands of stream sections in Pennsylvania
4 that have yet to be surveyed to determine whether they
5 contain wild trout.

6 In 2009, we began assessing a prioritized list
7 of waters with the potential to support wild trout, with
8 an emphasis on streams within the Marcellus shale
9 regions of Pennsylvania.

10 In cooperation with other partners, our
11 biologists will continue this work as time and resources
12 allow, with the goal of documenting and ensuring
13 enhanced protection of our most sensitive cold-water
14 fisheries.

15 Finally, on the Marcellus front, we want to
16 make sure that the wastewater from drilling sites does
17 not compromise water quality.

18 To that end, we support DEP's current proposal
19 to regulate total dissolved solids at the point of
20 discharge.

21 The recent condition of high total dissolved
22 solids concentrations in the Mononghela River is the
23 extreme case we want to avoid.

24 Many of our streams and rivers, like the
25 Mononghela, have made amazing recoveries over the past

1 several decades and it would be very unfortunate to see
2 them decline again.

3 A major challenge for us in addressing
4 Marcellus shale natural gas development activity is
5 that, unlike DEP, we cannot raise permit fees to fund
6 and bring on additional staff to deal with the many
7 issues surrounding its development.

8 With the rapid increase in well drilling
9 activity and without additional funding, the Commission
10 is severely limited in its ability to work with DEP and
11 the natural gas developers.

12 As a result, we will miss opportunities to
13 proactively work with DEP and the drilling community to
14 minimize and avoid impacts to aquatic resources.

15 We want to be proactive, and we think the
16 resource deserves it. To that end, the Commission
17 supports the enactment of a severance tax that allocates
18 funding for natural resource conservation.

19 We think dedicating a portion of a severance
20 tax to enhance conservation will be a wise investment
21 for the Commonwealth as we meet energy demands while
22 conserving aquatic resources.

23 Anglers and boaters across the Commonwealth
24 agree, and they are expressing the need to make sure
25 that conservation is part of the equation, if and when

1 such a fee is established in Pennsylvania.

2 Of course, one of our persistent challenges is
3 to secure and maintain basic funding for the programs
4 and services demanded by anglers and boaters and for the
5 services we provide to the Commonwealth at large.

6 I will conclude my remarks by building on a
7 conversation that began with this Committee two years
8 ago.

9 At that time, you encouraged us to come up with
10 innovative ways to fund the agency with the goal of
11 minimizing the effects of a boom-and-bust cycle
12 associated with large, periodic fee increases.

13 During these cycles, large fee increases are
14 followed by corresponding drops of 7 to 10 percent in
15 license sales, from which we never fully recover.

16 As we have discussed with this Committee and
17 with many of you, this model results in two major
18 drawbacks.

19 First, the boom-and-bust cycle seriously
20 damages our ability to plan and operate strategically,
21 especially toward the end of a cycle.

22 The intermittent nature in which we adjust
23 these fees, in combination with normal inflationary
24 increases in operating costs, largely contributes to
25 this cycle.

1 Second, we experience a substantial decline in
2 license sales or loss of customers in response to each
3 large increase in fees.

4 Most recently, the 2005 license fee increase of
5 \$4.75 for a resident annual fishing license was followed
6 by an 8.5 percent decrease in resident license sales. A
7 similar pattern played out in each of the four fee
8 increases enacted since 1982.

9 As you may already know, the Commission
10 receives no general fund revenues. We rely almost
11 entirely on revenues generated from license sales, boat
12 registrations, and federal grants.

13 In the most recent fiscal year that ended last
14 June, license sales accounted for 72 percent of all Fish
15 Fund revenues, and boat registrations accounted for 53
16 percent of all Boat Fund revenues.

17 This current fiscal year is a pivotal year for
18 the fiscal benefits derived from the 2005 fee changes.
19 Last year, our revenues were just slightly more than our
20 expenditures; but our projections for the current fiscal
21 year and beyond show that our expenditures will
22 increasingly be greater than our revenues. This means
23 that our end-of-year Fund balances will be less than our
24 beginning-of-year Fund balances.

25 During the next several fiscal periods, we will

1 begin to spend down, or use up, our cash reserves to
2 maintain levels of services currently being provided to
3 the anglers, boaters, and other citizens of the
4 Commonwealth.

5 This was actually expected. Based on
6 historical patterns, we had estimated that the increased
7 revenues from the 2005 license fee changes would help
8 sustain agency operations for five to seven years.

9 If we maintain current levels of service, we
10 will most likely hit, or even dip below, our minimum
11 required Fund balance thresholds sometime within the
12 next three to possibly four years.

13 In response to interest expressed by this
14 Committee and others, last year we developed and
15 proposed an innovative license fee package based on the
16 following three concepts:

17 Modest annual fee increases, in the
18 neighborhood of \$1.00, to be added to the cost of
19 fishing licenses and \$.25 annually to be added to the
20 cost of trout/salmon permits.

21 A one-time, permanent addition of \$1.00 to the
22 cost of a fishing license for a statewide access and
23 habitat acquisition and restoration initiative.

24 Flexibility in adjusting fees to lower than
25 authorized amounts for limited-time marketing and

1 promotion purposes.

2 Again, we offer these funding concepts with an
3 eye toward creating a system that allows us to fulfill
4 our mission while keeping the cost of fishing licenses
5 and boat registrations as low as possible for the
6 anglers and boaters who support all we do for the
7 Commonwealth.

8 Thank you again for this opportunity. I will
9 be happy to answer any questions.

10 CHAIRMAN STABACK: I would like to acknowledge
11 the presence of another one of our Committee members in
12 the likes of Mr. Neal Goodman.

13 Brian, I want to thank you for that
14 comprehensive report. You covered a lot of ground and
15 the Committee certainly appreciates your thoroughness.

16 I'm going to start the questioning and the
17 Members who have questions will be recognized in the
18 order that we normally work.

19 Brian, my first question and comment has to do
20 with a part of your presentation that was related to
21 license fee increases. That subject is not new and has
22 been discussed in the past by me with both the
23 Commission staff and the Board Members as well.

24 I want to say publicly, again, what I have said
25 in the past, that there is a protocol that is followed

1 concerning fee increases for the two agencies. That is,
2 that both agencies never receive a license increase in
3 the same year and that the agencies alternate and that
4 no agency receives two increases before the second
5 agency receives one.

6 The reason for this is that we don't want to
7 overburden the sportsman and one wildlife agency is not
8 viewed as receiving some kind of preferential treatment.
9 I have made that very clear when I have explained that
10 in the past. As far as I know, that pattern is still in
11 effect.

12 Given these facts, there was one idea in your
13 presentation about new licensing options that I would
14 like you to comment on a little bit further and that is
15 the possibility of putting together a new combination
16 license.

17 For example, a combination of a husband and
18 wife kind of permit at a reduced fee. Do you think --
19 has the Commission studied the impact that that kind of
20 a license fee might have on your financial status in the
21 long run? Could it be a losing proposition for you?

22 MR. BARNER: Thank you, Chairman Staback. It
23 is a very interesting observation about the third
24 component of our flexibility, which is what we call the
25 flexibility of our license increase package.

1 Before I address that, I would like to thank
2 you for your comments about the protocols on the agency
3 funding. We support those protocols.

4 We just continually would like to keep the need
5 for funding on the radar so, in this case, the Committee
6 doesn't forget about us. So with that, thank you.

7 Yes, we have studied the impacts of what some
8 of these combination licenses may do; and in a lot of
9 cases, we view those as a loss. That is exactly why we
10 would like to have flexibility in introducing those.

11 If we would introduce something for a
12 promotional campaign and we find it is going to cost us
13 revenue for the agency, we immediately stop it.

14 Currently, the way the legislative
15 authorization works for us to issue a fishing license,
16 we have categories of fishing licenses. We are required
17 to sell those regardless of whether they return net
18 revenue for us or not.

19 If you would grant us the flexibility to at
20 least try those things, we could experiment and test the
21 waters, so to speak, and see just how effective they
22 are.

23 We have done some research and some indicators
24 say they would be great for promotional activities, but
25 they are not going to be the answer to sustain the

1 agency funding-wise nor would they really attract a
2 large number of folks to fishing.

3 CHAIRMAN STABACK: Okay. So that notion works
4 probably in conjunction with a proposed licensing
5 increase, is what you would be looking for in
6 conjunction with doing that; am I right?

7 MR. BARNER: Typically, yes, that would be the
8 most ideal setting. However, if we got the ability to
9 at least test some of the promotional stuff now, I would
10 not see the harm in that. We would be better to use
11 that in the future.

12 CHAIRMAN STABACK: Thank you. The protocol
13 that I alluded to earlier, I would like to expand just a
14 little bit.

15 The fact of the matter is the Pennsylvania Game
16 Commission has not had a license increase in probably
17 going into the 12th year.

18 The Fish and Boat Commission last had one, I
19 believe, back in 2004; and it became affective in 2005.
20 So obviously, the focus of this Committee where a
21 license increase is going to be viewed would have to be
22 on the Pennsylvania Gaming Commission first.

23 When that is completed, then we certainly would
24 take a hard look at your financial needs and deal with
25 them accordingly. Okay?

1 MR. BARNER: Thank you.

2 CHAIRMAN STABACK: The second question I have
3 would deal with your current labor negotiations. Can
4 you tell the Committee if progress has been made and if
5 the Commission is prepared to give their WCOs the same
6 compensation package that eventually will be received by
7 the game Commission officers?

8 MR. BARNER: Chairman Staback, it is fortunate
9 today we have with us our Director of Bureau of Law
10 Enforcement. His name is Tom Kamerzel.

11 He has been intimately involved in the
12 negotiation process and he is our agency contact for
13 those negotiations.

14 I'm going to ask if Tom could come up and
15 present some of the information that he is at liberty to
16 share with the group, if that is fine?

17 CHAIRMAN STABACK: That would be fine.

18 MR. KAMERZEL: Thank you, Chairman Staback.
19 Let me give you a little bit of history where we are.
20 Our officers as well as the wildlife officers in the
21 Gaming Commission early in 2007 chose to leave AFSCME as
22 a bargaining unit. They did that. July 1st of 2007,
23 they are no longer represented by AFSCME to do that.

24 For the first year, when they were under
25 representation, it look them a while to get a lot

1 established and also putting together a business
2 proposal.

3 We received that in early 2008 and started
4 serious bargaining with the officers in September of
5 2008, and we continue to do that.

6 We have had 12 bargaining sessions. Up until
7 now, we have five additional bargaining sessions
8 scheduled.

9 I would like to report that we have had some
10 success relating to operational things having been
11 resolved with the officers.

12 Currently, the outstanding articles deal pretty
13 much with benefits. And right now, both sides are in
14 sort of a holding pattern because we are awaiting an
15 award for the game officers that will hopefully be out
16 shortly that they will receive a wage and benefit
17 package through the arbitration process.

18 Once we know what that is, our Commission is
19 committed to ensuring that our officers are provided
20 with the same wage and benefit package that the
21 conservation officers have, and that is truly our goal.

22 We believe that once that award is provided,
23 our negotiations can move a lot quicker; and we can
24 hopefully have something resolved and wrapped up here
25 maybe as early as March or April.

1 CHAIRMAN STABACK: Tom, has the Commission
2 prepared for the fiscal impact of the eventual new labor
3 agreement?

4 MR. KAMERZEL: Yes, Chairman Staback, what we
5 did is we looked at what the AFSCME employees received
6 in the last contract and there was some graduated pay
7 increases and steps within that contract. We did a
8 fiscal note based on those numbers. If our officers
9 were awarded more or less, this number would change.

10 Based on those awards that were provided to the
11 AFSCME employees of the Commonwealth, currently the
12 fiscal note, and this is assuming that the officers
13 would receive retroactive pay, which the Commission is
14 supporting to make them whole, the number is about 1.2
15 million dollars. We are capable to paying them back at
16 this point in time.

17 CHAIRMAN STABACK: Tom, there is rumor or talk
18 among the WCOs that if a labor agreement is not
19 forthcoming and they don't have, you know, a contract
20 that they are talking strike.

21 Now, what would happen if a labor agreement
22 would not be forthcoming and they decided to go on
23 strike or on stocking time of fish or in and around the
24 opening day of the trout season, how would you folks
25 deal with that?

1 MR. KAMERZEL: Chairman Staback, we have heard
2 some of the similar rumors that you have heard amongst
3 the workforce.

4 We right now have not a lot of reason to
5 believe that the officers are going to move toward a
6 strike. Certainly, that is an option they had under Act
7 195.

8 However, we have a lot of young officers that
9 it would be very difficult for them to go without a
10 paycheck and pay their family bills.

11 We believe that a strike by officers is at this
12 point not something that is going to happen. However,
13 we have taken a position. We do have a contingency plan
14 in place and that plan has started since the beginning
15 of the year that if a group of our officers choose to
16 strike and that group of officers was in the
17 neighborhood of about 25 percent of the workforce, we
18 have a plan that would successfully ensure that all of
19 the fish would be stocked and ready for anglers in the
20 open stock season.

21 We would have an area fish anglers supervisory
22 and management personnel within our Bureau. We would
23 elect our aquatic reserve conservationist to help stock
24 fish and so that our streams and lakes would have trout
25 on opening day for the anglers to enjoy.

1 CHAIRMAN STABACK: Thank you. I have one more
2 question, and then I'm going to open it up for Members,
3 and that deals with Dr. Austen.

4 We all understand that he is no longer the
5 Executive Director of the Commission, but he was or is
6 under contract with the Commission. Is he still under
7 contract; and if he is, what does he do? What are his
8 duties?

9 MR. BARNER: Dr. Austen did retire from the
10 Fish and Boat Commission on January 22nd. Upon his
11 retirement, the Commission, Board of Commissioners asked
12 him to stay on and have him finalize some of the
13 initiatives he had been working on.

14 I had talked about some of the congressional
15 items that he has had action in. Dr. Austen is
16 instrumental in trying to get that plan and legislation
17 passed.

18 If that happens, it is going to result in
19 millions of dollars for the Commonwealth for fish and
20 habitat-related projects.

21 So he is currently working on that and a couple
22 of other federal initiatives, like the reauthorization
23 of the restoration funds as well. That is our staple
24 federal grant source, which we hit between eight and ten
25 million dollars.

1 Every five years, it needs to be reauthorized
2 through Congress and he is making sure that happens for
3 us. He is playing a very instrumental role. He is
4 working as a retired annuitant through the
5 Commonwealth's Annuitant Program.

6 CHAIRMAN STABACK: Thank you very much.

7 Chairman Miller?

8 SUBCHAIRMAN MILLER: Thank you, Mr. Chairman.

9 Brian, thanks for your testimony. Yesterday,
10 we heard from the Game Commission. They talked about
11 two separate incidents with water impacts, stream
12 impacts, stream quality due to Marcellus shale drilling
13 activity.

14 You touched quite a bit on it in your testimony
15 as far as concerns there. What is the role that the
16 Fish Commission plays in that as far as is it mostly a
17 monitoring of the quality of the water or inspecting for
18 impact on the fish? I'm trying to get a feel for how
19 you play in with the leaseholders, the Game Commission,
20 DEP, and everyone else.

21 MR. BARNER: Chairman Miller, Dr. Schaeffer is
22 here with us today as well. He came along and helped
23 prepare some of this testimony. He has been the
24 agency's lead person in working with DEP and other
25 partners on Marcellus shale activities.

1 If you don't mind, I'll ask him to come up to
2 address this question.

3 MR. SCHAEFFER: Thank you, Brian. We have a
4 couple of different roles when it comes to Marcellus.
5 One of the things that we do is we review permits for
6 their development activities to see what the impacts on
7 our trust species are.

8 As you know, we have jurisdiction for all fish,
9 reptiles, amphibians, and other aquatic species. So
10 permit review is one of the things I do.

11 Tom, correct me if I am wrong, our WCOs share
12 the ability to enforce environmental laws in
13 Pennsylvania.

14 So if our WCOs see things that are going on and
15 would have an impact on water quality, we can address
16 those in cooperation with DEP, and in fact, we have been
17 working on that.

18 Our staff also does monitoring activity. Brian
19 mentioned the work we have been doing on unassessed
20 waters to document the degree to which streams have
21 naturally producing trout populations. That is a
22 monitoring function.

23 Also mentioned, how the aquatic species work.
24 We were really the first to note to DEP, the River
25 Basins Commission the need for the drillers to make sure

1 that their equipment is being disinfected before it
2 comes into contact with water so we don't inadvertently
3 spread bacteria to aquatic species.

4 There is a monitoring role. There is a
5 technical assistance role. We also work really close
6 with the River Basins Commission to ensure that there is
7 adequate pass-by flows when they are deciding whether or
8 not they should allow for water withdrawal, and we help
9 them decide what those requirements are to be.

10 SUBCHAIRMAN MILLER: With that in mind then,
11 the major concern as we increase the drilling
12 operations, it appears to be personnel related to
13 address all of these issues?

14 MR. SCHAEFFER: And we would like to be able to
15 be proactive rather than reactive. In fact, we do that
16 in cooperation with the Department of Transportation
17 with highway product projects.

18 We have had a really nice relationship with
19 them. We had a relationship with DEP on coal mining and
20 work when the Applicants come in for products.

21 While this is happening, everything else is
22 still active. We don't have permit fees that we can
23 raise to bring on additional staff.

24 SUBCHAIRMAN MILLER: I prescribe that
25 explanation.

1 Thank you Mr. Chairman.

2 CHAIRMAN STABACK: Representative Kula?

3 REPRESENTATIVE KULA: Thank you, Mr. Chairman.

4 Brian, I was looking through the book and kind
5 of fascinated. I was wondering if you could explain to
6 me, I see such an increase in the trout in the
7 classroom. Can you explain that program to me?

8 MR. BARNER: Yes, I probably could, I guess if
9 I could ask maybe a little more specifics what you would
10 --

11 REPRESENTATIVE KULA: I mean, how does one go
12 about it? I have been in many preschool, early
13 childhood classes where they are raising butterflies.

14 How would some of these young people or
15 classrooms back in my area be able to -- I mean, is it
16 the eggs go to the classroom and they hatch them and
17 have a trout?

18 MR. BARNER: Yes. You understand a lot more
19 than you think you do.

20 REPRESENTATIVE KULA: But --

21 MR. BARNER: Yes. We have a series of aquatic
22 resource program specialists who work on and monitor
23 this program. That is exactly one of the things that
24 they do. They ensure that the eggs are delivered in
25 appropriate time, instructions, and demonstration

1 materials and how they are raised, what to do with them,
2 and you can actually view those at different stages of
3 life. It is available to most schools. In fact, some
4 of the grants that we talked about are, I guess, related
5 to that as well.

6 REPRESENTATIVE KULA: So it would be through a
7 grant process that they would be able to have this
8 opportunity. Just explain the application process.

9 MR. SCHAEFFER: Just go on our website. We
10 have information about trout in the classroom. We do
11 work with Trout Unlimited. They are our primary partner
12 with this.

13 We have awarded them the grant, a pass-through
14 grant that helps to keep this program going. We provide
15 the eggs to the schools.

16 So the teacher and -- if you qualify for the
17 program and are successful in your application, we
18 actually give them the eggs.

19 The schools, what they need to do is to come up
20 with the funding for the tanks and everything else that
21 goes along with it.

22 We do training for the teachers and explain
23 what they need to be doing with the tanks. I actually
24 went through the training. It is a pretty rigorous
25 training so they understand how to maintain the tanks

1 and what to do with the eggs and give them tips for what
2 happens with the trout.

3 I have to tell you, they all really don't make
4 it. This is really a biology lesson. It shows the kids
5 what it takes to successfully raise a trout.

6 At the end of the year then, we do ask them to
7 release the trout into streams. I should point out that
8 this is not a stocking program.

9 We're not pretending that the trout in the
10 classroom is going to restore the population. It is
11 really an educational program.

12 Through funding support and technical support
13 and providing the eggs to the school and providing them
14 when they get them in place, it really has been off the
15 charts. The growth of the program has been exponential
16 the last couple of years. I would be happy to talk with
17 you afterwards.

18 REPRESENTATIVE KULA: Thank you.

19 CHAIRMAN STABACK: Representative Moul?

20 REPRESENTATIVE MOUL: Thank you, Brian. I
21 appreciate your testimony today. Just a couple of quick
22 question and then a little story.

23 Abandoned dams, do you get involved with them
24 at all? Is there funding available for them? Is that
25 under your realm of authority?

1 MR. BARNER: Tom, would you mind coming up with
2 that? Tom Kamerzel, that is in his area of
3 responsibility as well. We do have a limited role in
4 those programs.

5 MR. KAMERZEL: The dams you are referring to
6 are dams that have been identified by the Department of
7 Environmental Protection as river dams. The ownership
8 of the dam is questionable. We don't know who owns it
9 and nor does DEP.

10 Primarily, our responsibility on these dams is
11 to ensure that the required signs, buoys, and markers
12 are in place and attempt to identify ownership.

13 Where we don't identify ownership and the work
14 of the dams falls back on DEP's shoulder, either
15 possible removal of it or to try to find ownership,
16 which at times becomes very difficult to do especially a
17 lot of the old mill dams and tracking ownership. It is
18 very difficult.

19 REPRESENTATIVE MOUL: So the funding of removal
20 would not come through Fish and Boat?

21 MR. KAMERZEL: Not necessarily. We do have a
22 program with dam removal. Typically, it is a
23 partnership program where we have a gentleman, Mr. Scott
24 Carney who facilitates funding from outside sources for
25 dam removals, then we oversee the project.

1 We accomplish plenty of those throughout the
2 states. They are not necessarily for dams. The owner
3 just wants the dam removed.

4 The number of dams is relatively small compared
5 to the 5 or 600 dams that we do inspect, each in
6 conjunction with DEP.

7 So, again, the orphan dams basically fall back
8 to ownership of the Commonwealth, and Department of
9 Environmental Protection oversees them.

10 REPRESENTATIVE MOUL: Okay. Thank you. While
11 you are here, how many vacant positions do you have with
12 WCOs these days?

13 MR. KAMERZEL: Currently, within our Bureau, we
14 have 12 vacant positions. There are six district field
15 officer positions. Those are the ones you would
16 encounter within your local district.

17 We have three assistant supervisor positions.
18 We have three regional managers that are vacant.
19 Currently, we have a class in.

20 We have six officers being trained that will
21 graduate in August of this year, so that will assist us
22 in filling some of those positions.

23 We are currently recruiting another class in
24 hopes of finding ten additional residents to the
25 Commonwealth that want to take up the conservation water

1 officer. They will start training July of this year.
2 Within a two year period, I'm hopeful we can have all of
3 our vacancies filled.

4 REPRESENTATIVE MOUL: And the funding will be
5 there for them?

6 MR. KAMERZEL: Yes.

7 REPRESENTATIVE MOUL: Which brings me to
8 another question. I know you are going through the
9 bargaining agreement. What is the salary range of a
10 WCO?

11 MR. KAMERZEL: It is a Pay Grade 6. I'm going
12 to give you an estimate. The first year they are in
13 training, they are a lower pay grade. There is a
14 52-week training period. They really don't do any work
15 for us.

16 They are in field training; but upon
17 graduation, they move up one pay bucket -- and don't
18 hold me to the number.

19 They start out at about \$36,000 a year and
20 after 20 years going through the steps within the pay
21 group, they end up in the mid-50s to high-50s.

22 Some of that is obscured because all of our
23 officers have the ability for overtime. You can't do it
24 in 40 hours work. They earn about 150 to \$175 in
25 overtime, which equates to another 5 to \$6,000 in wages.

1 REPRESENTATIVE MOUL: Okay. Thank you.

2 One last thing I want to mention, and I beat
3 Gary up with this last year when Doug was still on
4 board. I'm going to run it again so that I float the
5 idea into everyone's head.

6 We had a situation in my district this past
7 year where a gentleman when he reached a proper age
8 bought a lifetime license, fishing license.

9 He has two sons, one still lives in my district
10 the other moved to New Jersey. He opted to -- after he
11 lived here most all of his life, moved with his son over
12 to New Jersey and that is where he became a resident.

13 He came back and visited in my district with
14 his other son, and they decided to go fishing. Well,
15 upon the inspection of the WCO, it was decided that
16 since he was no longer a state resident that his
17 lifetime license was null and void. Therefore, he
18 received a citation for fishing without a license.

19 We need to correct that. Even though that is
20 something that happens once in a blue, blue moon, it
21 still happens. We should not treat our elderly citizens
22 as such.

23 I'm just throwing that out there. I am hoping
24 within your regulations, you can make a change. Thank
25 you, I appreciate your time.

1 CHAIRMAN STABACK: Okay. The Committee has
2 been joined by two more additional Members in the likes
3 of Representative Murphy and Levdansky to the left.

4 Brian, can you talk just a little bit more
5 about point of sale and its potential with the
6 Commission?

7 How is the system working and when do you think
8 we might see outreach and surveys as a result of the
9 data that the system is currently gathering?

10 MR. BARNER: Yes, Chairman Staback, I would be
11 more than happy to. It is one of the projects that I
12 have been really involved with.

13 We are in the third year of the implementation.
14 What that really means is we are coming up with what
15 would be the third year of having customer data that is
16 accurate. It would be all inclusive of fish and boat
17 licenses.

18 As you know, up to this point, we would sell,
19 historically, licenses and we had no way of identifying
20 in the paper system, at least a feasible way of
21 identifying who our customers were.

22 We've now started to get that database of our
23 customers and our customers' buying activities. We are
24 starting this study and thinking about how the study
25 interactions of customers purchasing the fishing license

1 either occurs annually, every couple of years, every
2 five years.

3 Once we have some of that information, we will
4 know how to target or at least encourage people to buy a
5 fishing license.

6 We are in the infancy stages of that stuff. We
7 haven't done a lot of the work in that area, and we have
8 a lot of great ideas we would like to try out.

9 CHAIRMAN STABACK: Have you made any attempts
10 at all to try to contact people who you identified as
11 former fisherman for the last year or so who have not
12 purchased a Pennsylvania fishing license to find out why
13 not?

14 MR. BARNER: Mr. Chairman, what we have done is
15 we have sent out, we got a grant through the
16 recreational fishing and boating foundation for the last
17 two years. They helped us do this.

18 We sent out notifications to people who
19 purchased in the previous year or two years previous and
20 sort of prompted them to buy a license.

21 Now, it wasn't sophisticated enough for us to
22 really determine if they did buy a license, was it
23 because of the mail that we sent or is it for some other
24 reason.

25 We do have the ability to do that because it

1 would be easy to look later on at the 50,000 people who
2 did not buy and the other 50 percent we sent a reminder
3 to, we could do a follow-up of some sort but that takes
4 time and money to develop.

5 We are not at that point yet. We are thinking
6 along the lines of how to use that.

7 CHAIRMAN STABACK: Thank you, Brian.

8 Representative McGeehan?

9 REPRESENTATIVE MCGEEHAN: Director, I want to
10 turn your eyes east to the Delaware River and the
11 Schuylkill River and Watershed and talk about the
12 population of striped bass and shad in both of those
13 waterways. One, the health of the striped bass
14 population in those waterways.

15 Secondly, the determination that the Delaware
16 River has a self-sustaining population of shad. I have
17 heard from a number of groups in the area who have told
18 me and I think science is bearing this out that there
19 has been a precipitous drop of the number of shad
20 returning up the Delaware and up the Schuylkill.

21 I know the Commission has successfully
22 propagated shad in other waterways in the state, and I
23 know the Potomac in Virginia and Washington, DC and
24 Maryland and in the waterways there, that the successful
25 hatchery system has proven successful for returning

1 shad.

2 One, what is the health of the striped bass
3 population? And secondly, I think we need to change the
4 determination of the Delaware River as far as the shad
5 population is concerned. I would like your comment.

6 MR. BARNER: Thank you, Representative. That
7 is actually a very interesting topic. We have had a
8 number of discussion with some of our people about those
9 issues.

10 It is very complicated and we have very
11 talented people within the agency studying shad for
12 decades in the Susquehanna River and the Delaware River.

13 I just learned these are extremely different on
14 the Delaware side, not necessarily on the Susquehanna
15 side, and a lot of them have to do with the
16 impoundments. The Delaware does not have impoundments.

17 The shad who live in the ocean, I guess it is
18 up to five or six years before they come back and spawn.
19 The striped bass have similar habits. They are -- the
20 problem is we think some of the effects of that are
21 occurring, either fishing or predatory type activities.

22 It is not necessarily an indicator of either
23 the Delaware or the Susquehanna that is causing some of
24 the reductions in the shad runs. It might be what is
25 happening to them offshore.

1 Fortunately, Dave Miko is with us. He is our
2 Chief, Divisions of Fisheries Management. He would be
3 more inclined to answer some of the questions you have
4 about that.

5 He is here with us fortunately. I was at least
6 smart enough to bring some of our resident experts along
7 for the topics.

8 Dave is here. I would ask him to fill in the
9 blanks or correct anything that I said that is not
10 right.

11 MR. MIKO: The question on the striped bass on
12 the Delaware -- good morning or afternoon. The striped
13 bass population in the Delaware on the East Coast was
14 declared fully restored in about 1997 in Delaware and
15 the Schuylkill up to the Fairmont Dam where the Fairmont
16 does not pass very many striped bass beyond that.

17 We open it up to a harvest, typically, closed
18 season, in the spring spawning period. A lot of folks
19 take advantage of those returning fish up there and to
20 the Delaware to spawn.

21 As far as the shad population goes, as Brian
22 pointed out, we do feel a large part of the problem is
23 in the ocean fishery and adult fish in the ocean.

24 We are working with NOAH and trying to increase
25 -- observe coverage on some of the offshore fishing

1 industry, primarily butter fish, mackerel, a lot of
2 American shad is by catch.

3 We still feel that the numbers of adult in
4 Delaware is adequate and sufficient to provide enough
5 young fish, and that is based on surveys that showed
6 there has really been no change in the number of
7 juvenile, American shad.

8 There is still a number of American juvenile
9 shad as there has been in the past. It fluctuates, but
10 there has been no change over time in the number of
11 fingerling of shad in the system.

12 Once those fish leave the system, they are
13 being taken offshore. It is more than just Delaware and
14 Schuylkill. It continues as an Atlantic Coast-wide
15 problem on the American shad that are available out
16 there.

17 REPRESENTATIVE MCGEEHAN: If I may,
18 Mr. Chairman?

19 CHAIRMAN STABACK: Yes.

20 REPRESENTATIVE MCGEEHAN: Thank you,
21 Mr. Chairman. The report of Gary Moore has been helpful
22 to make me understand some of the science behind it.

23 My understanding is they are hatching and
24 releasing on the Potomac and the success rate on the
25 Potomac far out exceeds what is on the Susquehanna and

1 Delaware River.

2 My question is why aren't we doing that in the
3 eastern region? I know you do it in other tributaries
4 around the Commonwealth. My question is why isn't the
5 same attention being paid to the Delaware and Schuylkill
6 regions?

7 MR. MIKO: Very good question. In the Potomac
8 where the stock is being successful, there were very
9 few, very small number of wild fish in that system to
10 keep the population in the Delaware system, we are
11 seeing no benefit, very small benefit from stocking of
12 hatchery fish.

13 All of our hatchery fish are marked with a
14 chemical mark on the ear bone. We are getting a 3
15 percent return of our stocked fish.

16 What it ends up being is a competition issue in
17 the Delaware where we have a good wild population and
18 good number of fingerlings population.

19 They are out competing our hatchery fish;
20 whereas in the Potomac, there are very few numbers of
21 wild fish out there and the majority of fish making up
22 that population were hatchery fish.

23 REPRESENTATIVE MCGEEHAN: Well, I would like to
24 continue to explore that with you, Mr. Chairman, and
25 Director Gary Moore.

1 Lastly, a politically loaded question. The
2 dredging of the Delaware River, what impact is that
3 going to have on the affect of sturgeon and other native
4 populations?

5 MR. MIKO: I can't answer that question
6 directly at this point. I have had staff involved with
7 the dredging and the impacts that may occur there; and
8 if I could get with that gentleman, I can get back with
9 you.

10 REPRESENTATIVE MCGEEHAN: Well, you avoided
11 that political bombshell.

12 CHAIRMAN STABACK: Very good.

13 Representative Gillespie?

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

16 Brian, you had talked about the upgrades to
17 some of the hatcheries on sale and some of the other
18 ones, is that for PCBs at all?

19 MR. BARNER: No. The upgrades that we are
20 working are for the fish and waste. The water in a lot
21 of cases is cleaner coming out of the hatcheries than
22 going into the hatcheries. It doesn't have anything to
23 do with the PCB problems.

24 REPRESENTATIVE GILLESPIE: Where do we stand
25 with PCBs? Where do we stand with that now?

1 MR. BARNER: Actually, I would ask
2 Mr. Schaeffer to come up again and speak briefly on
3 that. I'm not sure that we have a lot of new
4 information.

5 From what I understand, it is not an issue at
6 many of our hatcheries, I do now know that. Dave might
7 be able to help with that. He won't dodge this
8 question.

9 MR. MIKO: The PCB issue is that the levels in
10 the hatcheries and fish that were leaving with the
11 hatcheries are all levels below consumption. They are
12 comfortable with the fish now and consumption. I'm not
13 sure --

14 REPRESENTATIVE GILLESPIE: Well, I guess what
15 I'm trying to gauge four or five years ago, when this
16 thing first came out, there were consumption advisories.

17 Has that improved in the last four or five
18 years or are we still maintaining the same amount of
19 PCBs when this first arose?

20 MR. MIKO: When this first arose, we had levels
21 in our fish that exceeded levels that required
22 consumption advisories. Those have dropped, and the
23 consumption advisories are no longer required for fish
24 to go out in our system.

25 REPRESENTATIVE GILLESPIE: Okay. Great. You

1 talked about the spread of the basis invasive species
2 regarding the Marcellus shale that Chairman Miller had
3 touched on. Can you give us an up-to-date on what are
4 some of these invasive species from one body of water?

5 MR. SCHAEFFER: There are literally hundreds of
6 species that are in Pennsylvania that are endemic to the
7 Commonwealth that have potentially spread. Golden
8 algae, we are concerned about that, is in southwestern
9 Pennsylvania.

10 We are not suggesting that it came from
11 drilling equipment, but the point is it has been
12 discovered there. We know there is drilling activity
13 there now, and we don't want it to be moved anywhere.

14 The other is zebra muscles through the Lake
15 Erie Watershed have been detected in the Susquehanna
16 drainage and the list goes on and on.

17 Golden algae and zebra muscles are two
18 examples. Again, I want to give kudos to the
19 Susquehanna River Basin Commission.

20 They have been requiring as part of their
21 dockets -- issue permits to take water bodies out of the
22 Susquehanna Watershed. They have been requiring
23 disinfection plans for drillers to make sure the risk of
24 the spread is minimized.

25 REPRESENTATIVE GILLESPIE: I would imagine some

1 of the stuff is probably microscopic that can't be seen?

2 MR. SCHAEFFER: That is another good point.

3 You can't just assume that you can't see something that
4 nothing is there.

5 Oftentimes, the conditions aren't right, maybe
6 it needs certain water flowing conditions to let this
7 stuff bloom.

8 I would like to point out this is one of the
9 factors that we are concerned about. We realize that
10 Marcellus drilling isn't the only effect. Our anglers
11 and boaters in a lot of places may be just as much in
12 certain streams.

13 We are taking a really deliberate approach to
14 educate anglers, boaters, and others about the steps
15 that they can be doing to clean their gear.

16 I should respond about the automatic license
17 indicator. We actually used that to conduct a survey
18 this winter of anglers to find out what sort of message
19 would resonate with them.

20 We would like to do the right practices to
21 clean their gear. So we surveyed them based upon the
22 data we got and find out what they are doing now, find
23 out what they would be inclined to do. Then we're going
24 to be able to target our message a lot better than we
25 would have had we not done the survey.

1 REPRESENTATIVE GILLESPIE: One more quick one.
2 Maybe this will be for you as well. I mentioned about
3 the streams and sections that you are monitoring and
4 surveying for wild trout. How is that done? Is that
5 done by shocking? Is it done by dipping or how do they
6 --

7 MR. SCHAEFFER: We'll continue to tag team.

8 MR. MIKO: We've got 45,531 waters that are
9 monitored by the fish and boat. Those take place by
10 electronic fishing. We have a three-men group that sets
11 up a system to detect the presence or absence of large
12 trout and other species.

13 REPRESENTATIVE GILLESPIE: So it is done by
14 electronic shock?

15 MR. MIKO: Correct.

16 REPRESENTATIVE GILLESPIE: Thank you,
17 Mr. Chairman.

18 CHAIRMAN STABACK: Representative Levdansky did
19 have a question. He left the room for a minute. I'm
20 sure he will be back shortly.

21 In the interim, I would like to ask one more,
22 and that references the study of the Susquehanna River
23 in the past three years regarding the demise of the
24 smallmouth bass and gray numbers.

25 As I understand the situation, you know what is

1 happening to the fish but you don't know why. Now, does
2 it seem unusual that after the three-year study that is
3 still the case?

4 I mean, you have been working with the US
5 Geological Survey and DEP. Is there any ideas at all as
6 to what is causing the problem and what a potential fix
7 may be?

8 MR. BARNER: Chairman Staback, I will have Dave
9 Miko address that.

10 MR. MIKO: We worked very closely with DEP on
11 the issue of smallmouth bass. I would say it is not
12 unusual to have an answer of what is causing the problem
13 at this point, and it is so complex in nature.

14 We know that the small fish are being stressed
15 to a point and are coming to a number of different
16 diseases, bacterial disease that is probably simply the
17 final stage that we could actually visually see before
18 those fish die.

19 We work with the USGS and are identifying that
20 these fish have a high parasite load in them that may be
21 causing additional stress.

22 We are also looking at some of the adult fish
23 prior to spawning to see if they are starting the
24 spawning already stressed. There are a number of
25 avenues.

1 We don't have a direct answer or smoking gun.
2 To be honest, we could never find a smoking gun. It
3 could be from a number of additional stressors on these
4 fish that make them unable to fight off some of these
5 diseases and parasites.

6 CHAIRMAN STABACK: Now, is it both the smaller
7 fish as well as the adult population that is impacted
8 and is it the entire river that is being impacted or
9 just certain parts of it?

10 MR. MIKO: The fish kills that are occurring on
11 the smallmouth bass and the two- to three-inch fish, we
12 are finding this problem throughout the system from the
13 north branch down to the southern border.

14 There seem to be some hotter pockets.
15 Harrisburg south seems to be where the bulk of the
16 problem is occurring.

17 Above Sunbury, there are some issues there as
18 well. There may be currents in the tributaries, and we
19 will look at that most closely in 2010.

20 CHAIRMAN STABACK: Is the mortality rate higher
21 in warmer weather than cooler weather?

22 MR. MIKO: We are finding we have low water
23 years and high water temperatures. That is where we
24 identify the disease occurs. In 2006, we had a high
25 water year and cool temperatures but the disease did not

1 manifest itself.

2 CHAIRMAN STABACK: Thank you.

3 Representative Goodman?

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

6 Very quickly, I appreciate your testimony. It
7 was very thorough, but you do mention some of the
8 successes that you have had with partnership with many
9 different communities and agencies.

10 I have been trying -- I know the time does not
11 allow you to go into detail with an answer of this. I
12 have been trying for the last two years to find funding
13 for a dam in my area. It is called the Public Station.
14 It is owned by the Borough of Shenandoah, but it is one
15 of the largest fishing opportunities for anyone in
16 Northern Schuylkill County.

17 They were targeted as one of the high hazard
18 dams, and we all know how expensive they are. We don't
19 have the funding sources to make the needed repairs.

20 I remembered in your testimony that we did
21 change the law a couple of years ago to allow the fish
22 and Game Commission -- Fish and Boat Commission and the
23 Game Commission for Growing Greener II grant
24 applications and the H2O PA funding source.

25 I have been going through DCNR, maybe the

1 people I should be taking is through Fish and Boat. I
2 would appreciate if one of your staff Members can get in
3 contact with my office so I can talk in greater length
4 to see if this qualifies.

5 MR. BARNER: We will make sure to do that.

6 REPRESENTATIVE GOODMAN: Thank you very much,
7 Mr. Chairman.

8 CHAIRMAN STABACK: Representative Levdansky?

9 REPRESENTATIVE LEVDANSKY: Thank you,
10 Mr. Chairman. I apologize for arriving a little bit
11 late. I had a Joint Finance Committee with the Senate
12 this morning.

13 Just a couple of quick questions, Mr. Barner.
14 I see here that your Fiscal Year '08-'09, your actual
15 revenue was about 49.7 million. Your expenses were 48.1
16 million. So you're about a million -- 1.5, 1.6 on the
17 positive side of the ledger but my question is what is
18 your overall fund balance?

19 MR. BARNER: Representative, that is a good
20 observation, especially somebody working with the
21 finance stuff.

22 One thing I would like to note about the
23 numbers you are talking about, the revenue and
24 expenditures, I think that typifies that cycle that we
25 talked about earlier.

1 We are currently in that period where the first
2 three or four years after you receive a license fee
3 increase, we are able to produce more revenue than we
4 expend.

5 We need to put that in the bank, which is what
6 I'm going to talk about, to carry us through the next
7 three or four or five years when that side of the ledger
8 changes.

9 Probably next year, you're going to see that
10 our expenditures are going to exceed those issues. The
11 fund balance is always a complicated thing. We have two
12 of them, a fish and a boat fund. They are exclusively
13 two different things.

14 The fish fund has -- there is technically 40
15 million dollars in an account. There is 8 or 9 million
16 dollars in what we call restricted revenue that brings
17 the balance down to 32 million.

18 Of that 32 million, there is another seven or
19 eight that is committed for long-term projects, for bond
20 repayments for our headquarters, and things like that.

21 Right now, if you said write me a check with
22 the money you have, I could technically write a check
23 out of the fish fund for 25 million dollars. The boat
24 fund is a similar situation. I could technically write
25 you a check for up to 16 million. That would be our

1 usable fund balance. It is not the amount of money we
2 have, but it is available for expenditure.

3 REPRESENTATIVE LEVDANSKY: So the usable
4 unencumbered revenue in both funds combined would be
5 about 25 million plus 16?

6 MR. BARNER: That is correct.

7 REPRESENTATIVE LEVDANSKY: You mentioned in
8 your testimony about your utilization of the Growing
9 Greener bonds, Growing Greener II financing that was
10 provided by the General Assembly and made available to
11 -- some to the Fish and Boat and some to the Game
12 Commission.

13 What is the total amount you ended up using? I
14 believe you used pretty much all of us it for upgrades
15 to the hatchery system. How much of that was in total?
16 Do you know?

17 MR. BARNER: We were allocated 27 and a half
18 million dollars. We have not used it all yet but we
19 will use every single penny of that. That will
20 hopefully occur by the time of the Reynoldsdale area is
21 completed. So probably two to three years.

22 We are working on five major projects; three
23 are complete, two are almost finished -- we have done
24 numerous smaller facility upgrades to some of our other
25 locations.

1 We spread the money around. We have also used
2 the money to repair the burden process of Leaser Lake
3 Dam in Lehigh County and Opossum Lake Dam in Cumberland
4 County.

5 REPRESENTATIVE LEVDANSKY: If my memory is
6 correct, years back, I think the total fish hatchery
7 cost to upgrade everything at the time was like
8 somewhere around 75 -- north of 75 million I think?

9 MR. BARNER: And I can tell you why the 27 and
10 a half million dollars was used the way it was. We took
11 that 75 or 80 million dollar estimate, and we had our
12 engineering staff break it down.

13 What do we have to have right now to be
14 complying with our permits? What do we need to do over
15 the next ten years? What is the list of things we can
16 do without and the stuff that everybody wants to have
17 and set aside?

18 We have exclusively worked on the Phase I, the
19 essential things we need to do to have the hatcheries
20 open and operating. That is where the funding is going
21 at this point.

22 REPRESENTATIVE LEVDANSKY: So even after that
23 27 and a half million expenditure, you're still going to
24 have other upgrades that you would probably like to do
25 but you can't because you don't have the funding to do

1 it?

2 MR. BARNER: The funding for what we have now
3 is for upgrades for treatment systems. It is not doing
4 anything for the long-term maintenance and care of the
5 facilities.

6 They are large, expensive facilities, concrete,
7 piping, infrastructure, and stuff all breaks those
8 numbers out.

9 So there is issues with the affluent, which is
10 what we are dealing with now plus there is the reduction
11 to keep the facilities healthy.

12 REPRESENTATIVE LEVDANSKY: Just one final thing
13 I just want to point out. Often government is accused
14 of being, you know, reactive and behind the times, but
15 one thing that the Fish and Boat Commission has done in
16 a very proactive sense is to anticipate and look at the
17 problems, the environmental impacts of Marcellus
18 drilling in the state before it happens.

19 I just want to commend the agency for being
20 aggressive, being proactive, you know, putting, you
21 know, working to put protocols in place to make sure
22 golden algae doesn't expand beyond and all of the other
23 environmental impacts especially since so much of the
24 fair play of Marcellus shale in this state also is in an
25 area where there is really exceptional value watersheds

1 and native brook trout species and some of the best,
2 cleanest water in the state is in the Marcellus shale
3 area.

4 It is good to have the Fish and Boat Commission
5 personnel out there, you know, looking at the impacts
6 and making sure of that in the planning process for
7 establishing the drill sites and being able to do the
8 water withdrawals and with the water and with the
9 disposal of frac water as well.

10 I just want to commend the agency for being
11 proactive in anticipating those concerns. It is not
12 just because of that. It is because of a lot of other
13 things.

14 I'm glad you mentioned it in your testimony,
15 the importance of Marcellus shale as a potential source
16 of revenue for the agency, especially in light of the
17 fact that every time we raise license fees, we lose, you
18 know, people drop, they don't buy a fishing license.
19 That is just the reality.

20 So we've got to look for ways to get some other
21 alternative financing for the agency, especially given
22 the fact that almost 70 percent of your budget comes
23 from license fees unlike the Game Commission where it is
24 about 50 percent. They have plenty of coal, oil, gas,
25 timber, minerals resources that they could lease and

1 receive revenue from. The Fish and Boat Commission by
2 and large doesn't have that option.

3 I think you are in a much tougher financial
4 bind all of the time compared to even the Game
5 Commission. I'm not saying that to diminish their
6 problems. I'm just saying it because I think it is
7 vitally -- it is both relevant and significant that when
8 we do the gas severance tax that we earmark just a
9 little piece of it, just a small amount to help fund the
10 operations of the Game Commission and the Fish and Boat
11 Commission. That will go a long way towards lessening
12 the dependency on fishing licenses and the loss of
13 fishing licenses that will be experienced from that.

14 Mr. Chairman, thank you for the opportunity and
15 I apologize for being a little late.

16 CHAIRMAN STABACK: Okay. Thank you.

17 Chairman Miller?

18 SUBCHAIRMAN MILLER: Thank you, Mr. Chairman.

19 When I look at the annual report, there is a
20 chart here that says the number of warm water and cool
21 water species cultured and stocked in 14 state
22 hatcheries, one of the fish that is not on here is
23 smallmouth bass.

24 In light of what Chairman Staback discussed
25 with the Susquehanna River, can you explain to me why we

1 are not raising smallmouth bass?

2 Is that something that we have not had a need
3 to do over the past years? We might have to consider
4 that with the issues that we are now seeing.

5 MR. MIKO: I could respond to that. The
6 typical reason we stock fish is direct, immediate
7 recreation. The other fish we stock, the walleye,
8 muskie, fingerlings, they are stocked in waters where
9 those fish can reproduce on their own.

10 Smallmouth bass are capable of spawning on
11 their own, but we did look at it. We tried to raise
12 fingerling and smallmouth bass to see if we have an
13 impact on the smallmouth bass on the rivers in the
14 system.

15 The numbers that we need to make an impact
16 would be so great that they are really not available.
17 Again, we raise enough in our system. They are not
18 available nationwide, the numbers that would be required
19 in Susquehanna.

20 Some good news, if there is good news there,
21 the number of adult fish that are in the Susquehanna
22 River based on our assessments are very similar to the
23 number of adult fish that were there in the mid '80s and
24 early '90s.

25 Those adult fish are the great fish that we

1 have all experienced through the mid '90s, so there is
2 plenty of fish to respond to getting the fish back
3 through this illness.

4 If we stock smallmouth bass, fingerlings, it
5 wouldn't get close to the number we would need to raise
6 -- it would be a very small size, and they would be
7 susceptible to the stressors that the wild fish are
8 susceptible to and will have little gain in that
9 approach.

10 SUBCHAIRMAN MILLER: Thank you. Thanks for
11 that explanation.

12 Thank you, Mr. Chairman.

13 CHAIRMAN STABACK: Are there any others that
14 have questions of Mr. Barner?

15 Seeing none, Brian, I want to thank you again
16 for your presentation and for the manner in which you
17 responded to the questions that were put to you.

18 I know the process is new to you; but given
19 that fact, you certainly did a commendable job with your
20 presentation and handling the questions that were posed
21 to you. On that note, this hearing is now adjourned.

22 (The hearing concluded at 11:24 a.m.)

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