

1 HOUSE OF REPRESENTATIVES
2 COMMONWEALTH OF PENNSYLVANIA

3 * * * *
4 Department of Environmental Protection
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6 House Appropriations Committee

7 Main Capitol Building
8 Majority Caucus, Room 140
9 Harrisburg, Pennsylvania

10 Tuesday, March 1, 2016 - 9:30 a.m.

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12 COMMITTEE MEMBERS PRESENT:

13 Honorable William Adolph, Majority Chairman
14 Honorable Karen Boback
15 Honorable Jim Christiana
16 Honorable Gary Day
17 Honorable George Dunbar
18 Honorable Keith Greiner
19 Honorable Seth Grove
20 Honorable Sue Helm
21 Honorable Warren Kampf
22 Honorable Fred Keller
23 Honorable Tom Killion
24 Honorable Jim Marshall
25 Honorable Kurt Masser
Honorable David Millard
Honorable Duane Milne
Honorable Mark Mustio
Honorable Michael Peifer
Honorable Jeffrey Pyle
Honorable Marguerite Quinn
Honorable Curt Sonney
Honorable Mike Vereb

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COMMITTEE MEMBERS PRESENT:

Honorable Joseph Markosek, Minority Chairman
Honorable Leslie Acosta
Honorable Matthew Bradford
Honorable Tim Briggs
Honorable Donna Bullock
Honorable Mary Jo Daley
Honorable Madeleine Dean
Honorable Maria Donatucci
Honorable Stephen Kinsey
Honorable Michael O'Brien
Honorable Kevin Schreiber
Honorable Peter Schweyer

NON-COMMITTEE MEMBERS:

Honorable Matt Gabler
Honorable Mark Gillen
Honorable Will Tallman
Honorable Tommy Sankey
Honorable Cris Dush
Honorable Barry Jozwiak
Honorable Mark Keller
Honorable Steve McCarter
Honorable Rick Saccone
Honorable Todd Stephens
Honorable Leanne Krueger-Braneky
Honorable Vanessa Lowery Brown
Honorable Jaret Gibbons
Honorable Dom Costa
Honorable William Keller

Honorable John Maher, Chairman
Republican Environmental Resources & Energy
Committee

Honorable Greg Vitali, Chairman
Democratic Environmental Resource and Energy
Committee

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STAFF MEMBERS PRESENT:

David Donley
Majority Executive Director

Ritchie LaFaver
Majority Deputy Executive

Curt Schroder, Esquire
Majority Chief Counsel

Miriam Fox
Minority Executive Director

Tara Trees, Esquire
Minority Chief Counsel

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PENNSYLVANIA STATE POLICE

John Quigley
Secretary

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1 MAJORITY CHAIRMAN ADOLPH: Thank you,
2 everyone. Good morning. I'd like to reconvene the
3 House Appropriations Committee budget hearing for
4 the year '16-17.

5 With us this morning is the Secretary of
6 DEP, and I would just suggest to everyone, if you
7 have an iPhone or an iPad, or any type of
8 electronic device, please turn it off. It kind of
9 interferes with the telecast. And if you have some
10 conversations among yourselves, if you could just
11 step outside for a minute, because sometimes these
12 mikes aren't working as well as they should.

13 I'll tell the Secretary, before he says
14 something regarding -- to move his mike up as close
15 as he can because these mikes are not really
16 high-powered.

17 What I'd like to do is have all the
18 members of this committee introduce themselves. My
19 name is Bill Adolph. I'm the Republican Chair of
20 the House Appropriations Committee. I reside in
21 Springfield Township, Delaware County, the 165th
22 Legislative District.

23 MINORITY CHAIRMAN MARKOSEK: Hi. Good
24 morning. I'm the Democratic Chairman of the House
25 Appropriations Committee. My name is

1 Representative Joe Markosek. I live in
2 Monroeville, which is in the eastern suburbs of
3 Allegheny County.

4 MS. FOX: Hi. I'm Miriam Fox. I'm the
5 Executive Director for the Appropriations
6 Committee, Democrats.

7 CHAIRMAN VITALI: Greg Vitali. I'm the
8 Democratic Chairman of the Environmental Resource
9 and Energy Committee. I represent parts of
10 Delaware and Montgomery counties.

11 REPRESENTATIVE DEAN: Good morning and
12 welcome. I'm Madeleine Dean from Montgomery
13 County.

14 REPRESENTATIVE M. DALEY: Good morning.
15 Mary Jo Daley, Montgomery County, the 148th
16 District.

17 REPRESENTATIVE KINSEY: Good morning.
18 Steve Kinsey, 201st Legislative District,
19 Philadelphia County.

20 REPRESENTATIVE ACOSTA: Good morning.
21 Representative Leslie Acosta from Philadelphia
22 County, 197th District.

23 REPRESENTATIVE DONATUCCI: Good morning.
24 Maria Donatucci, 185th District, Philadelphia and
25 Delaware counties.

1 REPRESENTATIVE SCHWEYER: Good morning.
2 Peter Schweyer, 22nd Legislative District, Lehigh
3 County, City of Allentown.

4 REPRESENTATIVE O'BRIEN: Good morning.
5 Mike O'Brien, 175th District, Philadelphia.

6 REPRESENTATIVE SCHREIBER: Good morning.
7 Kevin Schreiber, 95th District, York County.

8 REPRESENTATIVE BRIGGS: Good morning.
9 Tim Briggs, Montgomery County, 149th District.

10 REPRESENTATIVE BULLOCK: Good morning.
11 Donna Bullock, 195th District, Philadelphia County.

12 REPRESENTATIVE BOBACK: Representative
13 Karen Boback, House District 117, Luzerne,
14 Lackawanna and Wyoming counties.

15 REPRESENTATIVE HELM: Good morning. Sue
16 Helm, 104th District, Dauphin and Lebanon counties.

17 MR. DONLEY: Dave Donley, Republican
18 staff, Executive Director to the committee.

19 REPRESENTATIVE SCHRODER: Good morning.
20 Curt Schroder, Republican Chief Counsel of the
21 committee.

22 CHAIRMAN MAHER: Good morning, Mr.
23 Secretary. John Maher, Chairman of the House
24 Environment Resources and Energy Committee, and my
25 office is Bethel Park, Peters Township and Upper

1 St. Clair.

2 REPRESENTATIVE MUSTIO: Good morning,
3 Mr. Secretary. I'm Mark Mustio from Allegheny
4 County, 44th Legislative District.

5 REPRESENTATIVE CHRISTIANA: Good
6 morning, Mr. Secretary. Jim Christiana, Beaver and
7 Washington counties.

8 REPRESENTATIVE PYLE: Good morning, Mr.
9 Secretary. Jeff Pyle, 60th Legislative; Armstrong,
10 Butler and Indiana counties.

11 REPRESENTATIVE SONNEY: Good morning.
12 Curt Sonney. I represent the 4th Legislative
13 District, which is eastern Erie County.

14 REPRESENTATIVE MARSHALL: Good morning,
15 Mr. Secretary. Jim Marshall, 14th District, Beaver
16 and Butler counties.

17 REPRESENTATIVE PEIFER: Good morning.
18 Mike Peifer, 139th District, which includes Pike
19 and Wayne counties.

20 REPRESENTATIVE GREINER: Good morning,
21 Mr. Secretary. Dave Millard, 109th District,
22 Columbia County.

23 REPRESENTATIVE DUNBAR: Good morning.
24 George Dunbar, Westmoreland County, 56th District.

25 REPRESENTATIVE KAMPF: Good morning.

1 Warren Kampf, 157th District, Chester and
2 Montgomery counties.

3 REPRESENTATIVE GREINER: Good morning,
4 Mr. Secretary. Keith Greiner, 43rd District,
5 Lancaster County.

6 REPRESENTATIVE MILNE: Good morning.
7 Duane Milne, 167th District, from Chester County.

8 REPRESENTATIVE F. KELLER: Good morning.
9 Fred Keller, 85th District, Union and Snyder
10 counties.

11 MAJORITY CHAIRMAN ADOLPH: There you go.
12 We kind of joke a little bit at this committee, the
13 largest committee in the State Capitol. It's just
14 a little smaller than the state Senate. You will
15 have a lot of questions, Mr. Secretary. The
16 members of this members reside all over the
17 Commonwealth, so there's different environmental
18 needs for sure.

19 It's nice to have you here. The mike is
20 yours.

21 SECRETARY QUIGLEY: Thank you, Chairman
22 Adolph. Good morning. Chairman Markosek and
23 members of the committee, thank you for the
24 greeting this morning, and good morning to you all.
25 It's a privilege to be before you this morning to

1 talk about Governor Wolf's proposed budget for DEP
2 for '16-17. Let me get right to the point with
3 regard to my agency.

4 Over the last 10 years, the average
5 Commonwealth agency, as a result of relentless
6 year-over-year budget cuts, lost about 6 percent of
7 its staff. However, DEP in that same period of
8 time, lost 14 percent of its staff. And about
9 two-thirds of that reduction comes in terms of
10 permit writers and inspectors, the folks who are on
11 the ground protecting Pennsylvania's air, land,
12 water and public health.

13 So, my agency has been very
14 significantly degraded over the last decade. And,
15 we are at the point where further cuts, very
16 frankly, place the public health at risk, and so,
17 we have a choice to make in terms of how we go
18 forward.

19 I want to give you some examples. One
20 additional example in terms of how we've been
21 degraded, and that comes in our IT budget. I will
22 happily talk to you this morning about a lot of our
23 technology initiatives to improve our efficiency,
24 effectiveness, streamline operations, streamline
25 permitting, but DEP's IT budget in 2004 was \$23

1 million. We were judged by the Office of
2 Administration as an A-rated agency. We're
3 actually the best agency of the state government
4 when it comes to information technology.

5 Fast forward to 2016, our IT budget
6 today is \$16 million. Again, \$23 million 12 years
7 ago; \$16 million today, and it's not because PCs
8 got cheaper. When you factor in inflation, our
9 budget should be about \$29 million for IT. So it's
10 a foregone investment over that time of about
11 \$84 million, such that, the technology that we rely
12 on at DEP is end of life. Our main data base,
13 eFACTS, will not be supported by Oracle within five
14 years, and it was put on quarantine by the Office
15 of Administration about seven years ago.

16 Further, we're sending inspectors out
17 with clipboards and carbonless forms when industry
18 counterparts are using iPads. So, we have a long
19 way to go to improve the agency and reinvest in our
20 capacity. But the good news is, there's a
21 tremendous opportunity to do that, and Governor
22 Wolf is very focused through our GO-TIME initiative
23 on exactly that; making the investments in the
24 agency to improve efficiency, effectiveness,
25 service delivery, transparency and accountability.

1 And we look forward and we're excited to the
2 strategic plan that we've developed over the last
3 year to make those investments.

4 So, I'm happy to discuss that, and
5 anything else that is on your mind this morning and
6 appreciate the opportunity.

7 MAJORITY CHAIRMAN ADOLPH: Thank you.
8 Chairman Markosek.

9 MINORITY CHAIRMAN MARKOSEK: Thank you,
10 Chairman Adolph.

11 And good morning, Secretary Quigley.
12 It's great that you're here today. I look forward
13 to hearing the testimony and the questions.

14 Mr. Chairman, I don't have any questions
15 at this time. I'll leave my time for the other
16 members. I know we have our two great chairmen
17 here of the committees, and I'm sure there will be
18 a lot of questions. Thank you.

19 MAJORITY CHAIRMAN ADOLPH: Thank you.

20 Mr. Secretary, I don't have any direct
21 questions. It's just something that I've been
22 voicing an opinion, okay, that I hope will resinate
23 as these budget discussions continue, is that, the
24 Governor talks about two roads, and he talked about
25 this in his February address. One that has, in my

1 opinion, excessive spending at a time where we're
2 facing a structural deficit. I think the other
3 road he says is more cuts in financial crisis.

4 Well, I believe there's a middle road
5 and that's what we're looking for, and that's what
6 these budget hearings are all about; is trying to
7 find a way to balance the budget and also face a
8 deficit ahead of us.

9 Some of these increases in spending
10 would be nice, would be nice, but it comes at a
11 time, okay, and it's not the first time, where the
12 state is facing a time where, you know, pensions
13 are jumping up half a billion dollars a year; the
14 corrections department, the DHS, mandates from the
15 federal government; and, of course, debt. They're
16 the four big cost drivers in all the state budget.
17 So we're trying to deal with them; at the same
18 time, trying to fund the departments with what is
19 necessary, okay.

20 As Chairman Markosek has mentioned, it's
21 a custom that we always invite these chairmen of
22 the standing House committees. And today we have
23 both the Republican and the Democratic chairs,
24 Representative Vitali and Representative John
25 Maher. Representative Maher said that he was going

1 to defer until a little later on. He's getting his
2 remarks together. We'll start with Representative
3 Greg Vitali.

4 CHAIRMAN VITALI: Thank you, Mr.
5 Chairman.

6 And thank you, Secretary Quigley, for
7 coming here and a great job you're doing at DEP,
8 and the great job you've done for the environment
9 over the past two decades I've known you.

10 I'm just looking at some data on
11 staffing and funding at DEP. Looks like we were
12 getting -- DEP was getting over, in 2007-2008, over
13 200 million from state sources, and the last budget
14 we got 214, 215. It was below 140 million, so
15 that's like about a 60-million dollar plus cut from
16 state sources.

17 I'm just looking at your personnel in
18 2008, you had about 3,060 people, and now you're a
19 little below 2,700 people, so you've lost 300.
20 You've lost 10 percent of your staff and a huge
21 chunk of your money. I mean --

22 Could you tell us how that affects your
23 mission? Like, for example, permitting; I mean,
24 how many permits do you do a year, and how does
25 this huge cut in personnel and money affect your

1 ability to deal with permits?

2 SECRETARY QUIGLEY: Thanks for the
3 question, Representative. It puts a tremendous
4 strain on the agency, and I'll give you some
5 examples.

6 In my south central regional office,
7 which is very typical of the agency, I have four
8 permit writer, down from probably three times of
9 that at one time. Those four permit writers are
10 sitting on 200 permit applications. And as fast as
11 one gets removed from the pile, one or two replaces
12 it. So, we have a tremendous backlog.

13 You know of the off-stated criticism of
14 DEP that permits can't be turned around. I want to
15 share with you one other challenge that we have,
16 and then really talk about some of the implications
17 we have seen relative to the EPA citing us for
18 severe under-staffing.

19 When it comes to permitting, not only
20 are we under the gun with cuts, but we also face
21 some pretty significant deficiencies coming from
22 the regulating community. When I hear the
23 criticism about DEP and the slowness of permitting,
24 I think we need to be driven by the facts. And I
25 asked my staff to pull some information last year

1 about permitting and performance in the regulating
2 community, and we looked at 28-month period, from
3 May 2013 to September 2015. In that time, we
4 reviewed almost 2,600 permit applications under our
5 Chapter 102, which is soil erosion and
6 sedimentation control, and Section 105, water
7 obstructions and encroachments. And of these 2,600
8 permits, over a thousand of them--in fact, 39
9 percent of them--had technical or completeness
10 efficiencies, and 14 percent of the applications
11 were deficient and incomplete when they were
12 submitted, and that adds to our workload and just
13 gums things up. Thirty percent of the applications
14 were technically deficient.

15 There was a total of 47 firms that
16 submitted these 2,600 applications. And if you
17 rated them -- If you graded them, just like we all
18 get graded in school where A is 90 and above, B is
19 80 and above, of those 47 firms, one firm got an A,
20 5 got a B, 7 got a C, 8 firms earned a D, and 26
21 firms failed, with less than 65 percent of their
22 applications being complete or without technical
23 deficiency.

24 So, I would submit to you when it comes
25 to permitting it takes two to tango. I'll be happy

1 to talk about the advances that we intend to make.
2 Electronic permitting that is something we're going
3 to begin the roll-out in the agency this year to
4 improve our internal processes. But, we also need
5 the regulating community to step up. There's a lot
6 of businesses in this state that aren't getting
7 their money's worth from their consultants.

8 To pile on to the question of
9 permitting, I also want to share with you some
10 information; that the agency has been written up
11 repeatedly by the Environmental Protection Agency.
12 We, obviously, have delegation and authority to
13 implement the provisions of the Clean Air Act,
14 Clean Water Act, et cetera. And over the last
15 several years, we have been written up repeatedly
16 in audits of EPA for inefficient staffing.

17 In our Office of Active and Abandoned
18 Mine operations, we've been cited for severe
19 understaffing of our inspectors. We need a minimum
20 of 57 inspectors. We have 41. Obviously, an
21 implication for public safety of miners.

22 Our Bureau of Air Quality has been
23 written up three times by EPA. One in our Air
24 Quality Monitoring Division, early last year we
25 missed a deadline to submit the 2010 ozone standard

1 because we didn't have enough staff to work on the
2 submission. We're going to correct that this year.
3 And we have a federal bio-watch program in
4 southeast Pennsylvania, in the Philadelphia region,
5 that is fully funded by the federal government, and
6 we only have two employees doing that. We have two
7 folks seven days a week. And the alternative is,
8 we lose the federal grant and lose our
9 participation in that program.

10 In our water programs, we've been
11 written up five times for inadequate staffing; in
12 our public water system supervision program, in our
13 storm water program, in our Bureau of Safe Drinking
14 Water, which is down 25 percent, down-staffed 25
15 percent since 2009. Chesapeake Bay, we are short-
16 staffed, and we had \$3 million withheld from the
17 federal government, and they started marching in
18 inspectors to Lebanon County late last year. And
19 in our Drinking Water State Revolving Fund and
20 Clean Water State Revolving Fund, we've been cited
21 by EPA.

22 Our Bureau of Laboratories, which is a
23 world-class facility, its accreditation is
24 jeopardized by having insufficient staff, and we
25 have been unable as an agency to maintain the

1 accreditation for our mobile labs; for drinking
2 water, wastewater and solid testing because of
3 staffing deficiencies. We've missed opportunities
4 to participate in projects by the Center For
5 Disease Control and testing residential water wells
6 and fish consumption advisory project, all due to
7 staffing shortfalls.

8 So, when it comes to staffing and
9 permitting and our ability to respond, we are very
10 much behind the 8 ball because of a decade of cuts.

11 CHAIRMAN VITALI: If I could sort of
12 follow up. First of all, congratulations on your
13 forward thinking, starting the process of having
14 methane regulations with regard to combatting
15 climate change. When I attended your webinar,
16 clearly, staffing was needed for late detection and
17 so forth.

18 Congratulations on your efforts to help
19 clean up the Chesapeake Bay. At the hearing
20 yesterday, we talked about removing nitrates and
21 phosphates and sediments. Again, staffing is going
22 to be required to do that. Congratulations on your
23 pipeline infrastructure initiative, and the 190-
24 some recommendations that your task force
25 conducted. But to implement those regulations,

1 again, staffing. The Clean Power Plan and your
2 efforts, again, to combat climate change, staffing
3 there; even getting Wifi and Rachel Carson, which I
4 didn't realize did not have it. You know, that's
5 going to require --

6 How do you -- How do you do these
7 things? I mean, how does the lack of staffing
8 hinder your ability to do these things?

9 SECRETARY QUIGLEY: Well, I have an
10 amazing staff, and I think the finest public
11 servants in the Commonwealth come to work every day
12 at DEP. They put their hearts and souls into their
13 jobs. They do heroic work. There's no such thing
14 as an eight-hour day in my agency. We work a
15 40-hour workweek or 35-hour workweek, folks do what
16 they need to do to get the job done. We have an
17 amazingly small staff doing an immense volume of
18 work, and that's a testament to them.

19 CHAIRMAN VITALI: Final question.
20 Hazardous Sites Cleanup Fund, that's been funded by
21 the capital stock and franchise tax in the past,
22 but that is just no longer going to happen due to
23 that phasing out that \$40 million. That's no
24 longer going to be there.

25 What's the status of the Hazardous Sites

1 Cleanup Fund?

2 SECRETARY QUIGLEY: Thank you for that
3 question.

4 As all of you know, the Hazardous Sites
5 Cleanup Fund has been funded historically by the
6 capital stock and franchise tax. We've got a
7 40-million-dollar annual transfer. This year that
8 is being replaced by an 18-million-dollar transfer
9 from Marcellus Legacy Fund. So that's a 55 percent
10 cut in revenue. Our projections indicate that the
11 Hazardous Sites Cleanup Fund will go red -- go into
12 the red, into a deficient by July 1st of 2018.

13 Currently, we are overseeing 29
14 Superfund sites, 250 site cleanups and about 1,200
15 sites that are in our Brownfields program -- active
16 in our Brownfield program. If we do not find a
17 sustainable source of revenue for the Hazardous
18 Sites Cleanup Fund, we will this year have to start
19 significantly ratcheting back the work and
20 curtailing this, obviously, essential work across
21 the Commonwealth.

22 There's probably sites in every district
23 that is represented here today, but the fund is
24 going to go into the red by July 1st of 2018, and
25 it requires a legislative remedy.

1 CHAIRMAN VITALI: Thank you.

2 MAJORITY CHAIRMAN ADOLPH: Thank you.

3 Before we recognize the next legislator
4 and ask you a question, I'd like to recognize some
5 members of the General Assembly that are not on
6 this committee, but have a lot of interest in your
7 department. They are Representative Gabler, Dush,
8 Sankey and Tallman, as well as Representative
9 Leeanne Krueger-Braneky, Representative Steve
10 McCarter and Representative Vanessa Brown.

11 The next question will be offered by
12 Representative Jeff Pyle.

13 REPRESENTATIVE PYLE: Good morning.

14 SECRETARY QUIGLEY: Good morning.

15 REPRESENTATIVE PYLE: I always love to
16 hear the stuff you guys have going on. To quote a
17 friend of mine -- a dear friend from the 146th, who
18 is not here, without an environment there would be
19 no Pennsylvania. That was so deep I had to think
20 about it for a while. But on to the questions.

21 I have a couple about Act 13. Could we
22 talk about that a little bit?

23 SECRETARY QUIGLEY: Certainly.

24 REPRESENTATIVE PYLE: Act 13, as part of
25 the bill, actually set aside \$6 million annually to

1 plug orphan or abandoned gas wells that had
2 essentially been walked away from years ago. I'm
3 wondering, are we still doing that, or are we using
4 this 6 million to go patch up orphan wells?

5 SECRETARY QUIGLEY: We're using that
6 money as indicated in Act 13, yes. We have an
7 inventory of about 12,000 or so wells, but we
8 believe there are as many 200,000 abandoned wells
9 in the Commonwealth.

10 REPRESENTATIVE PYLE: You never know
11 you're on top of them until someone's popped --
12 That just happened out in Indiana County. A family
13 inherited land from their ancestors and had no idea
14 there was an old well on it. And when they
15 pressured the new well, they blew the old one right
16 up the hillside. We really appreciate your help
17 with that.

18 More from Act 13, in 2014, conventional
19 shale drillers saw their permit fees increase to
20 \$5,000 per horizontal deployment, 4,200 per
21 vertical spine bore drills into the shale. This
22 increase was projected to generate about 5 million
23 annually for DEP. Now here's my question.

24 With the downturn in gas drilling, is
25 that still generating the money that we had

1 anticipated, and are we using that money for
2 inspectors on well pads?

3 SECRETARY QUIGLEY: The answer to your
4 first question, Representative, no, it's not
5 generating the money that was anticipated. The
6 amount of shale gas permits that were issued last
7 year was reduced about 33 percent with the downturn
8 in pricing. So the income to the program has
9 fallen off.

10 The oil and gas program is funded
11 entirely by permit fees. It's not funded by the
12 General Fund. So, we are looking at a situation
13 where that revenue stream is going to crash head-on
14 into our staffing needs, and there may have to be
15 an adjustment in that fee structure going forward.

16 REPRESENTATIVE PYLE: My question then,
17 if gas drilling has downturned -- which I live in
18 the gas patch. We see it. We lost out and a
19 number of other big employers. If there are less
20 well pads being developed, do we still have a need
21 for the extra inspectors that you're saying we are
22 below the complement?

23 SECRETARY QUIGLEY: Yes. Very simply,
24 we do not visit any conventional or unconventional
25 gas well as often as we should. We have 100

1 inspectors in the field. There are 227 folks in
2 the entire oil and gas section. 100 of those are
3 on-the-ground inspectors. We need to be on the
4 ground more and visiting these individual wells and
5 well pads more frequently than we do.

6 Frankly, Representative, the need is not
7 reduced by the reduction in new wells.

8 REPRESENTATIVE PYLE: So less new gas
9 starts, more inspection, that's the message?

10 SECRETARY QUIGLEY: Less new gas starts,
11 but the need for inspection on per well basis, we
12 need to visit each well five or six times over the
13 course of its productive life. We're probably not
14 even at half of that rate at this juncture.

15 So what we are doing with this lull is
16 allowing us to get around to some of these wells
17 more frequently than we have in the past.

18 REPRESENTATIVE PYLE: That I read and
19 compliments to you for that. I read in the
20 Pittsburgh Post Gazette not too long ago, we just
21 did a sweep of the wells up in the northern tier,
22 and it turned up something like 2,000 violations,
23 or something like that. And it struck me as funny,
24 with us really not drilling anywhere in the forest
25 now due to the Governor's prohibition, and us

1 turning up all of these violations, which I was
2 told, to back up to what you said earlier, were
3 mostly clerical and not really operational errors.
4 It just struck me as odd that we have to increase
5 the complement at DEP when there are less wells to
6 look at, seeing how you've already gone through and
7 cleaned out all the clerical errors on these well
8 pads for us.

9 I guess that's a perceptual issue, Mr.
10 Secretary.

11 Can I switch gears now to the EPA's
12 Clean Power Plan? I come from western
13 Pennsylvania, and it's just breaking our hearts to
14 watch 300 men at a time get shut down because our
15 coal plants can't meet the Clean Power Plan. It
16 interested us greatly that the Supreme Court ruled
17 the Clean Power Plan was unconstitutional due to it
18 not acknowledging the economic impact as was
19 written in the original law.

20 I also noted that smoke signals coming
21 out of the Administration says, we're going to go
22 ahead and comply with this even though the Supreme
23 Court ruled it unconstitutional. Given our limited
24 availability of manpower and of resources, how are
25 we going to do that?

1 SECRETARY QUIGLEY: Okay.

2 REPRESENTATIVE PYLE: That's the
3 question.

4 SECRETARY QUIGLEY: Sure.

5 REPRESENTATIVE PYLE: How are we going
6 to do it?

7 SECRETARY QUIGLEY: Well, let me back up
8 with a couple of observations. First, the Supreme
9 Court did not declare the Clean Power Plan
10 unconstitutional. It issued a stay on the lower
11 court ruling. A stay is not a decision on the
12 merits.

13 I want to put this into context and
14 understand what's happening in the coal fire power
15 industry. Over the last seven years,
16 Pennsylvania's carbon dioxide emissions have fallen
17 about 20 percent; from 134 million tons of carbon
18 dioxide to 107 million tons today. That has been
19 driven by three things:

20 First, the great recession. Secondly,
21 the Mercury Air Toxic Rule, a federal standard, and
22 primarily -- third and primarily, cheap shale gas.
23 So, if, indeed, there is a war on coal, it's being
24 waged by natural gas, and natural gas is winning,
25 so we've seen uncompetitive plants retired.

1 But here's where the Clean Power Plan
2 comes in. It requires Pennsylvania to reduce it's
3 emissions 33 percent by 2030, and the first
4 compliance period starts in 2022. And in 2022,
5 Pennsylvania's carbon dioxide emissions have to be
6 106 million tons, so only a million tons less than
7 it is right now. So, very frankly, business as
8 usual gets us into compliance in the early years of
9 the Clean Power Plan. The pinch will probably come
10 between 2025 and 2030.

11 But more fundamentally, whether we have
12 a Clean Power Plan rule in effect or not, we know
13 it's coming. We know what the future holds. There
14 is a need to have lower carbon; in fact, ultimately
15 zero carbon, collector C generation, if we're going
16 to combat climate disruption. We know that cheap
17 shale gas is going to be around for a long time.

18 The early returns from the Utica shale
19 formation suggests that it is even more productive
20 than Marcellus, so we will be blessed with an
21 abundance of cheap shale gas for a long time to
22 come, and that competitive pressure will continue
23 to bring itself to bear on coal-fire power plants.

24 And third, the cost curves of renewable
25 energy are coming down at 10 percent plus per year.

1 Renewable energy is getting cheaper all the time,
2 and it is reaching grid parity in many states, and
3 it's tantalizingly close to reaching that in
4 Pennsylvania. So we know that the future is cheap
5 renewables, cheap shale gas, and a need to reduce
6 carbon dioxide emissions.

7 So, given that inevitable future, it
8 just makes good business sense to continue to plan,
9 and what we are doing is planning to comply.
10 Because one of the possible outcomes of this
11 Supreme Court stay is that, if the compliance
12 deadline of 2018 remains after all the court
13 proceedings are over, and if we stop planning now,
14 we'll have to restart and have less time to finish
15 a plan than we would normally otherwise. So it
16 just makes good sense to prudently continue to
17 plan.

18 It's extremely unlikely that we would be
19 preparing or announcing a draft plan or submitting
20 a plan to EPA while the stay is pending. So, we're
21 in a bit of a tolling period right now. But it
22 just makes good business sense for us to continue
23 to plan. We are one of four states that was
24 selected by the National Governors Association to
25 participate in our policy academy.

1 So we have been able to procure at no
2 cost to the Commonwealth some very sophisticated
3 modeling services, so that hasn't cost the
4 Commonwealth anything, and a very limited number of
5 staff, probably five or six folks that spent part
6 of their time on Clean Power Plan. It is a real
7 gain for the Commonwealth to continue to do this
8 planning in a prudent way so that we can be
9 prepared for whatever eventuality comes out of the
10 courts.

11 REPRESENTATIVE PYLE: That's very
12 interesting. Could you share that cost per
13 kilowatt hour of generation you're quoting?
14 Because I recently saw one of those tables that
15 says for us to generate a kilowatt hour from solar
16 or from wind cost roughly 60 to \$70 per kilowatt
17 hour. Yet, if we go with nuclear, coal or gas, it
18 works out to roughly 10 or 12. The cost may be
19 coming down, but that's still a great discrepancy.
20 I'd love to look at your numbers.

21 SECRETARY QUIGLEY: Certainly.

22 REPRESENTATIVE PYLE: One last thing.
23 What is the Governor's accord for a new energy
24 future?

25 SECRETARY QUIGLEY: That is an agreement

1 that I think 18 governors nationally representing
2 both Republicans and Democrats have come together
3 to agree to plan for increased deployment of
4 alternative energy, reduced carbon energy sources,
5 improved transportation energy, transportation
6 planning, improved grid resiliency, and the effort
7 is actually just beginning to take form. It was
8 announced a couple weeks ago. We haven't had the
9 first in-person meeting yet. But the idea is to
10 plan collaboratively with our neighboring states
11 and take advantage of economies of scale and smart
12 public policy to advance cleaner grid, cleaner
13 transportation, cleaner power.

14 REPRESENTATIVE PYLE: I noticed only New
15 York and Virginia amongst our neighboring states
16 have signed on to this. No Ohio, West Virginia,
17 New Jersey, Maryland.

18 SECRETARY QUIGLEY: I think they're
19 missing the boat, but no, they haven't signed on.
20 But we have good partners in West Virginia and in
21 New York.

22 REPRESENTATIVE PYLE: Well, those are
23 also coal-producing states.

24 Chairman, that's for now about what I
25 have. If we have a second round, I'd appreciate

1 some time.

2 MAJORITY CHAIRMAN ADOLPH: Thank you,
3 Representative.

4 Just a suggestion, Mr. Secretary. I was
5 joking with you earlier. This committee is about
6 the size of the state Senate. If we can get the
7 questions and answers a little more shorter, that
8 may help the process here a little bit.

9 Representative Mike O'Brien.

10 REPRESENTATIVE O'BRIEN: Thank you, Mr.
11 Chairman.

12 Good morning, Secretary.

13 SECRETARY QUIGLEY: Good morning.

14 REPRESENTATIVE O'BRIEN: You noticed he
15 talked about being brief before me.

16 I have a special concern about clean and
17 potable water. I certainly believe that it's a
18 looming pandemic.

19 Now, I'd like to talk to you about two
20 issues dealing with that. In your opening
21 comments, you talked about the Chesapeake.
22 Certainly, we have an ongoing problem with
23 nutrients from the Susquehanna being dumped into
24 the bay. You also mentioned that the federal
25 government cut funds on that. I'd like you to

1 flesh that thought out a little bit for us.

2 SECRETARY QUIGLEY: Sure. Well, the
3 long and the short of it is that Pennsylvania,
4 after 20 years and \$4 billion of investment, is not
5 on track to meet its responsibilities relative to
6 the Chesapeake Bay. We're behind in our 2017
7 targets. But more fundamentally, the whole
8 question of the Chesapeake Bay is about clean water
9 in Pennsylvania. It's about local water quality.

10 So, we have some work to do to change
11 the approach, and we have worked very -- I've
12 worked very closely with Secretary Redding at the
13 Department of Agriculture, Secretary Dunn at DCNR;
14 with the state conservation commission, and with
15 the agricultural community to develop this reboot
16 that we've announced earlier this year.

17 It requires us to do a number of things;
18 gather better data. We are woefully inadequate in
19 terms of our data and what counts towards
20 documenting Pennsylvania's progress. Farmers are
21 doing a lot of good things with non-cost-shared
22 BMPs that they're not getting credit for. We want
23 to change that.

24 We need additional resources to fund the
25 installation of best management practices on the

1 ground, and we need to create a culture of
2 compliance. We need to actually go out and
3 inspect, because we're on the once-a-century plan
4 when it comes to inspecting farms; the 33,600 farms
5 that are within the Chesapeake Bay Watershed in
6 Pennsylvania.

7 So, we have a lot of work to do. We
8 have to fix some data issues, and we've got to
9 strengthen existing partnerships and work smarter,
10 for example, with the county conservation
11 districts. So our plan is a very comprehensive
12 aimed at, fundamentally, improving local water
13 quality in Pennsylvania, and by virtue of that,
14 getting us to where we need to be on the Chesapeake
15 Bay.

16 REPRESENTATIVE O'BRIEN: You mentioned
17 you work with the Department of Agriculture. Has
18 there been any movement towards a non-therapeutic
19 use of antibiotics? That seems to be a huge
20 problem.

21 SECRETARY QUIGLEY: Well, I cannot speak
22 to that with any level of detail, Representative.
23 That would probably be a better question for
24 Secretary Redding.

25 I do know that it is an issue. It

1 impacts water quality. These antibiotics end up
2 being excreted, and end up -- the remnants of those
3 end up in our water courses. These kinds of
4 emerging contaminants that we talk about certainly
5 are a concern, but I would suggest Secretary
6 Redding can probably answer that better than I can.

7 REPRESENTATIVE O'BRIEN: Let's move on
8 to one more issue. During the Corbett
9 Administration, Delaware Valley Basin Commission
10 was zeroed out. Where do we stand with that?
11 Where do we stand with the other interstate
12 compacts dealing with water supplies?

13 SECRETARY QUIGLEY: Well, we have
14 restored, at least partially, the funding that was
15 reduced for the River Basin Commission. DRBC is a
16 great partner for DEP. They perform a lot of
17 important services for Pennsylvania, from water
18 quality monitoring and flood plain management.
19 Supplemental services are not really accounted for
20 elsewhere.

21 The Governor's proposed budget for
22 '15-16 maintains level funding at a slightly
23 increased rate compared to the previous
24 Administration. So, we are getting to where we
25 need to be with DRBC. They continue to be a good

1 partner. And all the other river basin commissions
2 with the exception of the Chesapeake Bay
3 Commission, which saw an increase of \$50,000 in the
4 Governor's proposal, all the other commissions are
5 level funded.

6 REPRESENTATIVE O'BRIEN: Once again,
7 thank you for joining us this morning, Mr.
8 Secretary. Thank you, Mr. Chairman.

9 MAJORITY CHAIRMAN ADOLPH: Thank you,
10 Representative.

11 At this time, Chairman Maher has his
12 notes together and has some questions for you.

13 CHAIRMAN MAHER: Thank you very much,
14 Mr. Chairman.

15 Mr. Secretary, Representative Vitali
16 mentioned, quite accurately, that the support -- I
17 think you had it in your comments too -- that the
18 DEP from fiscal year '08 was at a budget of about
19 two twenty. This current year it's at about one
20 hundred forty-three, and that's a decline.

21 What, perhaps, would be helpful for
22 people to understand is that the entirety of that
23 decline was implemented under Governor Rendell by
24 your mentor and sponsor, and recently departed John
25 Hanger when he was Secretary of DEP. So, it causes

1 me to wonder.

2 We heard you last year and again this
3 year with the same theme--you don't have enough
4 money; you don't have enough staff. But when I
5 look at what the Governor asks for; when I look at
6 what the prior governors have done, why is it that
7 you can't seem to convince John Hanger and Governor
8 Wolf that you need more money and more staff, but
9 you ask us to accept it?

10 SECRETARY QUIGLEY: Well, first I would
11 say that DEP has experienced cuts over the last
12 decade, and that includes the Corbett
13 Administration, very significantly.

14 CHAIRMAN MAHER: Excuse me.

15 SECRETARY QUIGLEY: And that this
16 investment --

17 CHAIRMAN MAHER: There were no furloughs
18 under the Corbett Administration in DEP. The
19 furloughs happened under John Hanger and Governor
20 Rendell, and I think this past month under you.

21 SECRETARY QUIGLEY: That's not correct.
22 There haven't been any furloughs in the Wolf
23 Administration.

24 CHAIRMAN MAHER: The radiation people
25 aren't gone?

1 SECRETARY QUIGLEY: There have been no
2 furloughs in DEP since I've been the chair.

3 CHAIRMAN MAHER: Where did they go?

4 SECRETARY QUIGLEY: Nobody has gone
5 anywhere.

6 CHAIRMAN MAHER: Okay.

7 SECRETARY QUIGLEY: Nobody's gone
8 anywhere. There have been no furloughs. There
9 have, however, been continued hemorrhaging of
10 positions in the agency. And during the Corbett
11 Administration, that hemorrhaging continued. So
12 the agency is down-staffed over successive
13 gubernatorial administrations.

14 CHAIRMAN MAHER: The week before this
15 year's budget, the Governor's Office, or rather you
16 announced, a decline of about 200 positions at DEP.

17 SECRETARY QUIGLEY: Well, that is a --

18 CHAIRMAN MAHER: And, apparently, there
19 was a spreadsheet that was presented by your Office
20 of Administration in your department that reviewed
21 where these cuts were coming from. Would you be
22 kind enough to provide that spreadsheet to the
23 committee?

24 SECRETARY QUIGLEY: Certainly. But you
25 need to understand, Representative, this was a

1 complement ceiling that was imposed. There was a
2 number of vacancies that were initially withheld.
3 In other words, we couldn't fill all of the
4 vacancies that we had on staff. We are
5 currently --

6 CHAIRMAN MAHER: Why is that? You have
7 more budgeted --

8 CHAIRMAN VITALI: Point of order.

9 CHAIRMAN MAHER: -- in the last --

10 CHAIRMAN VITALI: Mr. Chairman, point of
11 order.

12 SECRETARY QUIGLEY: Might I answer that
13 question?

14 CHAIRMAN VITALI: Point of order. I've
15 listened to the Chairman again and again interrupt
16 the Secretary. He asked the question, and when the
17 Secretary tried to answer, he keeps interrupting.
18 I would simply ask that you direct the Chairman of
19 the Environmental Committee to let the Secretary
20 fully answer the question before he interrupts.

21 CHAIRMAN MAHER: Point of personal
22 privilege, Mr. Chairman.

23 MINORITY CHAIRMAN MARKOSEK: I was going
24 to make that same request, Chairman.

25 Chairman Maher, you have good questions.

1 I think we need to let the Secretary answer, and
2 you can disagree or agree, and then we can go on.
3 Thank you.

4 MAJORITY CHAIRMAN ADOLPH: If the
5 gentleman -- If the gentleman will agree that --
6 First of all, you know, it's Chairman
7 Markosek and I, we chose to have the standing
8 chairs come to the Appropriations Committee because
9 of the knowledge of the policies and the issues.
10 So, let's try to maintain some back and forth,
11 okay?

12 Time is relevant here, okay? So if the
13 answers could be shortened, and if the Chairman
14 would be so kind to allow the Secretary to finish
15 his sentence, but let's not prolong the answers,
16 okay. I'm trying to keep the questions moving and
17 the hearings moving as well. So, I think the other
18 members would appreciate it. Thank you.

19 SECRETARY QUIGLEY: If I could attempt
20 to answer the last question. We are working right
21 now with the Budget Office to create some space
22 within that complement ceiling because only 22
23 percent of DEP's budget is funded by the General
24 Fund, another 28 percent comes from federal funds,
25 and the other 50 percent comes from fees, as well

1 as a little bit of fines and penalties.

2 So, there are a number of positions that
3 were initially placed under that complement ceiling
4 that do not impact the General Fund, and we're
5 going back and forth now developing the business
6 case.

7 And with respect to supporting the
8 agency in its first budget proposal, the Governor
9 proposed about a 6 percent General Fund budget
10 increase for DEP, and in his current proposal,
11 another 4.88 percent. So the Governor is doing
12 everything he can within the context of a
13 \$2 billion structural deficit to at least keep DEP
14 whole and create the platform from which we can
15 grow and improve and restore the services that we
16 lost over the last decade.

17 CHAIRMAN MAHER: So, do you think the
18 amount the Governor has proposed is enough?

19 SECRETARY QUIGLEY: I think it's enough
20 given what else he has to face. Yes.

21 CHAIRMAN MAHER: Thank you.

22 With respect to these positions which
23 are funded by permit fees, such as with the two
24 dozen drilling oversight positions that you and the
25 Governor are choosing to leave vacant, even though

1 they're funded by permits, why would you come to us
2 and say you don't have enough people to oversee
3 drilling when you choose not to use the permit fees
4 that are provided to fill those positions?

5 SECRETARY QUIGLEY: Well, if you
6 remember my conversation with Representative Pyle,
7 the number of permits and, therefore, the permit
8 income coming into the agency is down 33 percent.
9 It is way under projections. So, as a matter of
10 fact, we cannot fill all of these positions because
11 revenue is down.

12 CHAIRMAN MAHER: And maybe your permit
13 applications are down because you're not processing
14 permits. And part of that you talked about that
15 you've got 500 permit backlogs or such, and you've
16 got four people on the desk. I would suggest that
17 management entails establishing priorities. And if
18 you cannot handle getting through your backlog of
19 permits when you've got, what, 2,400 people, and
20 you can't find another one or two to deal with
21 these permits, I don't understand that.

22 I think the time has come to stop
23 complaining about your head count and start owning
24 it. You are very much shaping the head count of
25 this agency. Yet, you come and you say, you can't

1 process your permits, you don't have enough people.
2 I'd say that's a failure in management, and I would
3 urge you to find a solution, because the world
4 depends on your paperwork, and it winds up being a
5 dead stop. Some of this is economic development.
6 Some of it's environmental remediation, and it
7 comes to a dead stop in your office.

8 SECRETARY QUIGLEY: Let me respond with
9 some actual information. You may recall Governor
10 Corbett's permit decision guarantee executive order
11 that he signed in 2013. I am happy to report, in
12 fact, proud to report, that when an application is
13 complete coming into DEP, we meet the permit
14 decision guarantee 89 percent of the time; 89
15 percent. And when a permit application is not
16 complete coming in the door, we still meet that
17 decision guarantee 80 percent of the time, and the
18 reason it's not a hundred percent is a lack of
19 staff. You can't get blood out of a stone.

20 Permit reviewing is a technical, legal,
21 engineering analysis. It's not a rubber stamp,
22 Representative. It requires work.

23 CHAIRMAN MAHER: Then fill --

24 SECRETARY QUIGLEY: It requires bodies,
25 and we do not have sufficient staff to meet the

1 workload of the agency.

2 We are going to do everything that we
3 can to streamline. We are kicking off a
4 ePermitting system in the agency. We're going to
5 start mining; learn from that relatively small
6 example and take it across the agency over the next
7 two and a half years. We will go to ePermitting.
8 We will get to ePaying. We will get to eBonding,
9 eBidding. We will go completely electronic in
10 every single one of our business processes in order
11 to attempt to improve our level of service to the
12 regulating community.

13 But I cannot sit here this morning and
14 tell you that without additional bodies, even with
15 those investments, we'll be able to meaningfully
16 move the needle above that 90 percent mark because
17 we don't have enough staff. That's the reality.

18 CHAIRMAN MAHER: Are those additional
19 bodies included in this budget proposal?

20 SECRETARY QUIGLEY: How can they be with
21 a 2-billion-dollar structural deficit?

22 CHAIRMAN MAHER: So you're not even
23 asking for 'em? You're coming in here complaining
24 you don't have enough people, but you're not even
25 asking for funding for those people. It's very odd

1 to me, but let's move on.

2 SECRETARY QUIGLEY: Well, let me answer
3 that, Representative, because it's important. In
4 our budget, the Governor has approved and proposed
5 a 2-million-dollar investment in technology
6 upgrades; in the replacing of our eFACTS; in doing
7 all this technology upgrade that we need to
8 streamline our permitting to go electronic to get
9 the agency off paper. That, we think, will provide
10 a huge bang for the buck.

11 And before we ask for additional staff,
12 it is prudent and it makes sense to make the
13 investments in IT to minimize the amount of
14 additional bodies, I have to come to this body and
15 ask for. So what the Governor has proposed is very
16 prudent, a very smart use of public resources.
17 Let's fix the systems and see if we can reduce the
18 number of additional bodies.

19 CHAIRMAN MAHER: Well, I'd like to
20 suggest, just as a thought, that in the future when
21 you come to advocate for the Governor's budget
22 proposal, you actually advocate for the Governor's
23 budget proposal as opposed to -- Essentially,
24 you're pointing out where you've used deficiencies
25 in the Governor's budget proposal. But I'm moving

1 on to another subject.

2 Orphan wells, simple fact question. How
3 many wells does Pennsylvania own?

4 SECRETARY QUIGLEY: The Commonwealth, or
5 how many orphan wells are there in the
6 Commonwealth?

7 CHAIRMAN MAHER: The Commonwealth. How
8 many do they own? The state owns the orphan wells.

9 SECRETARY QUIGLEY: Well, there's an
10 estimate of about 200,000.

11 CHAIRMAN MAHER: So you think the state
12 owns 200,000 wells?

13 SECRETARY QUIGLEY: Well, I would not
14 necessarily agree with you the state owns it. The
15 state has to deal with that legacy.

16 CHAIRMAN MAHER: There's a program
17 called the Orphan Well Program, whereby, ownership
18 of wells actually shifted to the Commonwealth. How
19 many wells are enrolled in that Orphan Well Program
20 and are titled to the Commonwealth?

21 SECRETARY QUIGLEY: I don't have that,
22 but I'd be happy to get it for you.

23 CHAIRMAN MAHER: Get the order of
24 magnitude.

25 SECRETARY QUIGLEY: I will be happy to

1 get you the information.

2 CHAIRMAN MAHER: Okay. Can you also
3 find out how frequently -- Or maybe you know. How
4 frequently -- You're talking about well inspections
5 and you don't -- your inspectors don't visit wells
6 as often as they should. You need it to be more
7 frequent. How often does the state visit the wells
8 that it owns?

9 SECRETARY QUIGLEY: The state visits
10 wells that it owns when it plugs them.

11 CHAIRMAN MAHER: So, if you're not going
12 out to plug, you don't go and check on its
13 condition?

14 SECRETARY QUIGLEY: Well, given the
15 magnitude of the problem and the very limited
16 amount of resources that we have as an agency, it
17 makes sense to spend as much time and money as we
18 can to plug the wells that are in the inventory
19 rather than looking at wells we can't do anything
20 about.

21 CHAIRMAN MAHER: Can't do anything
22 about. So you don't even want to check if they're
23 deteriorating; if they're on fire; if they're
24 flooding streams? It's not worth even taking a
25 look?

1 SECRETARY QUIGLEY: I'm sure as a matter
2 of course, when we have folks in the field, they
3 are doing all of that due diligence.

4 CHAIRMAN MAHER: Now, if these were
5 privately-owned wells, how often would you visit
6 them?

7 SECRETARY QUIGLEY: It depends.

8 CHAIRMAN MAHER: Okay. How many wells
9 did you plug this last year?

10 SECRETARY QUIGLEY: I don't have that
11 count in my head, Representative. I'll be happy to
12 get you that information.

13 CHAIRMAN MAHER: How many wells did the
14 private sector plug for the state this past year?

15 SECRETARY QUIGLEY: Again, we'll be
16 happy to provide that.

17 CHAIRMAN MAHER: Well, since we don't
18 seem to have a lot of data on that, I'm going to
19 change subjects.

20 It astonishes me, after all the fuss
21 about Flint, Michigan, to know that lead poisoning
22 is more likely in children in Pennsylvania than in
23 Flint, Michigan; that the report that came out last
24 year, the state commission points out that the
25 federal Center for Disease Control has a reference

1 value of 5 micrograms per deciliter of blood.

2 Now, no lead in the blood is an
3 acceptable level. It can all be harmful. Children
4 under 7 in Pennsylvania who were tested, nearly 10
5 percent of them have lead in their blood beyond
6 that level; and yet, only one in seven children are
7 tested. So a sloppy extrapolation would say that
8 around a hundred thousand children in Pennsylvania
9 right now have blood lead levels that can
10 contribute to brain damage. If there's ever an
11 actual environmental crisis among us, it seems to
12 me this is it.

13 What I've heard from the state so far is
14 to say, well, it's not in the primary water system.
15 It's probably dealing with paint. It's probably
16 dealing with lead in homes. I'll accept that's
17 true. But my question is this:

18 What is your plan for environmental
19 remediation so that these children will not be
20 brain damaged?

21 SECRETARY QUIGLEY: Well, the first
22 thing you need to understand, Representative, is
23 that DEP does not regulate the built environment.
24 The data shows that the 159 municipal water systems
25 that we regulate, that we get data on, are all in

1 compliance with the federal Lead and Copper Rule.
2 That is the limit of our jurisdiction.

3 Pennsylvania has about the third oldest
4 building stock of any state in the nation, and it
5 is because of on-premise lead paint and lead pipes
6 that this condition persists. So this is a
7 function of the built environment and the age of
8 the building stock in Pennsylvania. It takes, on
9 average, between eight and \$30,000 to remediate a
10 home for lead; to remove the lead paint, remove the
11 lead pipes, eight to \$30,000 per home.

12 So, clearly, there are additional
13 resources, public resources that need to be applied
14 to this question. But again, DEP's jurisdiction is
15 limited to oversight of the municipal drinking
16 water systems.

17 CHAIRMAN MAHER: So, from a DEP
18 perspective, it's none of your business. This
19 environmental hazard is not your problem. Talk to
20 somebody else?

21 SECRETARY QUIGLEY: I did not say that.

22 CHAIRMAN MAHER: Well, that's what it
23 sounded like.

24 SECRETARY QUIGLEY: I outlined for you,
25 Representative, the limits of our jurisdiction.

1 Now, if you'd like to pass legislation to --

2 CHAIRMAN MAHER: If we could talk
3 about --

4 SECRETARY QUIGLEY: To expand it --

5 CHAIRMAN MAHER: -- your jurisdiction in
6 so many other subjects, it never seems to trouble
7 you.

8 SECRETARY QUIGLEY: Well, if I can
9 complete my sentence, please, Representative, and
10 that is, the lead situation and the elevation of
11 this concern is an important matter for public
12 discussion. I can assure you that Governor Wolf,
13 Secretary of Health and I, as well as many members
14 of the General Assembly are very focused on what
15 else we can do.

16 We are in a deep conversation with the
17 Environmental Protection Agency right now about
18 what additional steps we can take to provide public
19 education and to identify additional steps; provide
20 more information to the regulated entities as well
21 as communities. So, we are very much focused on
22 the question of lead.

23 CHAIRMAN MAHER: We talked a bit about
24 the Chesapeake Bay already, and I'm just going to
25 recap. We had a full hearing yesterday. It was

1 very helpful, and I appreciate your participation
2 in.

3 You talked about how the state is being
4 told by EPA that we're behind on the progress. And
5 that progress, of course, is based upon this model,
6 and this model is something that the public should
7 understand. It has nothing to do with reality.
8 It's sort of like an electronic game where you get
9 points for finding this data and bing, bing, bing.
10 Oh, we found this, put a score up.

11 It was pointed out yesterday that the
12 model said that our reductions in phosphorus,
13 nitrogen and sediment was 25 percent, 6 percent and
14 15 percent, according to the model. But, in
15 actuality, the reduction in phosphorus is 20
16 percent more. The reduction in nitrogen was 400
17 percent more, and the reduction in sediment was 67
18 percent more.

19 So, the state is aiming towards
20 obtaining standards based upon a model that doesn't
21 reflect the reality in the water. The model is
22 broken. And you said -- Yesterday I asked you if
23 you were going to be arm wrestling EPA. My
24 understanding is, you said you have ongoing
25 discussions, and you've pointed out to them this is

1 a problem. Just for the information of the members
2 here, I asked for the Secretary to provide his
3 correspondence with EPA on the subject, and I'll be
4 looking forward to seeing that. So, just so people
5 know, we're continuing to -- we're continuing to
6 move on.

7 But, I would also observe that the
8 funding from the federal government for the
9 Chesapeake in this decade is a 45 percent reduction
10 in working land program funds to Pennsylvania; 80
11 percent cut in the NRCS easements funded; a 50
12 percent cut in Conservation Innovation Grants.
13 That's what already happened.

14 The Obama budget proposal for the coming
15 year is a reduction in the Clean Water State
16 Revolving Fund, which helps all the small sewer
17 systems, and a reduction in funding of the
18 Chesapeake Bay program.

19 I asked you yesterday, and I'm going to
20 ask you again, are you asking the federal
21 government to restore the resources that are
22 necessary for this Chesapeake Bay mandate?

23 SECRETARY QUIGLEY: The short answer is
24 yes. What these continued cuts demonstrate, I
25 think amply is that, you can't cut your way to

1 fixing environmental problems, whether it's federal
2 or state. We, for example, just applied late last
3 year to the NRCS of -- or then USDA, for a
4 \$6 million grant under their Regional Conservation
5 Partnership Program. That funding was not
6 approved, even though it was a tremendously strong
7 application. We're going to find out why, because
8 neighboring states got funding and we didn't.

9 There are some issues with respect to
10 the standards that EPA adheres to and the data that
11 they accept on compliance. There are issues with
12 the USDA standards for the implementation of BMPs.
13 We've got to have a very serious conversation with
14 the federal government, and we are in the midst of
15 that conversation about their standards and about
16 getting Pennsylvania the credit that it is due, and
17 that we can demonstrate, again, water quality data.
18 Real-time monitoring suggests that our performance
19 is significantly better than the model.

20 CHAIRMAN MAHER: I would again request
21 that you correspond with the Administration on a
22 federal level requesting restoration of all these
23 cuts, and asking that the Obama Administration
24 amend its budget proposal to restore funding to
25 Pennsylvania. Will you do so?

1 SECRETARY QUIGLEY: Certainly.

2 MAJORITY CHAIRMAN ADOLPH: Thank you.
3 Representative Dean.

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

6 Welcome, Secretary. I appreciate that
7 in your submitted testimony you framed your duty,
8 and really what your duty is is our duty. And I'll
9 quote you, you said, DEP's duty begins with Article
10 1, Section 27 of our Constitution. Our charge, and
11 I think we share this with you, as trustee of our
12 natural resources is to protect the public's right
13 to clean air, clean water and preserving our
14 environment.

15 I think we all take that duty very, very
16 seriously. And yet, it seems to me that,
17 sometimes, legislators think that's sort of, oh,
18 it's a wish. It's aspirational that we should do
19 this protection of our environment. I would submit
20 it is not. It is constitutional. And yet, we have
21 asked you to do this constitutional moral
22 obligation to the planet and to our citizens with
23 fewer and fewer resources.

24 You inherited deep cuts from the
25 previous Administration. You inherited a belief

1 system, because I was here on the Appropriations
2 Committee when the Secretary came in under the
3 previous Administration, where the attitude was far
4 less that we are stewards, and we have to watch out
5 for climate deterioration, and we have to be
6 inspecting appropriately, and we have to bring IT
7 up from clipboards and papers. You inherited a
8 deep hole. And yet, you took this on I think with
9 real enthusiasm and, obviously, great expertise and
10 passion for your duty.

11 If we go to the Flint issue, I think
12 what's stunning about that is that, that really was
13 something tasteable, something visual that we could
14 understand government's failure. So many times
15 people just want to say, government, get out of my
16 business. You have nothing to do with it.

17 What did Flint, Michigan -- Or how did
18 Flint, Michigan, and the tragedy of that, inform
19 your work?

20 SECRETARY QUIGLEY: It certainly
21 elevated to, I think, its rightful place, the whole
22 question of lead. There was kind of a perfect
23 storm in Flint where they switch water supplies
24 from the City of Detroit to the Flint River, and
25 they didn't do their corrosion control, and that

1 liberated all of the lead in the water supply and
2 had the obvious tragic consequences.

3 It demonstrates how the decisions of
4 government impact people's lives. I mean, what we
5 do at DEP literally is, it touches the lives of
6 every single Pennsylvanian. And if we make a
7 mistake, people can die. That's a pretty sobering
8 thing to come to work and deal with every single
9 day.

10 So, it reminded us and caused us to
11 redouble our efforts on the issue of lead per se,
12 but it, at a minimum, I think emphasized the
13 importance of the fiscal conversation that we're
14 having. Without adequate resources, the
15 Commonwealth's agency that is to protect the public
16 health and the environment can't do its job.

17 REPRESENTATIVE DEAN: And for people who
18 worry that we could have a Flint, Michigan, among
19 our cities and states -- our cities and counties,
20 what was the oversight, or what is it that you took
21 a look at, and I know you're continuing to take a
22 look at?

23 SECRETARY QUIGLEY: We look at the
24 reporting requirements, every -- 159 municipal
25 water treatment systems have to report on their

1 water quality monitoring data to DEP, and we
2 analyze that data. We're on top of it. Our staff
3 does heroic work just managing the tremendous
4 volume of data that comes into that program, and we
5 make sure these municipal operations are meeting
6 federal and state standards.

7 As I mentioned, every single one of the
8 systems that we regulate are in compliance with the
9 federal Lead and Copper Rule. We are in a
10 conversation right now with EPA about additional
11 education, additional steps, additional public
12 transparency on test information. We put out
13 information, for example, on where individuals can
14 get their home water tested by a private lab.

15 We really have, I think, taken a fresh
16 look at the importance of keeping a conversation
17 going around lead with our citizens. I think that
18 was one beneficial outcome of the tragedy in Flint.
19 It reminded us that we've got to pay attention to
20 this every day.

21 REPRESENTATIVE DEAN: Thank you. And I
22 hope that we, as policymakers, decide that it's
23 time to place a reasonable tax on the extraction of
24 shale gas as you talked about its abundance. We
25 are allowing an industry a permanent taking of that

1 precious natural resource. And it only seems fair
2 and fitting that we would actually get something
3 for that, and part of those dollars would go to the
4 very work that you need to do. Thanks.

5 MAJORITY CHAIRMAN ADOLPH: Thank you,
6 Representative. Representative Fred Keller.

7 REPRESENTATIVE KELLER: Good morning,
8 Secretary. A couple questions I have regarding
9 drilling activities. I was wondering if you could
10 give us an update on the drilling activities;
11 specifically, whether the Governor's moratorium on
12 natural gas drilling on state parks and forest
13 lands is still in effect?

14 SECRETARY QUIGLEY: Yes, it is.

15 REPRESENTATIVE KELLER: Okay. If that's
16 the case, can you explain to us the policy or why
17 DCNR and the Administration has approved them to
18 continue executing drilling leases as part of the
19 submerged lands policy with the moratorium in
20 effect?

21 SECRETARY QUIGLEY: Well, I will go back
22 to my days as DCNR Secretary, because I'm actually
23 the guy that started that when I was in the chair
24 at DCNR. What that stems from is, we discovered at
25 DCNR that existing private leases had -- there had

1 been drilling under Commonwealth's own lands. The
2 state owns the river bottom and down into the
3 basin.

4 So, all the navigable rivers in the
5 Commonwealth, those rivers and land beneath them is
6 owned by the Commonwealth. And we discovered that
7 drilling activity had penetrated those lands. So
8 it was actually bringing drilling companies that
9 had trespassed into a legal agreement. The wells
10 were already drilled, so it was essentially an
11 enforcement action to go out and bring these
12 companies into a lease agreement and pay the
13 Commonwealth what it was owed.

14 I have not looked at the data recently,
15 but my supposition is, DCNR continues to discover,
16 through an analysis of well logs, that there are
17 private wells that are penetrating publicly-owned
18 land and they need to pay, and they need to be
19 brought into a lease.

20 REPRESENTATIVE F. KELLER: So what
21 you're saying is, if a private land owner owns
22 property on either side of a stream and they want
23 to get to their gas, rather than drilling on one
24 parcel and going beneath that water, we're now
25 going to -- if the Commonwealth didn't want to have

1 drilling underneath that river, they would have to
2 drill on both parcels of their land?

3 SECRETARY QUIGLEY: Yes, essentially.

4 REPRESENTATIVE F. KELLER: I just wanted
5 to make sure that I understood that.

6 I want to switch gears, if I can, for a
7 minute. Going back to the revenue sources that you
8 had testified, you know, 22 percent from the
9 General Fund, 28 percent from federal. Do you know
10 how -- and, of course, 50 percent from fees and
11 fines. Do you know how much was cut from the
12 federal government during that same period of time
13 you're talking about your cuts?

14 SECRETARY QUIGLEY: I don't have that
15 figure in front of me, Representative. I'd be
16 happy -- Whether, in fact, there were cuts or not,
17 I can't say. But I'd be happy to get that for you.

18 CHAIRMAN MAHER: Well, I think the
19 chairman, Chairman Maher, actually was talking
20 about some of that. There had been reductions from
21 the federal government on many programs. I guess I
22 would just like to sort of piggy-back on what he
23 was saying. If you're willing to ask the Obama
24 Administration, since we're willing to go to the
25 Pennsylvania taxpayers continually and ask them for

1 more money and more money and more money, I'd be
2 happy to sign onto a letter asking Washington D.C.
3 to restore the cuts that President Obama made to
4 Pennsylvania. Thank you.

5 MAJORITY CHAIRMAN ADOLPH: Thank you.
6 Representative Daley.

7 REPRESENTATIVE M. DALEY: Thank you, Mr.
8 Chairman.

9 Secretary Quigley, thank you for being
10 here today. I'd like to just kind of continue on
11 the line of public health and the environment. You
12 are aware of hazardous site in my district, the
13 Ambler Asbestos Piles, both Superfund site and also
14 remediation by DEP.

15 You know, when the factory was
16 manufacturing asbestos-containing materials, we did
17 not know about the potential issues for public
18 health and human health, and those were revealed at
19 a later time. In fact, the piles, I hear, were
20 used as sledding hills for kids, which could be
21 available all seasons; not just in the winter. But
22 there's a lot of stories about how folks played on
23 the Ambler Asbestos Piles, and later we find out of
24 the health concerns, which take decades off until
25 even being diagnosed in humans. Fortunately, we

1 had the Superfund and also the Hazardous Sites
2 Cleanup.

3 So, I am concerned with the cut in funds
4 available under the -- And you're expecting that
5 that fund would be in the red by July 1st of 2018.
6 You also stated that probably most districts in
7 Pennsylvania, most of the legislative districts
8 have some kind of a hazardous site available.

9 And we look and talk about all of the
10 things -- You know, we've talked about the
11 drilling. We've talked about fracking. We've
12 talked about a number of other things that really
13 provide great benefits as asbestos did, but we
14 didn't find out the negative effects of asbestos
15 until years later. We may not find out the
16 negative effects of some of these other things.

17 So, I guess my question is, has the
18 Administration started to talk about how
19 sustainable revenue sources to fund the hazardous
20 sites? How many hazardous sites actually are there
21 in Pennsylvania? And what are you seeing as the
22 future, and what can we, as legislators do, to keep
23 this in mind that this is a -- this can have real
24 impact on human health? If you could just talk
25 about that a little bit.

1 SECRETARY QUIGLEY: Thank you. Some
2 numbers, there are 29 Superfund sites currently in
3 Pennsylvania. There are about 200 other sites that
4 we are doing cleanup; cleanups under the Hazardous
5 Sites Cleanup Fund, and there are 1,200, at last
6 count, sites in our Brownfield program, our Act 2
7 program.

8 That number grows. As additional sites
9 may come candidates as economic development, that
10 number is always growing. So the need, we have far
11 from exhausted all of our potential inventory of
12 Brownfield remediation sites.

13 Where we stand today is that, with the
14 expiration of the capital stock and franchise tax,
15 the \$40 million that we've been deriving from that
16 every year goes away, and it's replaced by an
17 18-million-dollar transfer from the Marcellus
18 Legacy Fund. So it's a 55 percent cut.

19 And as you said, Representative, the
20 Hazardous Sites Cleanup Fund goes into the red by
21 July 1st of 2018. And the Governor is anxious to
22 have a conversation with the General Assembly about
23 alternatives for sustainable funding for the
24 program.

25 I think everybody agrees that we have

1 one of the most, if not the best, Brownfields
2 program in the country. We're in year 21 of that
3 program, and the tens of thousands of jobs that
4 have been created, it really has given life to
5 communities. When you see the transformative power
6 of that program, it's one that needs to continue.
7 The Governor is very anxious to have a conversation
8 with the General Assembly about sustainable funding
9 for the program.

10 REPRESENTATIVE M. DALEY: I also have
11 one of the Brownfield's reclaim sites; terrific
12 office building that's right in the Ambler, right
13 beside the asbestos piles, so I'm aware of the
14 benefits.

15 Is the Governor going to initiate, or
16 will those discussions about the funding be
17 initiated through your department? Do you have an
18 idea of how that can move forward? Because I think
19 it's really an important issue, and I think we need
20 to start those conversations as soon as possible.

21 SECRETARY QUIGLEY: And I know the
22 Governor agrees with that. I think he is very much
23 open to suggestion about how we actually kick that
24 off.

25 REPRESENTATIVE M. DALEY: Okay. Thank

1 you.

2 MAJORITY CHAIRMAN ADOLPH: Thank you.
3 Representative Keith Greiner.

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

6 Good morning, Mr. Secretary. I want to
7 follow up with just a couple brief questions on the
8 Chesapeake Bay again. Being from Lancaster County,
9 and it's certainly something you hear in the news.
10 You mentioned they came out -- the agents came out
11 to Lebanon County.

12 The reboot plan, am I correct that EPA
13 has restored the \$3 million in program funding
14 provide that we implement this strategy? I mean,
15 is that the key to this reboot program?

16 SECRETARY QUIGLEY: Well, it is one of
17 the keys, Representative. And, yes, based on the
18 strength of the actual strategy document, EPA has
19 restored the \$3 million that they withheld in May
20 of last year.

21 REPRESENTATIVE GREINER: Let me just --
22 The Chairman made a good comment. I'm fearful. I
23 actually, outside of this position of a state
24 representative, I'm involved in stream bank
25 restoration back in Lancaster County. I'm involved

1 personally with an organization and help out other
2 organizations, and I grew up in the middle of the
3 Plain community.

4 I was pleased to hear you say that you
5 knew they've accomplished a lot in Lancaster
6 County. The farming community has done a lot; has
7 accomplished a lot to reduce the amount of
8 sediments and the other -- in the phosphates,
9 nitrates that are flowing into the bay. Because I
10 know we have to look at that. I think you're down
11 there, and the Secretary of Agriculture, you need
12 to know what they've done, because the Plain
13 community has done a lot of work without reporting
14 anything.

15 I know the townships down there are very
16 concerned about moving forward with this, because,
17 you know, we're very blessed and fortunate in
18 Lancaster County to have people that can still make
19 a sustainable living on 40 acres of land, and we
20 need to be real careful what we do when we move
21 forward.

22 And I am concerned about the targets.
23 What are we going to try to accomplish? Because
24 I'm not sure it's all farming that's the issue.
25 You know, that seems to be the focus, and that's

1 what the farmers tell me. And they say, you know,
2 we're working hard. So I just wanna -- And you
3 know that, and you had your meeting yesterday I
4 heard. Hopefully, there was something positive
5 that came out of that.

6 What we'll also see, being in an
7 agricultural area, and I know a couple of my
8 colleagues were there from Lancaster County
9 yesterday, let's talk about the conservation
10 districts, because there seems to be some
11 consternation there, too.

12 It seems like now, they've worked for
13 years trying to help farmers to try to, you know,
14 make things better; make the environment better,
15 but now they get to be the police officers is my
16 understanding; is that correct? Is that going to
17 be how we're going to use the people, the
18 conservation district? And I do think they're
19 fearful of that. These are people that have
20 developed friendships and now they're going to be
21 kind of the tough guy and say, now you're gonna get
22 fined; you're gonna do all this.

23 I'm somewhat troubled by where we may be
24 going here. I understand the importance of
25 cleaning up the bay, but I also understand the

1 importance of the local economy and agriculture,
2 too.

3 SECRETARY QUIGLEY: Let me explain this
4 as quickly as I can. We need to change our
5 relationship and our partnership with the
6 conservation districts. They have been a
7 tremendous partner. They're incredibly effective;
8 they do great work.

9 But, I would say to you that Einstein's
10 definition of insanity is doing the same thing and
11 expecting a different result. We've got to change
12 our approach to gaining compliance. And we felt
13 that those closest to the farmers are our best
14 aides and our best supports in creating that
15 culture of compliance.

16 Currently, under the Nutrient Management
17 Program and under the Chapter 102 Soil and Erosion
18 Program, conservation district technicians do
19 inspections. We are asking them and we will pay
20 them for doing agricultural inspections. So, very
21 much similar to what they're doing now, but it's an
22 on-farm inspection, and it is limited. The reboot
23 is intentionally limited to a gradual approach into
24 this.

25 We're asking conservation district

1 technicians to ask two questions. Do you have your
2 erosion and sedimentation plan? Do you have your
3 manure management plan?

4 The data that DEP currently has, based
5 on some watershed work around the state in the last
6 several years, suggests that as many as 70 percent
7 of farms don't have those plans. They've been
8 required in law for 35 years under Pennsylvania
9 Clean Stream law. So we've got to start with the
10 basics.

11 We're also hoping with this survey of
12 20,000 farms that we're doing, in cooperation with
13 the agricultural community, that we will get better
14 data and put that figure to lie. We want to make
15 sure that we understand exactly what farmers are
16 doing and have the best available data; not only
17 cost-shared BMPs, but non-cost-shared; get data on
18 whether or not farms have plans, and with a much
19 more robust set of data, we can plan for the future
20 in a much smarter way.

21 But, we're starting with the very
22 basics, being respectful of the relationship that
23 county conservation districts have with farmers.
24 And again, we are funding this effort.

25 REPRESENTATIVE GREINER: Yeah, and I

1 appreciate that and having it on record. Because I
2 do know that we need -- we need to be respectful
3 and try to work with the farmers. I am concerned
4 we're going to create an environment where, once
5 again, they feel government's being heavy-handed,
6 and particularly with the Plain community. I'm
7 fearful that -- I'm just very fearful moving
8 forward.

9 One last question referring back to
10 yesterday's meeting. Representative Tallman had
11 wanted -- had a question to ask. In front of the
12 Departmental Affairs and Ag Committee yesterday,
13 you talked about creating a new office called the
14 Chesapeake Bay Office. I was wondering which line
15 item this office will be funded out of and how
16 much, you know, the anticipated cost will be.

17 The comment was, this will be a new
18 office. Which line item or program will you --
19 Will you have to reduce a program to offset the
20 increased costs?

21 SECRETARY QUIGLEY: Simple answer is no.
22 We will be assigning existing staff to that office,
23 so we're just reorganizing the organizational
24 chart. We're assigning folks who do this work
25 currently in a rather diffused way into a focused

1 management structure. So there will no additional
2 hires in this office. It will all be just a change
3 in the work chart.

4 REPRESENTATIVE GREINER: So it's just a
5 shift?

6 SECRETARY QUIGLEY: Yes.

7 REPRESENTATIVE GREINER: Very good.
8 Thank you for your time.

9 Thank you, Mr. Chairman.

10 MAJORITY CHAIRMAN ADOLPH: Thank you,
11 Representative. Representative Bullock.

12 REPRESENTATIVE BULLOCK: Thank you,
13 Chairman.

14 Good morning, Secretary Quigley. How
15 are you?

16 SECRETARY QUIGLEY: Good. How are you?

17 REPRESENTATIVE BULLOCK: Great.

18 As a mom and a member of the Moms Clean
19 Air Force, I and my fellow moms are working
20 together to fight for our children's right to clean
21 air today and tomorrow. For us, the Clean Power
22 Plan is the Clean Air Act for our generation.

23 Can you tell me the status of our air
24 quality across the state, and for me, particularly,
25 in urban areas like Philadelphia? And what are the

1 threats to our air, and what actions is your agency
2 taking to monitor and regulate our air, as well as
3 inform the general public?

4 SECRETARY QUIGLEY: Thanks for that
5 question. That's rather complicated. Let me see
6 if I can be very concise, Representative.

7 Overall, because of the steadily
8 ratcheting down of federal requirements and the
9 Commonwealth's implementation of those ever-
10 strengthened federal requirements, I think
11 Pennsylvania's, our quality is better than it's
12 been in decades. Certainly, since -- It's better
13 now than it's ever been, I think it's fair to say,
14 before the industrial revolution.

15 We continue to have some issues in urban
16 areas that are driven primarily by the emissions
17 from coal-fired power plants, which is why the
18 Clean Power Plan is so important.

19 The challenge that we face when it comes
20 to regulating air quality again comes back to
21 staffing. We have very sophisticated -- very
22 sophisticated air-quality monitoring network
23 throughout the Commonwealth that we are actually
24 going to expand this year. We're going to add 10
25 counties in the shale areas. We're going to add

1 2.5 monitors in 10 additional counties over the
2 next two years so that we can get better data on
3 the impacts of, for example, unconventional oil and
4 gas development and understand the impacts of
5 public health in those communities. So, we've got
6 to get better data. But the challenge we face is,
7 again, one of staffing.

8 We were written up by EPA for being
9 severely understaffed in our air-quality monitoring
10 network program. So, it all -- Again, all roads
11 lead to staff. The agency's capacity to do its
12 work under the federal Clean Air Act has been
13 degraded because of year over year budget cuts.

14 The fees that we charge, they are -- are
15 all rule making in nature. We've got rule-making
16 packets to upgrade the fees.

17 It is very rare where a fee will
18 actually cover the complete cost of the program.
19 There's, inevitably, some level of General Fund
20 subsidy pretty much across all of our programs. So
21 the fees never quite get a hundred percent of the
22 cost of doing business, and we have to update them
23 regularly every three years.

24 We're on a treadmill when it comes to
25 making sure that we have sufficient resources to

1 manage and protect air quality in the state.

2 REPRESENTATIVE BULLOCK: And you
3 mentioned that all roads lead to your staffing, so
4 I'd like to talk a little bit about your staff.
5 For me, regardless of the size of your staff, I
6 believe that the staff should be reflective of our
7 Commonwealth population. And at this point, our
8 population is over 50 percent women and over 20
9 percent minorities.

10 Can you tell me what your demographics
11 looks like as far as your employment diversity in
12 your work staff?

13 SECRETARY QUIGLEY: Yes, and I
14 appreciate the question. This is, I think, the
15 first time I've been asked that. As a cabinet
16 Secretary, I really do appreciate it.

17 This is something that is very important
18 to me personally. It's very important to the
19 Governor. He has launched a number of diversity
20 initiatives across the Commonwealth. To be very
21 honest, we're behind the curve. The DEP workforce
22 is 64 percent white male, 29 percent white female,
23 and 4 percent minority male, 3 percent minority
24 female. So, again, 7 percent of our total
25 workforce at DEP is minority.

1 The overall Commonwealth workforce is
2 54 percent white male, 32 per white female, and
3 6 percent minority male, 8 percent minority female.
4 So the split is 86 percent white, 14 percent
5 minority across the Commonwealth. So, we are less
6 than that at DEP, and there are a number of reasons
7 for that.

8 Obviously, in my agency, we rely very
9 heavily on scientific expertise. That
10 qualification and the limited diversity and college
11 majors that are needed for DEP employment, plus an
12 overly complex Civil Service system, makes it more
13 difficult for us to recruit. With reduced budgets,
14 we have less of a recruitment budget, very frankly,
15 to reach out to these communities and institutions.
16 And, frankly, the best and brightest minority
17 individuals coming out of grad school and college
18 will have better-paying opportunities in the
19 private sector.

20 So faced with that situation, we've
21 taken a number of steps. One of the first meetings
22 I had on taking office actually was about this
23 issue, to see what we were doing and what we could
24 do better. But we need -- We are working on making
25 better connections with minority universities. We

1 have expanded our recruitment efforts to the high
2 school level. We're working, for example, in
3 Harrisburg with a number of schools to reach out
4 and do a high school intern program; a paid intern
5 program with the Harrisburg School District.

6 The Governor is working on establishing
7 a new Commonwealth public service intern program
8 that would lead to full-time Commonwealth
9 employment and provide some flexibility in the
10 hiring process. So, we're very focused on
11 increasing the diversity of the agency, both at the
12 staff level and at the leadership level.

13 This year we did fill the Office of
14 Environmental Justice with a minority individual
15 who has done a fantastic job of redesigning that
16 office. So, this is something that we talk about a
17 lot at DEP.

18 REPRESENTATIVE BULLOCK: I appreciate
19 your commitment to that effort, Mr. Secretary, and
20 particularly look forward to your recruitment in
21 high school internship programs in the future and
22 bringing more diversity to your workforce. Thank
23 you for your time.

24 MAJORITY CHAIRMAN ADOLPH: Thank you,
25 Representative. Representative Tom Killion.

1 REPRESENTATIVE KILLION: Thank you, Mr.
2 Chairman.

3 Mr. Secretary, over here. Good morning.
4 I was a little -- little false -- delayed because I
5 was reading the testimony from the Senate
6 appropriations hearings, and I saw where John
7 Yudichak asked you a question -- Senator Yudichak
8 asked you a question about the waste coal treatment
9 -- waste coal facilities, and you indicated that
10 you were willing to advocate at the federal level
11 that they're important; they clean our environment.
12 I was very, very pleased to hear that.

13 And kind of along those lines, as you
14 mentioned earlier, it looks like we're going to
15 have to meet the standards of the Clean Power Plan
16 going forward. A large part of that, in order for
17 us to do that is nuclear, as well as wind and solar
18 and other alternative sources.

19 I guess my question is: Like the 27
20 jobs that Senator Yudichak was concerned about,
21 there's thousands of jobs; probably north of 12,000
22 jobs in nuclear industries. And then with the
23 building trades when they have their shutdowns,
24 thousands more of great high-paying quality jobs.

25 My concern is that, as we move forward

1 in meeting the Clean Power Plan, will the
2 Administration also advocate that it's a
3 level-playing field for all sources of clean energy
4 including nuclear?

5 SECRETARY QUIGLEY: Representative,
6 thanks for the question. The continued viability
7 of Pennsylvania's nuclear fleet is extremely
8 important. They provide about 95 percent of the
9 carbon-free energy in Pennsylvania right now.

10 On top of that, the thousands of jobs
11 that are associated with these facilities, we have
12 met with Exelon a number of times, and continue to
13 consult with all stakeholders in the ongoing work
14 to design a draft plan for the Commonwealth. But,
15 continued liability of our nuclear fleet is
16 extremely important, to the success of any low-
17 carbon generating future for the state.

18 REPRESENTATIVE KILLION: Thank you.

19 MAJORITY CHAIRMAN ADOLPH: Thank you.
20 Representative Maria Donatucci.

21 REPRESENTATIVE DONATUCCI: Thank you,
22 Chairman Adolph.

23 Good morning, Secretary Quigley.

24 SECRETARY QUIGLEY: Good morning.

25 REPRESENTATIVE DONATUCCI: I'm going to

1 go into a whole different direction. It looks like
2 we're having a new mosquito problem. The United
3 States Center for Disease Control has reported at
4 least 147 cases of the Zika virus in the United
5 States. Recently, two cases have been confirmed in
6 Pennsylvania. The virus has been found to spread
7 via mosquitos.

8 I know that the DEP manages funds for
9 West Nile virus control and Black Fly control. And
10 although the primary mosquito isn't native to
11 Pennsylvania, there is a secondary species that has
12 been reported in the southeast of Pennsylvania.

13 Has there been any discussions among DEP
14 and other state agencies about monitoring the virus
15 and taking steps to control the mosquito
16 populations as needed? If so, does DEP have the
17 resources to handle the situation, because mosquito
18 season is coming?

19 SECRETARY QUIGLEY: Thanks for the
20 question. We have spent quite a bit of time in
21 consultation with the Department of Health on the
22 whole Zika question. And here's where we stand.

23 The particular species of mosquito that
24 is most associated with Zika transmission is rarely
25 found in Pennsylvania. In fact, it hasn't been

1 found in Pennsylvania since 2002. The species of
2 mosquito that is most prevalent in Pennsylvania
3 that could be a transmitter of Zika has not been
4 demonstrated to be able to transmit outside of
5 controlled-laboratory conditions. So, the science
6 -- the current state of science suggests that this
7 is something we need to continue to monitor. And I
8 can assure you, that working with the Department of
9 Health, we do continue to monitor.

10 If the need arises to do mosquito
11 control, it would require a separate program. The
12 current West Nile virus program, which we spend
13 about \$4 million a year on, is aimed at controlling
14 a nighttime species of mosquito. And the most
15 likely transmitter of this species that could,
16 perhaps, transmit the Zika virus is a daytime
17 species. So, it requires a new program.

18 You can't spend the same -- You can't
19 spend the same dollar twice. So, there would have
20 to be additional resources applied, additional
21 control techniques; perhaps, additional chemicals
22 and so forth. We haven't gotten down to that level
23 of detail yet, but we are definitely in a full-
24 monitoring mode. We've talked -- The Governor has
25 been personally engaged in this conversation making

1 sure that we're on top of it. But it is something
2 we are working very closely on with the Department
3 of Health.

4 REPRESENTATIVE DONATUCCI: Thank you.
5 You kind of answered my second question, and that
6 was, do you control the mosquito population
7 nevertheless; I mean, even ones that aren't
8 carrying disease?

9 SECRETARY QUIGLEY: Yes. Through the
10 West Nile virus program we do spraying. I would
11 say that the demand for that spraying vastly
12 outpaces our ability to meet it. We could expand
13 the spraying season. We can spray more months of
14 the year. But, within the available budget, I
15 think we do an excellent job of controlling the
16 populations.

17 But, West Nile virus is prevalent. It
18 has occurred in Pennsylvania. It's a continuing
19 concern. And we need to, at a minimum, maintain
20 the current level of effort, if not expanded.

21 REPRESENTATIVE DONATUCCI: Okay. My
22 last question is, what do you use to control the
23 populations, and is it safe for the rest of us?

24 SECRETARY QUIGLEY: Yeah. Well, I can't
25 give you the name of the chemical, but if you would

1 like that, I will get it for you. We use chemicals
2 that are safe. Should individuals and pets, for
3 example, come in contact, we make sure we're using
4 the right stuff.

5 REPRESENTATIVE DONATUCCI: Thank you.
6 And thank you, Mr. Chairman.

7 MAJORITY CHAIRMAN ADOLPH: Thank you,
8 Representative. Representative Mark Mustio.

9 REPRESENTATIVE MUSTIO: Thank you,
10 Chairman. Good morning.

11 SECRETARY QUIGLEY: Good morning.

12 REPRESENTATIVE MUSTIO: First I want to
13 thank you and your staff. Any time my constituents
14 have had a question or concern, your staff has been
15 very prompt in getting the answer back. They don't
16 always like the answer, but one of the most
17 important things is promptness and getting the
18 answer in the first place.

19 I have two questions. One relates to
20 the water quality, drinking water quality we talked
21 about; some members have talked about earlier. I'm
22 on your website. I must say that I read the Lead
23 and Copper Rule, and I'm totally confused right
24 now.

25 But, some states are using a process of

1 ionization to treat water. I was reading a Wall
2 Street Journal article earlier. I know that New
3 York State has that. And I was wondering what
4 DEP's position is on those types of new
5 technologies to treat water?

6 SECRETARY QUIGLEY: Well, any technology
7 that is applied when it comes to protecting
8 drinking-water quality has to be proven. So I
9 think we are very strict and have a very robust
10 process by which we would evaluate any of those
11 technologies. We're certainly open to
12 technological innovations, but they've got to prove
13 themselves. So we will be pretty demanding when it
14 comes to the application of those technologies.

15 REPRESENTATIVE MUSTIO: Was ionization
16 approved in Pennsylvania at one point and then has
17 been taken off the list of approved treatments?

18 SECRETARY QUIGLEY: I don't know the
19 answer to that question, Representative, but I will
20 get it for you.

21 REPRESENTATIVE MUSTIO: I do know that
22 it's been approved in some other states. I have a
23 company in my district that does some work in the
24 water quality area, Calgon Carbon, from a
25 ultraviolet light treatment standpoint, but I don't

1 know specifically if they have an interest in
2 getting on any approved list, but I'll ask them.

3 As far as your permitting process goes,
4 you had indicated that there's a backlog.
5 Certainly, if there's a backlog -- You went through
6 the As to the Fs. And with that many Fs, they're
7 certain impacting the As and getting the permits
8 out of your office. That impacts -- You know, if
9 the As submitter is in one of our legislative
10 districts, then the Fs are penalizing certainly our
11 workers or our companies in our district.

12 When you get an F submission in, do you
13 send that back to the applicant, to the consultant
14 I assume? And then are they charged another fee, a
15 second fee to re-submit it?

16 SECRETARY QUIGLEY: Well, if an
17 application is withdrawn or denied, a new fee would
18 have to be paid.

19 We attempt, in every way possible, to
20 try to accommodate the regulating community. We
21 encourage, for example, pre-application
22 conferences. Let's get together and talk about
23 this before you actually put anything on paper.
24 Unfortunately, that offer of help is not always
25 accepted, for reasons that mystify me.

1 So we do everything we can to encourage
2 compliance to assist folks to get a complete and
3 technically-accurate application developed. We
4 don't charge an extra fee if they mess up. Only
5 when they start over do we get into a new fee.

6 REPRESENTATIVE MUSTIO: And I guess that
7 would be a delicate line to walk, because I would
8 certainly not want a constituent coming in and
9 saying, why am I being charged a another fee? But,
10 by the same token, that cost is being transferred
11 to all the other ones that are doing it right.

12 So, maybe we put them on double secret
13 probation and start a program going forward. I
14 think that PennDOT may have an approved list, for
15 example, of contractors. Do you have an approved
16 list of consultants that individuals or companies
17 could go to and say, hey, these people have already
18 proven that they can do it right, or maybe there's
19 a separate tier of fees?

20 SECRETARY QUIGLEY: We have not gotten
21 into the habit of shaming folks, and I'm not sure
22 that that would necessarily be a productive way to
23 approach it. Again, we think that the way we are
24 currently handling it, in encouraging consultants
25 to sit with us before they file an application is

1 the way to go, and we need more folks to take
2 advantage of that.

3 REPRESENTATIVE MUSTIO: And I would
4 agree with that. But, perhaps, the fee is lower if
5 they do take the time, because that benefits all of
6 us, right? It's getting the backlog off the desk.
7 It's getting production and jobs created in
8 Pennsylvania.

9 Like I said, PennDOT, I believe, has an
10 approved list. I mean, if you come up with an
11 approved list, these people have already gone
12 through and met our standards and proven that
13 they're A or B quality, I would want to know where
14 to go if my company is making a submission. Just
15 some thoughts to consider.

16 SECRETARY QUIGLEY: Thank you.

17 REPRESENTATIVE MUSTIO: Thank you again.

18 MAJORITY CHAIRMAN ADOLPH: Thank you,
19 Representative. Representative Acosta.

20 REPRESENTATIVE ACOSTA: Thank you,
21 Chairman.

22 And thank you, Secretary Quigley. I
23 have a quick question in regards to going back to
24 the issue of the US Environmental Protection Agency
25 citing DEP for severe understaffing in terms of the

1 coal mine inspection, air quality, monitor safe
2 drinking water and storm water programs. As a
3 result of this, DEP's ability to protect the public
4 health and the environment have been stressed,
5 according to you, to the limit, quote, end of
6 quote.

7 Can you tell us how -- or can you tell
8 us how could this impact putting programs in place
9 to monitor and restore Pennsylvania water quality?

10 SECRETARY QUIGLEY: Very fundamentally,
11 the agency has to have boots on the ground. They
12 have to have inspectors doing the work, getting
13 into the field, maintaining the air quality,
14 monitoring network, inspecting farms, and all the
15 other regulated entities. And we have seen across
16 the agency and program after program where we have
17 federal delegated authority that EPA is telling us
18 that we are severely understaffed.

19 So, if we're not adequately maintaining
20 the air-quality monitoring network. We're down 25
21 percent staff in the public drinking water supply.
22 So the sanitarians that go out and do inspections,
23 we're down 25 percent in staff over the last
24 several years. So our continued ability to meet
25 what are increasing demands --

1 The new urgency around lead cause us to
2 do more work with the same amount of staff. So the
3 workload of the agency is doing nothing but going
4 up, and staff levels are not keeping pace with
5 that.

6 One of the implications is that we could
7 REPRESENTATIVE ACOSTA: Right.

8 SECRETARY QUIGLEY: Get to a point where
9 we risk our federal delegation. We have seen EPA
10 inspectors coming into Lebanon County to inspect
11 farms last fall, and that was a preview of coming
12 attractions if the Commonwealth does not meet its
13 responsibilities with respect to its delegation on
14 things like federal Clean Air Act and federal Clean
15 Water Act.

16 So, the agency is continually stressed.
17 We are trying -- For years I've been trying to do
18 it more with less. Through the Governor's GO-TIME
19 initiative, we think we can achieve some very
20 significant efficiencies, but that won't solve our
21 problem. It will help, but it will not solve the
22 problem.

23 We can go to ePermitting and iPads for
24 inspectors, and we can double the productivity of
25 inspectors, but it is still not a lock that we will

1 be able to say with confidence that we are meeting
2 all of our obligations.

3 REPRESENTATIVE ACOSTA: Yeah. The other
4 question, you mentioned earlier that Pennsylvania
5 has 159 systems, water systems; is that correct?

6 SECRETARY QUIGLEY: Public drinking
7 water supply systems, yes.

8 REPRESENTATIVE ACOSTA: Right. And how
9 many of these systems exceed the EPA action levels
10 for lead?

11 SECRETARY QUIGLEY: Currently,
12 Representative, none of them do.

13 REPRESENTATIVE ACOSTA: Thank you. That
14 was my question.

15 MAJORITY CHAIRMAN ADOLPH: Thank you.
16 Representative Karen Boback.

17 REPRESENTATIVE BOBACK: Thank you.
18 Good morning, Mr. Secretary.

19 SECRETARY QUIGLEY: Good morning.

20 REPRESENTATIVE BOBACK: A follow-up
21 question to Representative Bullock's, but I'm going
22 to make it more specific to Wyoming County, if I
23 may.

24 DEP indicated that they're looking at
25 siting permanent air monitoring in Wyoming County,

1 and we're talking about the volatile organic
2 compounds, VOCs, and the particulate matter.
3 Hence, does the budget include the siting there in
4 Wyoming County this year, because I believe you
5 responded that within two years air quality would
6 be monitored in certain areas?

7 SECRETARY QUIGLEY: Representative,
8 we're going to use federal funding; existing
9 federal funding to deploy these networks. And I
10 can get you the calendar of which counties will go
11 up when. I'd be happy to do that.

12 REPRESENTATIVE BOBACK: I would really
13 appreciate that. Thank you.

14 And then as a follow-up. I might have
15 misunderstood, but the 24 field positions, did you
16 say they were reassigned? I think you clarified
17 they weren't eliminated. Were they reassigned, or
18 because they come under federal auspices, they will
19 be there? Because, once again, we're worried that
20 once we start the siting, that we'll have the
21 specific force that will go in and monitor.

22 SECRETARY QUIGLEY: What we are doing,
23 Representative, is within the context of this
24 complement ceiling, we are making the business case
25 and demonstrating that we can fill certain

1 positions that are fully funded by federal funding
2 or through a special fund. And we're really
3 working out those mechanics right now with the
4 Budget Office. Our intention is to make sure that
5 we extract the maximum amount of manpower from
6 non-General Fund resources.

7 REPRESENTATIVE BOBACK: And it sounds
8 like you've been doing that. And did you say that
9 would be this year, perhaps, or we'll have to look
10 at your schedule, the calendar?

11 SECRETARY QUIGLEY: Well, we're going to
12 try and fill as many of those possible this year.
13 We just have not quite finished the analysis yet.

14 REPRESENTATIVE BOBACK: Thank you.
15 Because, as you know, Wyoming County is the 6th
16 largest producing county in the state. So, we do
17 appreciate it. Thank you, Mr. Secretary.

18 Thank you, Mr. Chairman.

19 MAJORITY CHAIRMAN ADOLPH: Thank you,
20 Representative. Representative Schweyer.

21 REPRESENTATIVE SCHWEYER: Thank you,
22 Chairman.

23 And thank you, Mr. Secretary. Good
24 morning, still?

25 SECRETARY QUIGLEY: Yes.

1 REPRESENTATIVE SCHWEYER: Still good
2 morning. And thank you for being with us today. I
3 have two areas of conversation that I'd like to
4 talk about. Both of them get to the intersection
5 of two very important things for all of us in the
6 chamber, which is the intersection of our
7 protecting our natural resources and the public
8 health and our desire to have reliable and
9 affordable energy opportunities. That's sort of --

10 The interesting paradox of these
11 conversations is at, sometimes they are at odds,
12 but really, we want both. Until we find that gold
13 standard of a hundred percent of clean energy
14 that's also inexpensive, there's always going to be
15 that disconnect there.

16 Going back to the conversation about the
17 Clean Power Plan, you had mentioned before that
18 you're using current staff to start the process of
19 planning for the ultimate plan, but that's not
20 additional resources that you're looking for,
21 additional programs or additional dollars, correct.

22 SECRETARY QUIGLEY: That's correct.

23 REPRESENTATIVE SCHWEYER: Are you using
24 outside contractors aside from the one that you
25 mentioned that was granted from the NGA?

1 SECRETARY QUIGLEY: No, we are not.

2 REPRESENTATIVE SCHWEYER: Okay. Thank
3 you very much.

4 Moving on to the second topic. Again,
5 this is along that same line. I'm a kid from
6 center city Allentown, and we have no coal plants
7 anywhere near -- no coal mining anywhere near us.
8 On one of the committees I serve on, I had the
9 opportunity to tour one of the coal refuge and
10 reuse of coal refuge energy sites in Cambria
11 County.

12 And just sort of seeing the remarkable
13 remediation that happened on this site, I saw an
14 inactive coal site which was in the process of
15 being mined for the use of -- the reuse of its
16 energy. Then I saw a finished product where there
17 were literally deer and butterflies on the site.
18 It was a remarkable -- a remarkable transformation
19 of that.

20 How are you supporting that industry as
21 we use them to reclaim these hundreds of thousands
22 of millions of acres of land?

23 SECRETARY QUIGLEY: Thank you for that
24 question, and it's a very important one for
25 Pennsylvania.

1 The waste coal facilities in
2 Pennsylvania provide tremendous environmental
3 benefits, both land reclamation and water quality
4 improvements. It was a great industry, a great
5 industry partner, and we need to find a way to make
6 sure that they continue to be economically viable.

7 Sadly, last week we learned that the
8 Panther Creek Energy is going to shut down, and
9 that might not be the last. What we have done is
10 advocate very strongly in our comments on federal
11 rules, like the Cross-State Air Pollution Rule, to
12 call out the need to do something to protect these
13 facilities.

14 Our thinking about the Clean Power Plan
15 has very much in mind how we can design a plan that
16 allows for the continued viability of these
17 facilities. I know that there is tax credit
18 legislation currently before the General Assembly.
19 And while I don't believe the Administration has a
20 position on that as yet, I would point out that a
21 tax credit has to be paid for. So it comes down to
22 a budgetary question.

23 But it is very clear that the
24 environmental benefits that these facilities
25 provide are enormous for the Commonwealth.

1 REPRESENTATIVE SCHWEYER: Is it fair --

2 SECRETARY QUIGLEY: It's a very real
3 loss to lose them.

4 REPRESENTATIVE SCHWEYER: I'm sorry, Mr.
5 Secretary, for cutting you off. I apologize for
6 that. It certainly wasn't my intention to be rude.

7 Would a tax credit -- And I've sponsored
8 -- I've been a co-sponsor of that legislation.
9 Would that be cheaper than just remediating the
10 sites?

11 SECRETARY QUIGLEY: Well, again, it
12 depends on the specific language of a particular
13 bill. But I would say that the privately-driven,
14 investor- driven work of these facilities has been
15 a tremendous economic boom to the state; extremely
16 cost-effective. The operation of these facilities
17 from an environmental standpoint has been extremely
18 cost-effective, and we would like to find a way to
19 support their continued viability.

20 REPRESENTATIVE SCHWEYER: And so, the
21 Administration hasn't taken a formal position on a
22 tax credit, but you're not ruling it out at this
23 point in time, with the understanding that tax
24 credits have to be paid for?

25 SECRETARY QUIGLEY: Well, again, any

1 kind of a public subsidy has to be paid for at some
2 point. I will say that the Governor is open to
3 those kinds of conversations with the General
4 Assembly.

5 REPRESENTATIVE SCHWEYER: Okay. Thank
6 you very much.

7 Thank you, Mr. Chairman.

8 MAJORITY CHAIRMAN ADOLPH: Thank you.
9 Representative Duane Milne.

10 REPRESENTATIVE MILNE: Good morning, Mr.
11 Secretary. One of the most well-received state
12 programs I find in my local communities is the
13 recycling fund and all the types of programs that
14 it does support. It's something I know my citizens
15 and others across the Commonwealth find very useful
16 for their ethos and their interest in environmental
17 stewardship.

18 So, one of the questions, of course, is
19 how the recycling fund will be provided with
20 resources from the state, of course, and
21 disseminated down to the local communities. The
22 Governor has proposed an increase in the tipping
23 fee of \$1.75 per ton, which certainly would raise
24 some resources.

25 Part of the constraint that I would

1 suggest and I would reflect, I hear from many of my
2 communities and fellow citizens is that, a lot of
3 these same dollars will then be used, the Oil and
4 Gas Fund, and then not actually put directly into
5 the recycling fund. So I'm wondering if you can
6 maybe speak at-large about that dynamic first, and
7 then I have a couple questions specifically about
8 some dollar amounts.

9 SECRETARY QUIGLEY: Certainly. The
10 Governor's proposed tipping increase is \$1.75 per
11 ton on municipal waste, and an 8-dollar-per-ton fee
12 for construction and demolition landfills and
13 residual waste facilities, so there's a total of
14 six of those facilities combined in the
15 Commonwealth.

16 What that would do is result in an
17 8-dollar-per-ton tipping fee across the board to
18 kind of level the playing field. That would
19 generate \$35 million, which would be transferred or
20 placed in the Oil and Gas Lease Fund and
21 transferred back out to the Environmental
22 Stewardship Fund.

23 Essentially, given the lack of health of
24 the Oil and Gas Lease Fund, there's less money
25 available to transfer into Growing Greener. And

1 without this increase in tipping fee, it is
2 tantamount to a 35-million-dollar reduction in the
3 Environmental Stewardship Fund. So, less local
4 trails and park projects; less water shed cleanups,
5 the DEP funds; less of the great work that I think
6 everyone in the General Assembly recognizes. So it
7 was designed specifically to shore-up the health of
8 the Environmental Stewardship Fund.

9 The current recycling fee is two dollars
10 a ton. We're essentially generating the same
11 amount of revenue, or actually, slightly less given
12 a decline in MSW volumes. We're putting two
13 dollars a ton towards recycling across the
14 Commonwealth.

15 Act 101 was passed back in the stone
16 ages; actually, when I was mayor of Hazleton, from
17 1988 to 1995. I was one of the first cities in the
18 first wave of Act 101 implementation for mandatory
19 curb-side recycling, so I know this one well.

20 I think it is well past time for us to
21 revisit Act 101. It is a vintage, as such that I
22 think we need to modernize it. I think we need to
23 look at what additional opportunities there are in
24 the Commonwealth to create economic development and
25 protect the environment with an increased level of

1 activity around recycling. I'm certainly willing
2 and happy to work with the General Assembly on
3 that.

4 REPRESENTATIVE MILNE: Thank you.

5 At a certain level, waste is actually a
6 commodity, so there's actually some working
7 components to it and where it's distributed, where
8 it is ultimately put. How will now with the
9 potential increase of \$1.75 per ton, how will that
10 situate Pennsylvania in terms of a comparison to
11 other states in terms of tipping fees and
12 implications for the marketplace?

13 SECRETARY QUIGLEY: Well, tipping fees
14 when you look at surrounding states are all over
15 the board. I think the long and the short of it
16 is, we don't see any significant impact to the
17 industry at large and to the volumes that would,
18 perhaps, go elsewhere in Pennsylvania. We don't
19 think that this increase would have a meaningful
20 impact, given the data that we have.

21 REPRESENTATIVE MILNE: As you certainly
22 know, much of the waste movement in hauling and
23 storage is done by private sector operations. Has
24 there been conversation, consultation with what
25 this would mean for their business model; and

1 ultimately, of course, to the consumers and
2 taxpayers of Pennsylvania?

3 SECRETARY QUIGLEY: I will say,
4 Representative, that we have had conversation with
5 the Pennsylvania Waste Industries Association to at
6 least advise them of this proposal. We, I think,
7 communicate very well with the Waste Industries
8 Association. They're a great partner, and we try
9 to work through a lot of these issues by just
10 getting across the table.

11 REPRESENTATIVE MILNE: Are you aware if
12 they have taken position on the tipping fee?

13 SECRETARY QUIGLEY: I am not aware of
14 any position that they've taken.

15 REPRESENTATIVE MILNE: Thank you. I
16 appreciate your testimony this morning. I
17 certainly encourage us to make sure the recycling
18 fund does get sustained in whatever different
19 machinations we do here to make that happen.

20 Thank you for being here this morning.

21 Thank you, Mr. Chairman.

22 MAJORITY CHAIRMAN ADOLPH: Thank you.
23 Representative Schreiber.

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

1 Thank you, Mr. Secretary. I have a
2 quick question just on electronic recycling. It's
3 become an issue throughout the Commonwealth in a
4 lot of small communities. I recognize that in your
5 budget you have proposed adding some new staff to
6 help with that.

7 I was just wondering if you could
8 comment on that a little bit and how the provision
9 in your budget proposal will help our communities
10 throughout the Commonwealth get these recycling
11 materials to some sort of recycling center. As the
12 snow is melting, we see more of them; more and more
13 pop up on our street and, obviously, they become
14 salvage material and playground material and a
15 whole lot of other bad things happen.

16 SECRETARY QUIGLEY: Thanks for the
17 question, Representative. The two positions in the
18 budget will be paid for by fees and by that fund--
19 it's not General Fund--impacted. That would allow
20 us to do additional training outreach and better
21 data management and better, really, enforcement of
22 our responsibilities with respect to the Covered
23 Device Recycling Act.

24 I will say that there is a need for
25 legislative fix with CDRA. As designed, the law

1 simply calls for companies that sell electronics to
2 recycle the weight of their annual sales. What's
3 happening in the industry is that the newer
4 components are lighter, and the older stuff coming
5 in the door is heavier, so there's a fundamental
6 mismatch; such that, suppliers or, you know,
7 vendors are shutting down their recycling programs
8 early. There is a glut of material, particularly
9 leaded glass from CRTs, so commodity prices have
10 plummeted, and it's created a situation where
11 there's a big increase in the amount of illegal
12 dumping.

13 The CDRA, which was an inspired piece of
14 legislation -- Representative Ross was the prime
15 sponsor. We have been in conversation with
16 Representative Ross since early last year about
17 alternatives for a legislative fix. We're very
18 much interested in working with the General
19 Assembly to create that legislative fix. It's a
20 very important program, and it needs some tweaks in
21 order to continue to be viable.

22 REPRESENTATIVE SCHREIBER: And I
23 appreciate the department weighing in on that
24 legislation, and hopefully we can move it through
25 the legislature in an as expeditious fashion as

1 possible.

2 In the interim, is there anything that
3 can be done for communities and counties where
4 currently residents have nowhere to go for these
5 materials?

6 SECRETARY QUIGLEY: Representative, it's
7 a problem. The act does not allow municipal solid
8 waste authorities or recyclers to charge a fee if
9 they are associated with a manufacturer's plan. I
10 know that there's a lot of authorities that have
11 come to the agency and asked for kind of a
12 re-interpretation of that language, but I think
13 it's pretty clear. I have met with the
14 Pennsylvania Municipal Authorities Association with
15 the Lancaster County -- or I'm sorry, York County
16 Solid Waste Authority; asked them to give me some
17 legal analysis that would justify our ability to
18 allow them to charge a fee.

19 We're certainly open to that
20 conversation, but the way the law is written I
21 think it's pretty clear that our hands are tied.
22 That's why we really need a legislative fix.

23 REPRESENTATIVE SCHREIBER: So the best
24 case scenario right now for all of us who may have
25 this going on in their district or constituent

1 requests or local governments that are dealing with
2 this issue, the best case scenario, the best option
3 is a legislative fix?

4 SECRETARY QUIGLEY: I believe so, yes.

5 REPRESENTATIVE SCHREIBER: Thank you.

6 Thank you, Mr. Chairman.

7 MAJORITY CHAIRMAN ADOLPH: Thank you.

8 Representative Warren Kampf.

9 REPRESENTATIVE KAMPF: Mr. Secretary, I
10 guess a number of questions have been about
11 personnel. I was looking through the -- This is
12 the budget book that we get from you in addition to
13 the Governor's budget. I think I heard you say
14 your complement is about 2,600. The budget book
15 only has, based on my math, about 1,100 positions.
16 I presume that's because the rest are supported by
17 other funds that are not General Fund dollars.

18 SECRETARY QUIGLEY: I would have to look
19 at the specific page. Our total authorized
20 complement is 2,683.

21 REPRESENTATIVE KAMPF: Okay. And what
22 is the -- I'm sorry. What's -- Authorized is a
23 technical term. Is that the number of people that
24 you have, or is that the authorized amount?

25 SECRETARY QUIGLEY: That is the number

1 of positions that we can fill in the agency. We
2 typically carry about an 8 percent vacancy rate.
3 We're a big agency spread out across the
4 Commonwealth, and folks come and go. Folks retire.
5 In fact, 30 percent of our workforce can retire in
6 the next four years, which is actually --

7 We're an older agency than most
8 Commonwealth agencies. So, you always carry a
9 vacancy rate. Our actual field number is usually
10 about 8 percent less than the authorized number.

11 REPRESENTATIVE KAMPF: Okay. So a
12 little less than 2,600 then.

13 Since I can only see in this about 1,100
14 of those positions, is there a way for you to get
15 us a summary on the remaining roughly 1,500?

16 SECRETARY QUIGLEY: Certainly.

17 REPRESENTATIVE KAMPF: I would
18 appreciate that. I mean, the agency has
19 responsibility for something in the order of
20 \$700 million.

21 SECRETARY QUIGLEY: Six hundred ninety-
22 one. Who's counting.

23 REPRESENTATIVE KAMPF: Quite a bit more
24 than the General Fund dollars that I'm talking
25 about. Okay.

1 I didn't see in your opening statement,
2 and we really haven't talked about it. One of the
3 big cost drivers here; one of the big challenges
4 for every cabinet secretary is rising benefit
5 costs, right? Is that a --

6 SECRETARY QUIGLEY: Yes. It's a
7 Commonwealth-wide issue.

8 REPRESENTATIVE KAMPF: For example, in
9 your department it looks like, based just on those
10 1,100 positions, over a 24-month period you've had
11 something like a 15, 18 percent increase in just
12 the benefit costs.

13 SECRETARY QUIGLEY: I think the Budget
14 Office would be the best source of the most up-to-
15 date information. I don't have that number in my
16 head, Representative.

17 REPRESENTATIVE KAMPF: You're not going
18 to disagree with me this book you sent to me which
19 shows the benefit factor going from 62 percent to
20 76 percent in a 24-month period, you're not going
21 to argue with me that I misread that?

22 SECRETARY QUIGLEY: Whatever is
23 presented in that document is certainly accurate.

24 REPRESENTATIVE KAMPF: That's about a
25 16 percent increase over two years in benefit

1 costs; is it not?

2 SECRETARY QUIGLEY: I don't have the
3 number in my head, Representative. If that's what
4 the book says, then I wouldn't dispute it.

5 REPRESENTATIVE KAMPF: Okay. And that's
6 a huge problem for -- You didn't make the problem,
7 but that's a huge problem when you're trying to
8 fill positions and make it all work; isn't that
9 right?

10 SECRETARY QUIGLEY: We have multiple
11 challenges, and that's part of it.

12 REPRESENTATIVE KAMPF: Would you agree
13 with me that's a pretty big part of it?

14 SECRETARY QUIGLEY: Well, in the grand
15 scheme of things, it's probably not in my top
16 three. It is an issue. Obviously, the cost of a
17 position adds -- The greater the cost, the greater
18 the challenge. My problem is very much more in
19 operating all of the programs at a sufficient level
20 of staff, and salary, as well as benefits, adds
21 into that calculation.

22 REPRESENTATIVE KAMPF: I'm sure you look
23 forward, when you look forward to the future, when
24 you're thinking about your budget. You are aware
25 that next year when we do this for '17-18,

1 particularly on the pension cost, which has been
2 jumping up by leaps and bounds, that's expected to
3 level off, right?

4 SECRETARY QUIGLEY: Well, I know that
5 the demands of pensions continue to increase. When
6 it levels off, that's above my pay grade.

7 What I will say is that our cost-to-
8 carry this year is about 4.99 percent. The
9 Governor's proposed increase for the agency was
10 4.88. We actually absorbed some of that
11 cost-to-carry. Just to keep the lights on with
12 current levels of staff requires roughly an annual
13 5 percent increase.

14 REPRESENTATIVE KAMPF: So my question to
15 you again is, have you looked ahead to see whether
16 that pension jump is going to level off and be a
17 little easier for your agency in '17-18 to handle?

18 SECRETARY QUIGLEY: Well -- And it's not
19 a yes or no question, Representative, for this
20 reason. Again, as I mentioned, 30 percent of the
21 agency's staff is eligible to retire in the next
22 four years. So, how many of those folks actually
23 decide to retire, that could very significantly
24 impact the benefit portion of our budget.

25 If a lot of longstanding employees leave

1 and are replaced by brand-new employees, that
2 benefit cost is actually going to come down for the
3 agency. So it very much hinges on that 30 percent
4 eligible to retire over the next four years, and
5 when we level out, when pension costs start to go
6 down.

7 REPRESENTATIVE KAMPF: Mr. Secretary, I
8 suggest to you that, actually, the pension
9 contribution is dictated by something quite clear,
10 which is the contribution rate that SERS and PSERS
11 require of us. And that is reflected all across
12 every agency, basically in the same percentage
13 amounts. I hope you put that into your calculus
14 when you look at next year's budget.

15 We've been given some information about
16 a program, not in this year's budget, called
17 Growing Greener 3. Is that an agency program? Is
18 that something you're promoting?

19 SECRETARY QUIGLEY: Well, it is a
20 concept that the Governor certainly supports and is
21 anxious to have a conversation with about the
22 General Assembly. The amount of -- available
23 revenue for the existing Environmental Stewardship
24 Fund continues to decline was one of the reasons
25 why the Governor proposed this tipping fee

1 increase. Given the success of that program, we
2 think there's a case to be made for a Growing
3 Greener 3.

4 As you remember, Growing Greener was
5 started by Governor Ridge. Growing Greener 2 was
6 championed by Governor Rendell. And we believe
7 that it is time to have a real conversation about a
8 Growing Greener 3. So we have been doing some very
9 intensive stakeholder engagement with a number of
10 communities, the environmental community, municipal
11 organizations, agricultural community, to talk
12 about what a Growing Greener 3 might look like.
13 But, before that can really get formed, the
14 Governor wants to have a conversation with the
15 General Assembly about the concept.

16 REPRESENTATIVE KAMPF: And what is the
17 current amount of Growing Greener 3 for the
18 stakeholder group? What is the size of it in
19 dollars?

20 SECRETARY QUIGLEY: There have been
21 various estimates. I think the highest of which
22 was around \$900 million. That is not hard and
23 fast. That is kind of the assembling of the wish
24 list type of situation. It's really why the
25 Governor -- given all the other fiscal challenges

1 that you face, why the Governor wants to have a
2 conversation with the General Assembly about right-
3 sizing any Growing Greener 3 concept that there may
4 be legislative interest in.

5 REPRESENTATIVE KAMPF: Has the working
6 group identified how this would be paid for?

7 SECRETARY QUIGLEY: There have been a
8 variety of proposals. I don't know, again, that we
9 have gotten to that -- to an end point yet. There
10 certainly has been candidate revenue sources thrown
11 out there for conversation. But we're still in
12 conversation mode.

13 REPRESENTATIVE KAMPF: Thank you, Mr.
14 Secretary.

15 SECRETARY QUIGLEY: Thank you.

16 MAJORITY CHAIRMAN ADOLPH: Thank you,
17 Representative. Representative Tim Briggs.

18 REPRESENTATIVE BRIGGS: Thank you, Mr.
19 Chairman.

20 Hi, Secretary. How are you?

21 SECRETARY QUIGLEY: Good.

22 REPRESENTATIVE BRIGGS: One of the
23 benefits of being selected towards the end is, a
24 lot of my questions have been asked. I want to
25 thank you for all your answers. I want to thank

1 your staff, especially in the Norristown Regional
2 office. They've always been extremely responsive
3 to any constituent requests that I've had for them.

4 Representative Killion addressed the
5 comprehensiveness of clean energy, clean power. I
6 want to thank your leadership for your work on the
7 Clean Power Plan.

8 It could kind of dovetail with what
9 Representative Kampf was talking about with Growing
10 Greener 3. A lot of our communities are facing
11 real struggles with storm water, sewer facilities.
12 The cost to comply is in the millions; some
13 estimates 20 billion statewide. Has there been any
14 conversation about ways to help the communities;
15 possibly incorporate that into a state-wide bond or
16 referendum of some sort? Has there been any talk
17 on your end about ways to help.

18 SECRETARY QUIGLEY: Certainly, the
19 billion of dollars of need for municipal storm
20 water systems is something that we're going to have
21 to reckon with. Communities are really struggling
22 with that oncoming requirement. There is some
23 great work being done, for example, in York County
24 where 47 municipalities have formed a storm water
25 authority. I think that model needs to be looked

1 at.

2 There certainly needs to be -- And
3 there's ample justification for some significant
4 public investment. That was one of the many
5 concepts that have been thrown out in the context
6 of a Growing Greener 3 initiative.

7 I happen to be the vice chair of the
8 PennVest board, and we continue to make investments
9 in gray infrastructure, as well as agricultural
10 BMPs through PennVest. That very robust work will
11 continue, so that's one source of revenue. But,
12 very clearly, given the magnitude of the need,
13 there is need for additional resource.

14 REPRESENTATIVE BRIGGS: Well, thank you
15 very much. I know in our caucus Representative
16 McCarter has taken a keen interest in this. I'm
17 sure a lot of us would be very interested in
18 working with you. Thank you.

19 SECRETARY QUIGLEY: Thank you.

20 MAJORITY CHAIRMAN ADOLPH: Thank you.
21 Representative Sue Helm.

22 REPRESENTATIVE HELM: Thank you, Mr.
23 Chairman, and Mr. Secretary.

24 Given that the Governor vetoed the
25 entire fiscal year 2015-16 budget back in June, and

1 your agency did not receive full funding until
2 January of 2016, how does this impact your agency
3 operations, and what programs or services were
4 reduced or curtailed until funding was restored,
5 and were there any ramifications or issues with
6 regard to projects or responses?

7 SECRETARY QUIGLEY: Thank you for the
8 question. The primary impact on us was felt in
9 travel ban, so all unnecessary -- all non-mission
10 travel, non-mission critical travel was eliminated.
11 That prevented me, for example, from getting around
12 the state as much as I would of liked to.

13 It did not prevent the agency from
14 responding to incidents or emergencies. That's a
15 matter of public safety and that function
16 continues.

17 Some of our vendors and suppliers were
18 very much pinched. We got into a situation with a
19 landlord in one of our major installations that
20 there was quite a bit of back and forth, and some
21 concern expressed about us not being able to pay
22 the rent. So it certainly hampered the overall
23 functioning of the agency, but it did not have an
24 impact on our protection to public health.

25 REPRESENTATIVE HELM: I know one of

1 those landlords was in my district, and it was
2 taken care of fairly quickly. Are you back to full
3 travel now?

4 SECRETARY QUIGLEY: Actually, no. Given
5 where we are with the '15-16 budget and our current
6 conversation about '16-17, the Governor has charged
7 all cabinet secretaries with containing expenses to
8 the greatest extent possible.

9 We're only doing, for example, mission
10 critical travel. I'm not doing any out-of-state
11 travel. I might go to Washington, but I get there
12 in a day and come back. So we are being very
13 mindful of every dollar that we spend.

14 REPRESENTATIVE HELM: I just have a
15 question. You did talk about electronic materials
16 recycling already, but there's currently a proposal
17 for two new staff positions in the Governor's
18 Executive Budget. I just wondered how much of
19 these positions would cost and exactly what they
20 would do.

21 SECRETARY QUIGLEY: Thank you for that
22 question. The on-average, the ballpark figure for
23 a DEP staffing position is about a hundred thousand
24 dollars, so we're looking at a couple hundred
25 thousand dollars for these two positions. They

1 will be paid for from the act from special funds;
2 not from the General Fund.

3 The positions will be used to do
4 additional outreach and education to communities.
5 It will do additional data management, and some
6 additional enforcement level work, the work that is
7 assigned to us by the Covered Device Recycling Act.

8 REPRESENTATIVE HELM: All right. Thank
9 you.

10 MAJORITY CHAIRMAN ADOLPH: Thank you. I
11 can attest to that travel ban because I had called
12 DEP. There was a golf course in my legislative
13 district that was thinking of a lake; going to dig
14 and put a lake in there or something. DEP would
15 not travel to the place. I'm glad about it because
16 I hit too many golf balls into the lake, so I think
17 they've delayed that a little bit. Add some humor
18 to it.

19 Representative Marguerite Quinn.

20 REPRESENTATIVE QUINN: Good morning,
21 still.

22 SECRETARY QUIGLEY: Still.

23 REPRESENTATIVE QUINN: And thank you for
24 being here today. I am looking at -- Where am I
25 beginning here? Again, I got all my crappy notes.

1 I understand everything you're saying
2 about dollars being down. You've referenced a
3 2-billion-dollar budget earlier. It's been brought
4 to my attention by a company located close to my
5 district about the implementation of the
6 Pennsylvania Watershed Implementation Plan. Here I
7 was given a quote, where, in it you referenced that
8 there's a couple cost estimates to do this.

9 The first estimate shows a need of about
10 \$3.6 billion in capital costs to fully implement
11 all non-point source BMPs and the WYP and
12 incremental levels -- in incremental levels. The
13 second estimate analyzes costs, but gives basically
14 an operating cost of about \$378.3 million; just
15 under \$400,000.

16 My question is, has this been looked at,
17 or what is keeping this for opening the door to
18 have some private sector solutions come into play?

19 I understand that there's technologies
20 by -- probably by a half dozen Pennsylvania-based
21 companies where their technology has already been
22 vetted. They have start-of-the-art equipment.
23 They're being used around, and it seems to me that
24 the prices that they're looking at to come in
25 possibly about \$300 million a year.

1 Now, I'm not sure if I'm comparing
2 apples to apples here, but it certainly seems that,
3 you know, close to 4 billion and then another half
4 a million dollars on top of that, why aren't we
5 taking bids like this and putting them out to the
6 public sector to help them come in with a solution
7 and make it better for the ratepayer and the
8 taxpayer?

9 SECRETARY QUIGLEY: Great question,
10 Representative. A couple points.

11 First, there is a role for technology in
12 meeting our water quality goals without question,
13 but it is a limited -- a limited portion of that
14 work that can be done. So there's not a
15 technological silver bullet. Some of these
16 technologies are very expensive on a per pound
17 nitrogen reduction basis.

18 What we have done at the agency is
19 design, I think, one of the best nutrient credit-
20 rating programs in the country to try to deliver
21 market-based solutions to water quality goals. And
22 as originally designed, the Nutrient Credits
23 Training program was premised on the belief that
24 municipal sewage treatment plants up and down the
25 Bay Watershed would tend toward and gravitate

1 towards cheaper nutrient credits rather than paying
2 for gray infrastructure.

3 Well, that actually didn't happen. 191
4 sewage treatment plants up and down the watershed
5 invested about \$1.4 billion over the last seven or
6 eight years. So it kind of blew up the economic
7 model of the Nutrient Credits Training program,
8 such that today, nutrient credits are trading for
9 less than a dollar a pound.

10 I will share with you that when we look
11 at some of these specific technologies, they need
12 credits to trade around 9 dollars a pound to be
13 economically viable. So there's a big mismatch.
14 We have to figure out ways to close that gap. So
15 we are in the process of redesigning our Nutrient
16 Credits Training program.

17 At the end of the day, there needs to be
18 a regulatory driver. Storm water might be -- might
19 play a role there. So, we want -- and also explore
20 the idea of interstate credit trading to create a
21 bigger market and more demand for these credits.
22 We have to make that economically viable, so we are
23 searching for a market-based solution to really
24 look at the lowest cost installation of BMPs.

25 The cheapest, most cost-effective BMP

1 happens to be forested buffers. Depending on whose
2 data you look at, EPA suggests that cost about a
3 dollar 75 a pound of nitrogen. Again, a long way
4 away from 9 dollars a pound for some of these
5 technological solutions. So, we are very much open
6 to and looking for ways to close that gap; to have
7 a role for technology at the appropriate scale, as
8 well as some of these common sense cost-effective
9 BMPs.

10 Secretary Dunn at DCNR is leading an
11 effort to create a designer buffer program that
12 would allow for the installation of tens of
13 thousands of acres of flexible forest buffers.
14 Again, they're the most cost-effective BMP. So I
15 think as we go forward, the search for the most
16 cost-effective solution is going to continue.

17 REPRESENTATIVE QUINN: Well, they might
18 be the most cost-effective just by using the word
19 forest. It sounds like it -- we're years off of
20 that.

21 My question then is, if you're looking
22 to incorporate some market solutions, will you be
23 opening these -- will you be opening up for bid
24 competitive bids, as we're moving forward in the
25 short term, not the long term, with the forest and

1 possibly new landscape?

2 SECRETARY QUIGLEY: I would say this.
3 The idea of procuring pollution reduction is not
4 something the Commonwealth does, currently. We
5 don't buy air pollution. We don't buy water
6 pollution. And that model kind of flips the
7 regulatory role on its head, and it would require a
8 very significant annual appropriation for the
9 Commonwealth to go out into some kind of
10 procurement mode.

11 What we are trying to do is target our
12 available resources. We put about \$127 million a
13 year on the ground for BMPs. We are looking for
14 the most cost-effective BMPs in the most impaired
15 watersheds, so we use every dollar as wisely as we
16 possibly can. Again, always open to alternatives,
17 but at the end of the day it has to make sense.

18 REPRESENTATIVE QUINN: Okay. But as
19 you're looking for the most cost-effective BMPs,
20 are you also looking at private sector to be part
21 of that solution at present?

22 SECRETARY QUIGLEY: Yes, absolutely.

23 REPRESENTATIVE QUINN: Thank you. And
24 just one other question. With regard to the
25 Governor's accord for the new energy in the future,

1 will your agency be coordinating with the PUC on
2 that?

3 SECRETARY QUIGLEY: We coordinate with
4 the PUC on a variety of things and, certainly, we
5 will make sure that they are plugged into the
6 conversations.

7 REPRESENTATIVE QUINN: Thank you. Seems
8 appropriate that they would be. Thanks, Mr.
9 Chairman, and thank you, Mr. Secretary.

10 MAJORITY CHAIRMAN ADOLPH: Thank you,
11 Representative. Representative Seth Grove.

12 REPRESENTATIVE GROVE: Thank you, Mr.
13 Chairman.

14 Good afternoon.

15 SECRETARY QUIGLEY: Good morning.

16 REPRESENTATIVE GROVE: It's still
17 morning. Good morning, Secretary. Thank you for
18 joining us.

19 I want to start off with permitting, and
20 I think my colleague, Representative Mustio, hit on
21 some of the work that PennDOT has done,
22 particularly with their HOA permit requirements. I
23 mean, utilizing electronic forms, they've really
24 reduced the time and amount of time it works
25 through.

1 Instead of, like, starting off with just
2 your mining, have you talked to the Secretary and
3 see how they implemented their HOA permits? I
4 assume it's probably a similar process; to just
5 adapt what they've done; bring it over to the
6 department. Obviously, it works. It works very
7 well. Everybody is very happy with that process.

8 SECRETARY QUIGLEY: A great question,
9 Representative, and I will say that we have stolen
10 shamelessly from PennDOT. Secretary Richards has
11 been a great ally. Their CIO, Phil Tomassini, has
12 been a tremendous help to the agency. So, we are
13 looking at what PennDOT does. We are also looking
14 at some software platforms that are specific to our
15 needs.

16 The early indication is that, there
17 might be even a simpler solution. We might not
18 need the big machinery and the big software that
19 PennDOT currently employs. There might be a
20 simpler way for us to skin this cat. But PennDOT
21 has been extremely helpful. We have partnered not
22 only with PennDOT but with DCED on our search for
23 software platforms that can get us to electronic
24 permitting.

25 REPRESENTATIVE GROVE: Good to hear.

1 When we talk about permitting, there's minimum
2 requirements that are met. When permits are kicked
3 out, is the department asking for greater
4 requirements than the minimums? Are you aware?

5 SECRETARY QUIGLEY: No. Very simply,
6 Representative, if you meet the regulatory
7 requirements, you get the permit.

8 REPRESENTATIVE GROVE: Okay. What is
9 the process and who makes the final decision on a
10 distribution of General Funds to fund the various
11 programs and activities of DEP?

12 SECRETARY QUIGLEY: The General
13 Assembly.

14 REPRESENTATIVE GROVE: We have seen a
15 proliferation of permit fees charged by DEP to
16 industry to fund various programs; for example, air
17 quality, Title 5, waste, mining, oil, gas, et
18 cetera. Is the department expecting industry to
19 pay a hundred percent of the cost of running these
20 programs?

21 SECRETARY QUIGLEY: Well, that really is
22 a question for the General Assembly. We could.
23 And there's an argument to be made that the
24 regulated community should pay the cost of the
25 program. Typically, our feed packages do not cover

1 100 percent of the cost of the program because of
2 sticker shock.

3 For example, in the coal and non-coal
4 fees, the business case covering 100 percent of the
5 cost of the program would require about a 10-fold
6 increase in permit fees. That hits that particular
7 regulated community very hard. So, what we get
8 into in these situations with our advisory
9 committee, very frankly, is negotiation. Come back
10 to us and tell us what works.

11 We try to find some common grounds, some
12 middle ground, to cover as much of our costs as
13 possible via the fees. And then, typically, there
14 is a gap. So, it is something we try to manage
15 through every time we advance a fee package.

16 REPRESENTATIVE GROVE: And fees go
17 through our processor environmental board, correct?

18 SECRETARY QUIGLEY: Correct. They go
19 through the regulatory process.

20 REPRESENTATIVE GROVE: What do you see
21 as the long-term solution on the fees moving
22 forward?

23 SECRETARY QUIGLEY: Well, given the
24 structural budget deficit and the demands placed on
25 the General Fund, again, I think there's an

1 argument to be made that the cost of administering
2 all of these regulatory program should be borne by
3 the regulated community. The alternative is the
4 taxpayer subsidizing it. Again, that's a
5 philosophical as well as fiscal conversation that
6 I'm sure the Governor is open to.

7 REPRESENTATIVE GROVE: What percentage
8 of DEP's total budget is given out in grants?

9 SECRETARY QUIGLEY: I don't have that
10 number off the top of my head. What I can tell you
11 is that, 22 percent of our budget is general
12 funded; 28 percent is federal, and the other 50
13 percent comes from fees and a little bit of fines
14 and penalties.

15 The special funds we do give out some
16 federal funding. We pass through, for example, on
17 the Chesapeake Bay. There's federal funding that
18 we distribute to, for example, county conservation
19 districts; and, of course, there's the current
20 Growing Greener 2 program. But given the
21 magnitude, it's probably well into the low single
22 digits overall.

23 REPRESENTATIVE GROVE: Okay. Get a
24 chance, just follow up.

25 SECRETARY QUIGLEY: We'll follow up.

1 REPRESENTATIVE GROVE: Percentage would
2 be good.

3 Speaking of the Chesapeake Water Bay
4 cleanup, in your recent presentation on the Reboot
5 Plan, you're quoted as saying:

6 Further, the most reliable estimate of
7 the amount of resources required to fully implement
8 non-point surface (phonetic) BMPs called for in
9 Pennsylvania Watershed Implementation Plan is an
10 August 2013 report from the Pennsylvania State
11 University Environmental and Natural Resources
12 Institute. That report provides two estimates.

13 The first estimate shows the need of
14 \$3.6 billion in capital costs to fully implement
15 all non-point source BMPs in the Watershed
16 Improvement Plan in incremental levels between 2011
17 and 2025. The second estimate annualizes costs
18 through 2025, and includes operation and
19 maintenance costs, resulting in a figure of \$378.3
20 million per year.

21 There's a Legislative Budget and Finance
22 study done in 2013 that showed those costs can be
23 dramatically reduced by replacing the existing
24 sector allocation approach with competitive bidding
25 for verified credits which would enable private

1 sector competition.

2 Have you looked at that process to try
3 to get those costs down?

4 SECRETARY QUIGLEY: I have read that
5 report, and I do believe there are ways that we can
6 reduce the costs. I frankly don't think we can get
7 to the suggested level from the Legislative Budget
8 and Finance Committee. I think that was a little
9 bit rose-colored glasses.

10 But I do think there are ways to reduce
11 the cost of the installation of these BMPs. I'll
12 give you just one example; forested buffers. To
13 meet the NRCS and USDA requirements, buffers have
14 to be uniform in size, something like 55 feet on
15 either side of the stream. What Secretary Dunn at
16 DCNR is doing is coming up with this flexible
17 designer buffer approach. And including in that --

18 For example, you can plant certain
19 species of trees, nut trees and fruit-bearing trees
20 that could create a revenue source for farmers, and
21 you tailor the width of the buffer to this specific
22 topography. Now, that doesn't qualify,
23 unfortunately, under USDA's rigid rules. Instead
24 of taking land out of production as the USDA's
25 rules would require for a forested buffer, we think

1 there are ways to create revenue opportunities for
2 farmers. That's really the tremendous creativity
3 that DCNR has shown here.

4 So a long way of saying, yeah, I do
5 think there are ways to reduce the cost of that
6 implementation. We continue to look at the role of
7 technology. Technology gets better all the time.
8 So, I think a combination of factors will allow us
9 to reduce that number.

10 REPRESENTATIVE GROVE: That's great. I
11 urge you to continue to look at alternative ways to
12 want to reduce that overall cost, because that's
13 going to come from somewhere. It's either going to
14 be state government coffers, local coffers. I do
15 not believe the federal government will be fully
16 reimbursing states for the Chesapeake Water Bay
17 cleanup moving forward.

18 I also want to hit -- last question on
19 the electronic recycling. You had mentioned to my
20 colleague from York about fee collection. In
21 Section 504 of the act it says: Fee for collection
22 or recycling of covered devices, it says:

23 No manufacturer or retailer may charge a
24 fee or cost to a consumer for the collection,
25 transportation or recycling of a covered device,

1 unless a financial incentive of equal or greater
2 value is provided to the consumer. Financial
3 incentive may be in the form of a coupon or rebate.

4 Would that stop municipalities -- We
5 have an incinerator in York County that has the
6 ability to recycle the waste and deal with it in a
7 very responsible manner, or private garbage
8 collectors to start collecting these for a fee
9 moving forward?

10 SECRETARY QUIGLEY: If the public or
11 private entity is part of the manufacturer's plan,
12 they fall under the fee prohibition. So, for
13 example, if the solid waste authority is built into
14 a manufacturer's compliance plant, then that
15 particular authority cannot charge a fee.

16 REPRESENTATIVE GROVE: Okay.

17 SECRETARY QUIGLEY: And we've looked at
18 that very closely.

19 REPRESENTATIVE GROVE: If they're
20 outside of it?

21 SECRETARY QUIGLEY: If they're outside
22 of it they can.

23 REPRESENTATIVE GROVE: Okay. Thank you.
24 Thank you, Mr. Chairman.

25 MAJORITY CHAIRMAN ADOLPH: Thank you,

1 Representative.

2 Mr. Secretary, I appreciate you taking
3 the time out of your busy schedule and coming
4 before this committee to testify regarding the
5 policies of DEP, as well as the budgetary issues.
6 I'm looking forward to working with you between now
7 and the end of June.

8 For the members' information, this
9 committee will reconvene at 1 o'clock with the
10 Pennsylvania State Police. Thank you very much.

11 SECRETARY QUIGLEY: Thank you.

12 (At 11:55 a.m., the budget hearing
13 concluded).

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C E R T I F I C A T E

I, Karen J. Meister, Reporter, Notary Public, duly commissioned and qualified in and for the County of York, Commonwealth of Pennsylvania, hereby certify that the foregoing is a true and accurate transcript, to the best of my ability, of a public hearing taken from a videotape recording and reduced to computer printout under my supervision.

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Karen J. Meister
Reporter, Notary Public