

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
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HOUSE OF REPRESENTATIVES
COMMONWEALTH OF PENNSYLVANIA
ENVIRONMENTAL RESOURCES AND ENERGY COMMITTEE

IN RE:
PENNSYLVANIA'S ENERGY POLICY

CAPITOL BUILDING
ROOM 60
EAST WING
HARRISBURG, PENNSYLVANIA

WEDNESDAY, NOVEMBER 16, 2005; 10:00 A.M.

BEFORE:
REPRESENTATIVE WILLIAM F. ADOLPH, JR.,
CHAIRMAN
REPRESENTATIVE CAMILLE GEORGE
REPRESENTATIVE GIBSON C. ARMSTRONG
REPRESENTATIVE JACQUELINE R. CRAHALLA
REPRESENTATIVE THOMAS C. CREIGHTON
REPRESENTATIVE ARTHUR D. HERSHEY
REPRESENTATIVE SCOTT E. HUTCHINSON
REPRESENTATIVE RONALD E. MILLER
REPRESENTATIVE KATHY RAPP
REPRESENTATIVE DAVID REED
REPRESENTATIVE CHRIS ROSS
REPRESENTATIVE CAROLE RUBLEY
REPRESENTATIVE RICHARD STEVENSON

BRENDA S. HAMILTON REPORTING
P.O. BOX 165
ELM, PENNSYLVANIA
717.627.1368

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2

ALSO PRESENT:

3

JOSEPH DEKLINSKI, EXECUTIVE DIRECTOR

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MARK BROWN, RESEARCH ANALYST

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1		
2		INDEX
3	NAME	PAGE
4	KATHLEEN A. MCGINTY	7
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1 P R O C E E D I N G S

2 REPRESENTATIVE STEVENSON: Good morning. My
3 name is Dick Stevenson. And I've been informed that
4 as the ranking subcommittee chair I've been asked to
5 convene the meeting in the absence of our chairman.
6 He'll be along shortly.

7 But so that we don't delay these proceedings
8 or hold up the Secretary, we'll be happy to move
9 forward at this time. I'd like to begin by asking my
10 colleagues to introduce themselves and the area they
11 represent, starting on my left with Representative
12 Armstrong.

13 REPRESENTATIVE ARMSTRONG: Representative
14 Armstrong, Lancaster County.

15 REPRESENTATIVE CRAHALLA: Jackie Crahalla,
16 Montgomery County.

17 REPRESENTATIVE REED: Dave Reed, Indiana
18 County.

19 REPRESENTATIVE STEVENSON: I see Chairman
20 Adolph has arrived, so I'll relinquish the chair.

21 CHAIRMAN ADOLPH: I apologize to everyone.
22 I got caught in a lot of traffic, came from home this
23 morning.

24 Okay. Bill Adolph, Delaware County.

25 REPRESENTATIVE ROSS: Chris Ross from

1 Chester County.

2 REPRESENTATIVE MILLER: Ron Miller, York
3 County.

4 REPRESENTATIVE RAPP: Kathy Rapp; Warren,
5 Forest, and McKean County.

6 REPRESENTATIVE HERSHEY: Art Hershey,
7 Chester County, former chair.

8 REPRESENTATIVE STEVENSON: I've already
9 introduced myself. Dick Stevenson, Butler and Mercer
10 County.

11 CHAIRMAN ADOLPH: Okay. Good morning and
12 welcome to this morning's meeting of the Environmental
13 Resources and Energy Committee.

14 I would like to take this opportunity to
15 also welcome Department of Environmental Protection
16 Secretary Kathleen McGinty.

17 Good morning.

18 SECRETARY MCGINTY: Good morning.

19 CHAIRMAN ADOLPH: Secretary, I appreciate
20 your willingness to be with us today.

21 SECRETARY MCGINTY: Sure.

22 CHAIRMAN ADOLPH: This morning's meeting
23 marks the third such meeting regarding the
24 Pennsylvania energy policy held by this committee.

25 During the past two meetings we have heard

1 testimony on a variety of energy issues. They range
2 from future energy supply and cost scenarios to the
3 role of PJM or how energy efficiency can and should be
4 part of the state program.

5 I believe each and every one of those
6 speakers pointed to challenges that we all face in
7 trying to develop an energy strategy that is fair,
8 that decreases our dependence to foreign resources of
9 energy, and is economically sound.

10 Our overall energy picture is vastly
11 complicated with the links between energy production
12 and the use and the environment.

13 Along with how to provide reliable access to
14 energy resources, we need to support a healthy
15 economy. While the challenges are great, the
16 solutions are many. This is an issue where one size
17 does not fit all but where creative and innovative
18 ideas of all shapes and sizes are needed.

19 It's my hope that these sessions will
20 continue to bring forth these creative and innovative
21 ideas, and with the help and cooperation of the
22 members of this Committee I'm confident that we can
23 develop very sound energy proposals.

24 I do not see my colleague, Chairman George,
25 here. So without further ado, Secretary McGinty,

1 would you please begin with your presentation.

2 SECRETARY MCGINTY: Yes, I will. I am happy
3 to announce that beeping is not my BlackBerry. It's
4 somebody else's.

5 Thank you, Mr. Chairman and members of the
6 Committee. I wanted to share three or four categories
7 of thoughts if I could and really wind up with a
8 discussion about strategy in terms of building and
9 further investing in our energy opportunities.

10 But I think the first place to start is a
11 recognition of what this legislation, working with the
12 Governor, has accomplished in a very short period of
13 time, literally the last two-and-a-half to three
14 years. Accomplishments of national significance.

15 First, as certainly Chris Ross knows, and
16 you, Mr. Chairman, the landmark alternative energy
17 portfolio standard legislation is a piece of
18 legislation that is being remarked upon and copied by
19 states across the country.

20 But that wasn't the only legislative
21 accomplishment last year related to the critical area
22 of energy resources. This legislature also passed
23 essential improvements in the alternative fuel
24 incentive grant program which, among other things,
25 just in time offers a rebate to consumers who today

1 are hardpressed with gasoline prices for the purchase
2 of alternative or hybrid fueled cars.

3 And I can report to this committee that not
4 only has your work in that regard been noticed by
5 consumers, but we were outstretched of our resources
6 and capacities to offer those rebates almost right
7 away. In other words, the demand was huge for those
8 rebates. So your leadership there has been noted and
9 I think appreciated by consumers across the
10 Commonwealth.

11 But in addition to those -- those policy and
12 financial tools, you joined hands with the Governor in
13 making energy leadership a cornerstone of our economic
14 revitalization, and various parts of the economic
15 stimulus package that is now in play and at work in
16 the Commonwealth focuses on energy investments. In
17 the First Industry's Fund, for example, we are
18 enabling our farmers to get to work in growing energy
19 resources.

20 Similarly, in the New Venture Capital
21 programs we're recognizing some of the leadership we
22 have in innovative energy financing. That's been a
23 central focus.

24 Also in the use and deployment of the
25 state's volume cap tax rebond financing, we've been

1 channeling a substantial amount of those resources
2 into major energy projects.

3 So whether it is policy or financial tools,
4 in just the last two-and-a-half years, this
5 legislature has put a lot to work on behalf of the
6 development and use of our indigenous energy
7 resources.

8 Now, question? Is that paying off for the
9 Commonwealth? And I would say resoundingly, yes, and
10 I'll offer just three examples of what you've helped
11 bring to bear. One, I think we're all now familiar
12 with our joint success in going after and winning the
13 largest, most profitable, renewable energy company in
14 the world, the Spanish wind energy company, Gamesa.

15 Where Pennsylvania was not on the map at all
16 for them two-and-a-half years ago when they were
17 looking for a U.S. base of operations, I am very proud
18 to report to you that not only did they make an
19 announcement that they are coming to Pennsylvania, but
20 they literally are well on their way now to opening
21 their first production line in the Johnstown area.
22 But, importantly, they have announced not one but
23 three additional manufacturing investments in the
24 eastern part of this state.

25 When we went after them as a company, they

1 were talking only about manufacturing blades, wind
2 blades in Pennsylvania. Now they are doing that not
3 at one but at two facilities, plus they have now also
4 committed to manufacturing their huge steel towers in
5 Pennsylvania, as well as manufacturing what's called
6 the nacelles, which is the skin of the power plant
7 part of a wind energy system.

8 So that, at a thousand jobs for
9 Pennsylvanians, is a very strong example of what your
10 attention to energy is bringing to bear.

11 A second project just a couple of weeks ago,
12 the announcement that we would become the first state
13 in the nation to have a coal liquefaction plant.

14 The policies and the portfolio standard, as
15 well as the financial tools you've invested in, have
16 made that possible. That too is 1,000 new jobs for
17 Pennsylvanians in that plant alone.

18 The third example I would just cite is two
19 weeks ago we also announced the nation's first
20 automatic injection refueling station for biofuels,
21 for soy-diesel and soy-based home heating oil.

22 The first such station received national
23 attention, and that one facility, which is here in
24 Dauphin County, puts Pennsylvania farmers to work in
25 growing the soy product that then is refined into

1 those fuels.

2 That one project alone every year will
3 displace 3.2 million gallons of imported fuels, saving
4 Pennsylvanians \$6 million of investment capital that
5 otherwise would be going out of our state.

6 So that's just three example. There are
7 many more.

8 Shortly I hope to be able to share with this
9 committee another very important innovation where an
10 investment in a waste coal plant, a new waste coal
11 plant, literally will make the difference between this
12 state being able to retain one of the largest
13 employers in the southwest part of the state, a
14 specialty steel company, or lose that company to the
15 state of Kentucky that is offering enormously,
16 substantially discounted power to that steel company.

17 The difference is the priority you have put
18 on a variety of energy resources, including waste
19 coal, brought this new plant to the fore and what we
20 are working to do is to stitch together that plant,
21 that waste coal plant, with this steel company and
22 enable us to not only stay in the game but hold onto
23 some 3,000 jobs that otherwise we would lose to a
24 competitor state.

25 So I would say unequivocally your attention

1 to energy is paying off for the state.

2 The last two things I wanted to highlight
3 really look forward. And, first, I wanted to
4 identify, at least from my perspective, what I think
5 are strategic sectors for the state to focus on where
6 we have a relative comparative advantage.

7 The four sectors I would mention are, first,
8 gas and gas substitutes. We all know what the price
9 of natural gas has done and continues to do as it goes
10 through the roof.

11 I think we all now know what the
12 ramifications of those escalating gas prices are.
13 Immediately in terms of energy impact but,
14 importantly, substantial adverse impact on the
15 chemical sector in Pennsylvania and throughout the
16 country, because almost all chemicals are made from
17 things like natural gas. And then also the adverse
18 impact on agriculture as well because agricultural
19 chemicals are made from natural gas.

20 What's our relative advantage? This state
21 is blessed with 300 years of coal resource. Coal
22 itself can be gasified or we can tap the methane that
23 naturally is produced from coal seams, coal mine
24 methane.

25 To give you one example, as you know, we're

1 a mining state. We've got lots of holes in the
2 ground. One coal mine methane project captured enough
3 methane to heat 15,000 homes.

4 As we sit here today, all that methane just
5 goes into the atmosphere. We can capture it. We can
6 put it to work for our economy.

7 A second type of natural gas substitute, if
8 you will, comes from landfill gas. That, too, we
9 could put to work for our economy and, again, I would
10 just offer you one example. We cut the ribbon about
11 three weeks ago on a landfill gas project that has,
12 among its various features, one of the longest
13 pipelines, 13 miles, from the landfill that feeds not
14 one but four major manufacturers in Pennsylvania.

15 They would -- those manufacturers will tell
16 you, but for that below market gas market, they would
17 very seriously look at moving their operations
18 overseas. They're staying in Pennsylvania because of
19 our ability to tap that landfill gas.

20 And to give you a sense of the volume there,
21 that one project, enough gas to heat 34,000 homes. So
22 we have a competitive advantage in gas resources, and
23 I would invited a focus there.

24 Second, solar technology. Because of the
25 advanced energy portfolio standard, Pennsylvania now

1 has the most ambitious commitment to solar of any
2 state in the nation. By far.

3 Solar is labor intensive. To make solar
4 technology takes a lot of people. We ought to put
5 that to our advantage. If we are going to install
6 solar, we ought to manufacture those solar power
7 plants in Pennsylvania. We already have several
8 leading companies in that regard. And, again, I would
9 submit because of that leading commitment in the AEPS,
10 that, too, is an area of competitive advantage.

11 Wind, I've spoken to already in Gamesa. We
12 are now the only state in the United States to have
13 fully integrated wind power plant manufacturing
14 capabilities. That, too, we need to put to work to
15 our advantage.

16 And last, I would say in terms of the four
17 areas of competitive advantage and potential focus, is
18 in the area of biofuels and specifically soy-based
19 fuels given that agriculture is a leading part of our
20 economy and we are strong in the production of soy, as
21 compared to the Midwest states which are strong in the
22 production of corn.

23 So, Mr. Chairman, again, I think this
24 commitment of working with the legislature -- the
25 other members of the legislature and the Governor have

1 accomplished a lot. Those accomplishments have
2 delivered appreciable new jobs to the state. And
3 looking forward I would offer gas, wind, solar and
4 biofuels as four areas of competitive advantage for
5 the Commonwealth of Pennsylvania where we could grow
6 and build on the accomplishments we've realized to
7 date.

8 Thank you, Mr. Chairman.

9 CHAIRMAN ADOLPH: Thank you, Madam
10 Secretary.

11 I'd like to knowledge the presence of
12 Representative Creighton.

13 I also like to acknowledge the presence of
14 PUC Commissioner Bill Shane in the audience. Nice to
15 see you here, Commissioner. Commissioner Shane
16 testified before us at -- at a previous meeting.

17 I -- I have several members of the committee
18 that have questions for you. My -- I have a question.
19 Regarding -- you mentioned that we save \$6 million by
20 using biofuel. \$6 million I guess in the purchase of
21 imported --

22 SECRETARY MCGINTY: Right.

23 CHAIRMAN ADOLPH: Is it crude oil?

24 SECRETARY MCGINTY: Yes.

25 CHAIRMAN ADOLPH: Okay. Well, how much did

1 it cost us as far as in the biofuel? I mean was it --
2 it's not a \$6 million savings. I'm sure it cost us
3 money.

4 Do you have any figures -- because everybody
5 tells you these alternative energy resources are more
6 expensive --

7 SECRETARY MCGINTY: Right.

8 CHAIRMAN ADOLPH: -- than the others, and
9 the opposite, I can see where it says it saved us \$6
10 million, but what did it cost those businesses?

11 SECRETARY MCGINTY: First of all, in terms
12 of the \$6 million, the point there is not absolute
13 savings. It's keeping those dollars in the
14 Commonwealth as opposed to exporting those dollars.

15 Second, they -- there are definite price
16 points above which and below which the alternative is
17 either somewhat more or somewhat less expensive than
18 the conventional fuel.

19 I would report back to the Committee on
20 exactly what that price point is. But we did actually
21 have a crossover of those curves where the
22 alternative, namely the soy-diesel, was cheaper than
23 conventional diesel on the wholesale and retail
24 markets. About three or four weeks ago when we saw
25 those wholesale -- those retail prices heading towards

1 three dollars a gallon.

2 So we have seen that crossover point where
3 not only do we have the advantage of keeping the
4 dollars in the state, but we actually have a cheaper
5 product in the alternative.

6 If I could add one other point on that,
7 Mr. Chairman. It's interesting that one of our
8 leading petroleum companies in Pennsylvania is a
9 company based in Lancaster County called Worley and
10 Obetz, and they're a petroleum and home heating oil
11 company.

12 Now, they made a decision last winter to
13 switch 100 percent of their customers to a soy-based
14 heating oil alternative. They did that without
15 charging their customers any additional -- there was
16 no additional cost to their customers period.

17 The reason that that works financially for
18 them, even a year ago, when we were not at the price
19 point where soy was cheaper than conventional fuels,
20 soy was more expensive, but it still made sense for
21 this reason. Worley and Obetz also has the
22 contracts to maintain the home furnaces.

23 The soy product is much less corrosive to
24 those furnaces or to a diesel truck than the
25 conventional alternative, and Worley and Obetz made

1 the judgment that they would save in operation and
2 maintenance costs whatever the additional cost was of
3 the soy product.

4 So there are lots of ways to look at cost.
5 But at least for one of our leading petroleum
6 companies they think the dollars and cents already add
7 up.

8 CHAIRMAN ADOLPH: Thank you. Representative
9 Dick Stevenson.

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

12 And thank you, Madam Secretary, for your
13 testimony today.

14 I think we all agree that, you know, this is
15 a positive direction to go to alternative fuels and
16 look for additional ways to reduce our reliance on
17 some of the older methods.

18 However, clearly we're in a transition
19 period moving away from older types of fossil fuels
20 and those types of things that have been here for
21 years. During that transition, we're still asking as
22 consumers for the same level of power generation.

23 SECRETARY MCGINTY: Yes.

24 REPRESENTATIVE STEVENSON: The same level of
25 heat and all the other things that we've become

1 accustomed to, if not more each year, and I think that
2 usage, while we all talk some about conservation, I
3 think in most cases our usage increases.

4 I guess what I'd like to ask is if you could
5 talk a little bit about that transition, because I
6 think as you look at these relative advantages, the
7 last four that you talked about, I'm sure those are
8 all in terms of a percentage of our overall fuel usage
9 a fairly small percentage at this point.

10 SECRETARY MCGINTY: At this point.

11 REPRESENTATIVE STEVENSON: That will grow
12 surely in years to come. But we're still reliant on
13 the traditional methods of coal, which is, I think,
14 our largest and natural gas to produce the power we
15 need and to generate the type of power that we need to
16 continue as a state.

17 I know this is kind of a wide ranging
18 question, but could you talk a little about those
19 traditional fuel sources, what you see in terms of the
20 future there, in terms of further exploration, further
21 use, because we're clearly going to be relying on
22 those for many years to come as well, and as we make
23 that transition to perhaps increase the percentage of
24 the alternative fuels at the same time, but also
25 keeping our prices at a level where consumers --

1 SECRETARY MCGINTY: Right.

2 REPRESENTATIVE STEVENSON: -- are not being
3 strapped in that transition process.

4 SECRETARY MCGINTY: Right. Well, thank you
5 very much. And I guess let me start by underscoring
6 for the Committee something that I hope that you
7 appreciate, because it is a tribute to your
8 leadership; and that is when this committee put
9 together the alternative energy portfolio standard,
10 you put it together in a way that it was about using
11 the full array of our energy resources, emphasizing a
12 diversification of our energy resources, and through
13 that process enhancing our energy security.

14 It wasn't just, now we want to do renewables
15 and we used to do coal and it's an either/or and it is
16 something where we're going to have to force a choice
17 between those resources.

18 I have to say, looking at the national
19 level, that portfolio standard, more than anything
20 else, has broken the log jam that otherwise completely
21 polarizes the energy discussion and debate at the
22 national level.

23 Because this committee put together a plan
24 that is about using for our economy all of those
25 resources. So that's one.

1 Second, in terms of what are the performance
2 capabilities of some of the new fuels or, let's say,
3 the new technologies, one of the examples that comes
4 to mind is the Reliant waste coal plant in Indiana
5 County, Seward plant.

6 That plant replaced the kind of old,
7 conventional technology you are referring to. In
8 fact, it replaced at double the size the production
9 capability of the previous plant, which was 200-some
10 megawatts. This plant is 521 megawatts in generating
11 capacity.

12 Now, interesting to note, it achieved that
13 doubling of capacity while being essentially zero
14 discharge in terms of water pollution, about a quarter
15 or less of the air emissions of the 50 percent smaller
16 plant it replaced; and because the fuel is waste coal,
17 which is essentially a free fuel, it is about -- and
18 the owners have told me it is the cheapest power, I
19 think, in the entire United States of America, in
20 terms of the price per kilowatt hour generated.

21 So I think that demonstrates what new
22 technology, in this case the circulating fluidized bed
23 technology that enables us to use waste coal as a
24 resource instead of what we have traditionally done,
25 which is see it as an eyesore and environmental

1 program, is giving us double the performance in terms
2 of energy generation and vastly improved environmental
3 performance at the same time.

4 In terms of liquid fuels, and maybe
5 automotive technologies, I would just offer my own
6 experience. As you know, the Governor has announced
7 an intention to try to move towards 25 percent of the
8 state fleet being hybrid vehicles.

9 There we -- my own vehicle is a hybrid. I
10 get double the fuel economy I got in the car that
11 this -- this vehicle replaces. And I'd say not only
12 does it have all the performance characteristics that
13 we need, but for those parts of my department which
14 are out running around in tough terrain and need some
15 strength and power, these hybrids are enabling us to
16 do that job where we have not been able to do it with
17 some of the other vehicle choices we were presented
18 with.

19 REPRESENTATIVE STEVENSON: If I could follow
20 up just with one brief addition to my question. In
21 talking about all of these fuel sources, the one that
22 wasn't mentioned this morning was nuclear and could
23 you address that?

24 SECRETARY MCGINTY: Sure.

25 REPRESENTATIVE STEVENSON: And the

1 Department's position on expanding --

2 SECRETARY MCGINTY: Sure.

3 REPRESENTATIVE STEVENSON: -- or what the
4 Department's position is on that type of energy
5 production?

6 SECRETARY MCGINTY: Sure. Well, I guess I
7 would say a couple things. One is I think at the
8 national level the new federal energy bill certainly
9 includes a variety of very strong incentives to
10 encourage the building of new nuclear plants.

11 Having said that, I had occasion not too
12 long ago to have a conversation with the CEO of a
13 company that probably has more nuclear generation than
14 any other company in the United States, and his answer
15 or comment to me, I think, is instructive. And he
16 said, I will build the next nuclear plant when a
17 community comes begging to me to build it, and not
18 before.

19 REPRESENTATIVE STEVENSON: Thank you very
20 much.

21 Thank you, Mr. Chairman.

22 CHAIRMAN ADOLPH: Thank you.

23 Representative Art Hershey.

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

1 And, Madam Secretary, thank you for coming.

2 I have two questions and they're ag related.

3 I'm aware of -- and you are too -- of two farmers
4 in -- in the southeast that qualified for the First
5 Energy grant for a biodigester and then when they had
6 a problem with the utility, because they didn't want
7 to pay them very much and we were working with you and
8 the PUC to try to get that resolved. How did that
9 work out or is it -- is it resolved?

10 SECRETARY MCGINTY: Well, thank you,
11 Mr. Chairman.

12 The issue that came to the fore as we
13 started the energy harvest program and many farmers,
14 for example, were interested in it, saw the methane
15 biodigesters as a way to accomplish two things.

16 One, to help them manage the manure they
17 have to manage that otherwise is a water quality
18 problem; and, second, by putting the manure in a
19 digester to be able to reduce their costs and generate
20 some of their own energy.

21 The problem that they ran into is that some
22 of the economics of using the digester depends on
23 being able to sell the excess energy back to the grid.
24 So use what you need on the farm and sell the rest
25 back to the grid and with that income pay off whatever

1 the investment was for the digester.

2 Several farmers ran into a pretty uninviting
3 set of conversations with their local utility.
4 Representative Reed has been very much involved in
5 helping to resolve some of these issues in his
6 district.

7 But the real breakthrough came,
8 Representative Ross, with the advanced energy
9 portfolio standard, including a provision that said
10 that we need new uniform rules across the Commonwealth
11 for something called net metering and interconnection.

12 And net metering is literally, as the
13 name -- as the title -- the phrase would suggest, it
14 is about enabling those who are generating their own
15 electricity to net out of their energy bill what
16 they're generating for themselves and, to the
17 contrary, to earn a revenue for what they're selling
18 back to the grid.

19 And I do want to compliment the PUC and
20 Commissioner Shane, who is here. I think the first
21 drafts of those net metering rules are very
22 farsighted, are fair to utilities, but also enable the
23 economics of these distributed energy resources to
24 work for farmers, or, in some cases, it's
25 municipalities that want to put solar arrays up.

1 And now that we're at the draft stage, it's
2 just critical we bring it successfully over the finish
3 line, which the Commissioner is certainly eagerly
4 doing, and I appreciate the partnership with the PUC
5 in that regard.

6 REPRESENTATIVE HERSHEY: Thank you. So we
7 look forward to that working out.

8 SECRETARY MCGINTY: That, and it really is
9 essential. These technologies, whether it is --
10 especially the smaller scale, distributed
11 technologies, the digesters, solar, community scale
12 wind, absolutely depend on getting the net metering
13 and interconnection rules right to level the playing
14 field and make it a fair deal for all involved.

15 REPRESENTATIVE HERSHEY: My second question.
16 You told me about ethanol plants. A company tried to
17 locate one, which I was very interested in, down in
18 Conoy Township in Lancaster County near their resource
19 recovery plant to utilize the energy there.

20 It's like a hand in the glove. Local
21 opposition, you know, just got up on their back feet
22 and shot it down and then they went some place in York
23 County and I understand that they met opposition
24 there.

25 How are we going to overcome it? We need to

1 be doing these things sooner or later.

2 SECRETARY MCGINTY: Well, I am -- I am
3 familiar with that plant or proposed plant and the
4 reception that it has received in the two communities
5 that -- that it has sought to establish itself in.

6 On the other hand, I would say there are
7 many, many other plants that successfully are being
8 built in the Commonwealth without that kind of
9 opposition.

10 The bio-diesel plants that I was referring
11 to are being built. We're not seeing that kind of
12 opposition. Representative Rapp can also speak to one
13 of the plants that she's been involved in.

14 I think, Mr. Chairman, that it's -- it's
15 like the old story with regard to real estate. It's
16 location, location, location. And there are some
17 parts of the Commonwealth that welcome these kinds of
18 investments because of the jobs that it brings, the
19 new hopes, the opportunity, and sometimes there are
20 places that don't welcome it.

21 I don't think we have an epidemic though of
22 NIMBYism as it relates to energy development. I
23 haven't seen it. This plant actually seems to be the
24 exception to the rule in the opposite direction.

25 REPRESENTATIVE HERSHEY: Thank you. I would

1 hope as they come on line that people see the benefits
2 and that the DEP is making it be, you know, clean,
3 clean companies. We have come a long way --

4 SECRETARY MCGINTY: Absolutely.

5 REPRESENTATIVE HERSHEY: -- in 20 or 30
6 years, that they will be built plants, but it seems
7 the higher income neighborhood just don't want
8 anything that they think might cause them a problem.
9 And I won't say anything more about that, but I have
10 some strong feelings about it. Thank you.

11 CHAIRMAN ADOLPH: Thank you, Representative
12 Hershey.

13 Representative Tom Creighton.

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

16 Thank you, Madam Secretary. You mentioned
17 price points.

18 SECRETARY MCGINTY: Yes.

19 REPRESENTATIVE CREIGHTON: I'm always
20 interested in what that will be, especially, like, for
21 heating oil, and would that -- for soy. You would
22 have a profit margin in the production of any product.
23 In terms of heating oil you have also the profit
24 margin.

25 Would they be -- would the profit margins be

1 the same in that price point or not? And could you
2 sort of elaborate on that?

3 Also refinery capacity can cause some of the
4 disruption. With Katrina, refineries were shut down.
5 Is there any -- what's your attitude toward
6 refineries? Should we promote them or build a few
7 more so we have them distributed around the nation and
8 they're not susceptible to a catastrophic event like
9 hurricanes? Thank you.

10 SECRETARY MCGINTY: Thanks. I'll start with
11 that later question, if I can, in terms of refineries.

12 First of all, I very much agree with your --
13 your final point there, in terms of should we be
14 thinking about a distributed network of refinery
15 capability, and I would think absolutely, yes, that
16 the experience of the hurricanes, among other things,
17 teaches us that that kind of centralization is almost
18 like a bull's-eye right on our energy vulnerabilities
19 there, and instead to have more distributed energy
20 systems broadly, including in refineries, is an
21 appropriate strategy.

22 Now, the other thing I'd say though is
23 there's a lot -- there's been a lot of handwringing
24 that there haven't been new refineries permitted or
25 built in the United States in 30 years and some

1 suggestion that maybe it's tough environmental laws
2 that have resulted in that consequence.

3 Well, the coal liquefaction plant that we,
4 again, announced three or four weeks ago, that's a
5 refinery. And I have to say there was no opposition
6 at all during the permitting process in establishing
7 that refinery.

8 I would also say in the southeast part of
9 the state there's the whole network of refineries
10 there, and they have operated without interruption
11 during these 30 years of admittedly increased
12 environmental requirements.

13 And similarly in the northwest part of the
14 state, in the United refinery -- Refining, that has
15 been a successful business. And also in the first
16 months we were in office, actually one of the first
17 permits that we completed was an expansion of that
18 operation.

19 So to me, what has unfolded more than
20 anything as it relates to refineries is the old law of
21 supply and demand and that there was an overinvestment
22 in refinery capability -- capacity in the '70s and
23 '80s which led to a disinclination to investment and
24 even a mothballing of some of that investment in the
25 later '80s and 90s. And what we're seeing is now the

1 natural swing of the market back in the opposite
2 direction.

3 But we -- again, there's -- coming back to
4 our ability not only to produce conventional fuels, as
5 this coal liquefaction plant will be a petroleum
6 product, but the point in emphasizing the biofuels,
7 those are refineries as well.

8 That's about crushing the soybeans and then
9 literally taking that oil and putting it through a
10 refinery as you would any other type of oil and making
11 a full array of fuel products from that feedstock.

12 And we are well on our way now with not one
13 but several such biofuel refineries in the -- in the
14 Commonwealth.

15 As -- I need to -- to, I think, come back
16 and respond to you more precisely in terms of where
17 those price points are, as you asked in the first part
18 of your question, and what the profit margin is
19 involved in those -- in those business plans, which we
20 can do since we now have these plants being built in
21 Pennsylvania. And I'd be happy to respond.

22 I guess I'd just lastly say, though, that
23 nothing is free. And I don't mean to suggest -- and
24 obviously being very optimistic about the
25 opportunities we have in alternative fuels -- to say

1 that it is cost free.

2 But I do think that the -- a couple of
3 things have come to the fore. The dramatic increase
4 in the price of conventional fuels has made
5 competitive a vast array of fuels and technologies
6 that previously was not -- and it's important to keep
7 that in mind, because our natural instinct would be to
8 continue to think about those things as things we
9 can't afford. And to me, I think we can't afford to
10 do without them.

11 But the second thing is the kind of
12 policies, like at the state level, the grants, the
13 loans, the Pennsylvania Energy Development Authority,
14 we've been investing in these things. We're putting
15 our hand in our wallet as well. And at the federal
16 level the production investment tax credits have been
17 key as well. Thanks.

18 CHAIRMAN ADOLPH: Thank you. I'd like to
19 acknowledge the presence of Representatives Rubley and
20 Hutchinson.

21 And our next question comes from
22 Representative Rapp.

23 REPRESENTATIVE RAPP: Thank you,
24 Mr. Chairman. Thank you, Mr. Chairman.

25 And thank you, Madam Secretary, for being

1 here. A pleasure to see you again and to hear your
2 comments and thank you for mentioning the United
3 Refinery -- from Warren and the ethanol plant we're
4 doing in the northwest.

5 However, my question, as you may probably
6 have guessed, is in regards to my Congressman strongly
7 advocating for drilling of natural gas in Lake Erie
8 from the continental shelf.

9 And I firmly and strongly agree with you
10 that we can no longer depend on our energy coming from
11 far away places.

12 And I would like to know your position on
13 drilling in Lake Erie for natural gas as Canada does
14 and sells that natural gas to us when we can be
15 drilling from Lake Erie ourselves. And also what your
16 view is on drilling offshore for natural gas and for
17 drilling on land.

18 I certainly am supportive of alternative
19 energies, but the natural gas people do feel that
20 there's still a lot of natural gas under the earth in
21 Pennsylvania. And so what is your view?

22 SECRETARY MCGINTY: Well now, -- well, first
23 point, I've learned that prepositions are important.
24 And on the Lake Erie question, the preposition -- the
25 difference between the preposition of in and around is

1 really important. And as I understand it, actually,
2 and I think if I'm understanding the import of your
3 question, someone who wants to be positive and
4 supportive of at least an investigation of the
5 possibilities there, I don't know that the drilling is
6 actually in Lake Erie but it is around the lake with
7 horizontal technologies that enable some drawing of
8 resources potentially from under the lake itself.

9 And I actually think that that is an
10 important point in terms of the potential public
11 concern, what the visual impact would be, what would
12 be the impact on the lake itself.

13 Having said that, I don't have a specific
14 answer to the question. In part, because we haven't
15 been presented with any specific proposals or projects
16 in that regard. You're quite right. The Canadians do
17 draw a natural gas resource from around and under Lake
18 Erie.

19 And I suppose if such a proposal was
20 presented to us we would have the occasion to compare
21 notes with them and to see if there has been any
22 adverse ecological impact. I just am not aware of any
23 because we have not seen such a proposal.

24 In terms of other conventional oil and gas
25 resources, a couple of things. First of all, the

1 Department is processing and has issued a historic
2 number of oil and gas permits.

3 Last year we thought we set the record where
4 we were in the range of 3,000-plus permits for oil and
5 gas development in the northwest down to west central
6 part of the state.

7 This year we have surpassed that and we've
8 4,000-plus such operations that we have approved. All
9 of this, as Representative Creighton's question
10 suggests, it's all price driven. Prices are such that
11 those operations are attractive again.

12 I think as it relates to oil, we don't have
13 the Texas-size resources anymore that we may have had
14 historically, but there's no question that we still
15 have an appreciable resource.

16 As it relates to gas, the experts tell me
17 that we may have a gas resource that is second only to
18 the state of Wyoming. Now, you may say, well, if
19 that's the case, how come we haven't seen even more
20 aggressive development of that? And the primary
21 reason is that the lion's share of that gas resource
22 is some 15,000 feet down. It's a deep geological
23 formation that's referred to as the Trenton-Black
24 River seam.

25 With the price of natural gas though, I can

1 tell you, we have seen a very strong increase in
2 interest in exploring and developing that resource.
3 And some of you may be hearing from constituents who
4 have companies knocking on their door and sinking
5 exploratory wells in a pretty substantial way now out
6 there on that landscape.

7 So we still do have a very appreciable
8 resource in oil that has been tapped over the years
9 and a century in gas that still has not been
10 appreciably tapped.

11 REPRESENTATIVE RAPP: So -- so your position
12 is that you are in favor of continuing to drill?

13 SECRETARY MCGINTY: Well, we have -- as I
14 said, we have been approving an unprecedented number
15 of such operations.

16 REPRESENTATIVE RAPP: Thank you.

17 CHAIRMAN ADOLPH: Thank you. Representative
18 Miller.

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

21 Thank you, Madam Secretary.

22 The ethanol plant that Chairman Hershey
23 referenced actually started out in York County and was
24 driven to Lancaster County and now is being proposed
25 in a neighboring county.

1 In your answers to some of the prior
2 questions you were referencing the siting and start-up
3 of bio-diesel. Are there any ethanol plants being
4 started now within the Commonwealth?

5 SECRETARY MCGINTY: There is one that
6 Representative Rapp was referring to. There may
7 actually -- there are -- there are at least three and
8 maybe four that I'm aware of.

9 The -- the one that Representative Hershey
10 and I were discussing. There is another one that has
11 been under development for some time in Clearfield
12 County. There is at least one proposal and maybe two
13 actually up in the Warren County northern tier area.

14 So there -- yes, there has been some
15 interest in both ethanol as well as in soy-based
16 diesel products.

17 REPRESENTATIVE MILLER: And when we talk
18 about the bio-diesels we almost always talk about soy.
19 But there's a group out there that contends there's
20 other --

21 SECRETARY MCGINTY: Yes.

22 REPRESENTATIVE MILLER: -- agricultural
23 products that could be used.

24 SECRETARY MCGINTY: Yes. Yes.

25 REPRESENTATIVE MILLER: Are we exploring

1 those options also?

2 SECRETARY MCGINTY: Yes. Thanks. In
3 fact -- and Representative Rapp will correct me if I'm
4 wrong -- but at least one of the proposals up in -- I
5 think it's the one in McKean County, is actually
6 deriving -- it's feedstock is not corn as ethanol
7 often is derived from corn. It is a -- the process
8 involves gasification of municipal waste.

9 It is harvesting its feedstock from the
10 McKean County landfill. I mean that's the proposal.
11 And I think, as far as I know -- as far as I know, it
12 is moving right along.

13 There is a very strong interest
14 internationally in what more generically is referred
15 to as cellulosic ethanol. And what falls into that
16 category mostly is waste products of various kinds,
17 municipal waste, as I just referred to, but also kinds
18 of farm waste products that -- not just the corn
19 itself but husks and shells and other materials that
20 have a cellulose base that could be gasified in order
21 to derive the ethanol fuel.

22 So having said that, though, the most
23 production of ethanol, commercial ethanol in the
24 United States today, is corn derived.

25 REPRESENTATIVE MILLER: Okay. Thank you.

1 Thank you, Mr. Chairman. Thank you.

2 SECRETARY MCGINTY: Thanks.

3 CHAIRMAN ADOLPH: Thank you, Representative
4 Miller.

5 Representative Chris Ross.

6 REPRESENTATIVE ROSS: Thank you -- thank
7 you, Mr. Chairman.

8 And thank you, Madam Secretary, for your
9 comments.

10 If I could, I'd like to sort of globalize
11 this a little bit more. Most of the comments that you
12 had given us today refer to programs that are in
13 process, some of the various different private sector
14 responses to forms of legislation that we have put
15 forward in the past or perhaps the marketplace is even
16 driving to some degree, and I recognize that as
17 regards the alternative energy portfolio standards
18 that we have really relied on the PUC to move forward
19 with the implementation, which they're doing in a good
20 and -- and thorough fashion. So that's really at the
21 regulatory level.

22 But, of course, we're legislators, and we're
23 interested in legislative options. And we are really
24 trying to think ahead a little bit here in terms of
25 kinds of legislative initiatives that we need to be

1 considering in the next year or two to improvement the
2 energy picture here in Pennsylvania.

3 And I was wondering if you or the
4 administration had any specific recommendations for
5 legislative initiatives to improve the energy picture
6 here.

7 SECRETARY MCGINTY: Thank you. Yes. The --
8 to -- to go back to the four sectors that I think we
9 have a strategic advantage and maybe expand from that.

10 The -- the gas resources, solar, wind, and
11 the biofuels products. Getting those or tapping into
12 those resources and seeing it more broadly deployed
13 for the benefit of our economy and security requires
14 us to pay attention to the realities of project
15 finance.

16 What does it take? What does Wall Street
17 need to see in order to finance and build
18 infrastructure along these lines?

19 Project finance comes down to three things.
20 It's risk, risk, risk, but risk related to feedstock.
21 What's going to go into the energy machine in
22 question? Risk with regard to the energy machine
23 itself. And then risk with regard to the output. So
24 either the electricity or the fuel that comes out of
25 the machine.

1 And here we have -- we have AEPS and other
2 policies that present a mandate, if you will, and that
3 sends a signal to the marketplace. And we have some
4 investment tools in grants and loans and that sends
5 another signal to the marketplace.

6 But what we're finding is sometimes even
7 those signals are not enough to actually get steel in
8 the ground.

9 Going back to the project finance pieces,
10 the coal liquefaction project, the John Rich project,
11 the project in Schuylkill County. The reason that
12 that took a huge step forward three weeks ago is
13 because we didn't just do the typical thing that
14 government does. We didn't just mandate that kind of
15 fuel or just put some financing into the project.

16 We recognized that the project finance
17 missing -- missing link in that case was the third
18 piece, the risk related to off peak. The problem with
19 that project was that it had all the incentive in the
20 world but nobody was stepping up as a customer to sign
21 a long-term, off-take contract.

22 And Wall Street doesn't want to invest in
23 any business that doesn't have a proven line of
24 customers. And more than that, since it's a nearly
25 billion dollar plant, \$800 million, not just fair

1 weather customers but customers that are going to be
2 there today and ten years from now.

3 So what that project involved or what that
4 effort involved is putting the purchasing power of the
5 Commonwealth to work to be an off-taker and to sign
6 that long-term off-take contract.

7 Similarly, I mentioned what we hope to be
8 able to announce in a couple of weeks -- or we'll see
9 how the negotiations go in this new waste coal plant
10 that hopefully will make the difference and keep this
11 steel company that employs 3,000 people here in
12 Pennsylvania.

13 Well, we have the mandate. AEPS says, let's
14 use waste coal, but there was still some missing
15 pieces. And the key missing piece there was, again,
16 on the off-take side, a lack of what Wall Street
17 recognizes as creditworthy counterparties.

18 They look at utilities, and utilities often
19 are not considered creditworthy counterparties such
20 that Wall Street wants to put 30 years' worth of
21 investment there.

22 Or they look at, in this case, a steel
23 company, one of the biggest employers in Pennsylvania,
24 but Wall Street's view is steel is boom and bust. We
25 don't have confidence there.

1 So in this deal, if we are successful and
2 can bring it to the fore, we are essentially expending
3 not Commonwealth dollars but putting the
4 creditworthiness of the Commonwealth to work to back
5 up some of the counterparties.

6 So stepping back from that, the ideas that I
7 would offer involve looking at those elements of
8 project finance and seeing if it's feedstock,
9 technology, or off-taker, what kind of instruments can
10 we put in place to ensure, for example, that that
11 feedstock will be there and available, or what might
12 the Commonwealth do to absorb the risk related to the
13 technology, deploy in our own facilities, or offer
14 some kind of loan guarantees, for example, that absorb
15 the performance risk of the technology, and, finally,
16 on the off-take side, what tools can we put to work to
17 enable people to step up and be long-term customers of
18 the product of these plants.

19 And that's not a precise "here's a piece of
20 legislation", but there are tools that can work to
21 address those risk elements. And it is that risk
22 mitigation, that if we do it, we'll be the only state
23 in the nation to have that figured out.

24 And I think the billions of dollars that are
25 sitting today on Wall Street looking to invest in

1 energy will much more readily come flowing our way.

2 REPRESENTATIVE ROSS: Okay. Just a
3 reaction, if I could, Mr. Chairman.

4 I'm not sure that the trading mechanisms are
5 really functioning fully, and so that may be
6 preventing some of these long-term contracts from
7 being signed.

8 And I would also caution you, and my
9 colleagues, that if we are going to get involved on
10 the back end of this proposition where we're going to
11 be taking positions in futures trading as a
12 Commonwealth essentially, or underwriting future
13 energy purchases for private entities in the state,
14 that is a very risky proposition, too.

15 SECRETARY MCGINTY: Yeah.

16 REPRESENTATIVE ROSS: And one that I would
17 have concerns about. But I thank you for your
18 comments.

19 SECRETARY MCGINTY: Yeah. Thank you.

20 CHAIRMAN ADOLPH: Thank you, Representative
21 Ross.

22 Representative Gib Armstrong.

23 REPRESENTATIVE ARMSTRONG: Thank you,
24 Mr. Chairman.

25 Thank you, Madam Secretary, for your

1 testimony.

2 You talked a little bit about advanced coal
3 gasification liquefaction and have touched on it in
4 some of your answers.

5 Can you describe for us where you see that
6 technology going in Pennsylvania and what we -- what,
7 if anything, we, as a legislature, could do to help
8 make that technology real in Pennsylvania?

9 SECRETARY MCGINTY: First of all, I think we
10 have as much or more of a competitive advantage to put
11 that technology to work for us than -- as any other
12 state, in part because of the appreciable coal
13 resource we have.

14 Second, not just the freshly mined coal, but
15 we have an opportunity, because of the waste coal
16 resource we have, to reduce, again, the cost points of
17 the electricity or the fuel generated from those
18 plants, because we can blend the waste coal with the
19 run of mine coal.

20 In terms of -- the incentives, if we could
21 put them in place to advance the ball here, I -- I
22 would come back to some of the things I share with
23 Representative Ross and that is, I mean, if, for
24 example, not that the Commonwealth necessarily be
25 getting into the futures business, but what if we

1 provided incentives for manufacturers in Pennsylvania
2 to step up and be the off-takers, the purchasers of
3 the syngas product that comes from coal gasification
4 plants.

5 See, one of the things, states like Montana,
6 for example, they have a coal resource, too, and they
7 have a governor like our Governor who is really hot on
8 this stuff and he's talking about it a lot.

9 However, what we have is a vastly larger
10 economy to put to work with that coal gasification
11 product.

12 Pennsylvania manufactures and exports more
13 chemicals than any other state in the nation. What if
14 we provided incentives for our chemicals companies to
15 step up to the plate and to be the purchasers. To say
16 to people who want to build a coal gasification plant,
17 hey, not only do we have the coal, not only do we have
18 some financial incentives and then AEPS, a further
19 incentive for coal gasification, but come here and
20 you'll have customers.

21 I think that things like that would be
22 distinctly different than what I see happening in
23 other states and would enable us really to put that
24 resource to work in enhancing our competitiveness.

25 REPRESENTATIVE ARMSTRONG: Thank you. Thank

1 you, Mr. Chairman.

2 CHAIRMAN ADOLPH: Thank you. Representative
3 Crahalla.

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

6 And thank you so much for being here today.

7 SECRETARY MCGINTY: Thank you.

8 REPRESENTATIVE CRAHALLA: It's great to hear
9 about the progress Pennsylvania is making with
10 alternative -- alternative energy sources.

11 My question is going to be a little bit off
12 the subject.

13 SECRETARY MCGINTY: Okay.

14 REPRESENTATIVE CRAHALLA: Right now House
15 Bill 2141 is looming and it would, as you know,
16 eliminate annual state inspections and emissions
17 testing.

18 The question that I have is what -- if that
19 were to pass, what effect would that have on air
20 quality? Is there any way of telling or has anybody
21 really been able to do a study on this?

22 SECRETARY MCGINTY: Yes. Thank you. Let
23 me -- let me distinguish between several bills, all of
24 which were at issue at the same time a couple weeks
25 ago and even last week.

1 One bill did propose to repeal the
2 inspection and maintenance program as well as make
3 every two years instead of every -- a separate bill
4 would have made every two years instead of every
5 single year safety inspection requirements.

6 Now, those bills did not successfully come
7 out of the Transportation Committee. However, on your
8 question about the emission impacts, if bills like
9 that would be successful, loss of those programs would
10 put a huge hole in our state compliance plan under the
11 Federal Clean Air Act.

12 We would be very substantially short of the
13 emission reductions that are required of us. And
14 further as it relates to inspection and maintenance,
15 we actually don't -- we have the option of how we
16 design an inspection and maintenance program. We do
17 not have the option just to repeal it.

18 The 1990 Clean Air Act Amendments require
19 states and places in states that have certain
20 populations and certain population densities must have
21 an inspection and maintenance program.

22 So, as we've learned in the past, if you
23 just repeal those things, you stand in jeopardy of
24 serious federal sanctions.

25 On the House Bill 2141, it's a related set

1 of concerns. That -- at issue there is whether the
2 state chooses tailpipe emission standards, how clean
3 is the exhaust coming out of the tailpipe, that were
4 devised by U.S. EPA or do we choose those standards
5 that were devised by something called the California
6 Air Resources Board.

7 In 1998 the state choose to adopt the
8 standards devised by the California Air Resources
9 Board. That's the regulation. That's the law that is
10 still in place in Pennsylvania today. We've been
11 operating under it since 1998.

12 The issue there is, if we just repeal that,
13 again several problems arise. One, like inspection
14 and maintenance, it is a part of our federally
15 approved state implementation plan. That means it's
16 federally enforceable. It means if we want to change
17 it we have to follow the law and the procedures
18 outlined in the Clean Air Act, including public
19 hearings, including a letter from the Governor asking
20 for the change to be made, et cetera.

21 Second, it also points out there's no free
22 lunch. If we decide to go easier on Detroit, we will
23 have to be more exacting on employers in Pennsylvania.

24 As the tailpipe standards become fully
25 implemented, which is between now and 2025, in other

1 words, as the vehicle fleet turns over and new cars
2 come into the mix, the -- our dependence on those
3 tailpipe standards to meet our clean air obligation
4 increases substantially so that we get up to 12
5 percent more NOx -- 12 percent more VOC reductions
6 from the California as opposed to the U.S. EPA
7 standards and 9 percent NOx reductions.

8 If it doesn't come from tailpipes, if it
9 doesn't come from Detroit and cars, it has to come
10 from factories and power plants in Pennsylvania. We
11 would need new regulations there to make up the
12 emission reductions that otherwise are required of us
13 under the Federal Clean Air Act.

14 REPRESENTATIVE CRAHALLA: Thank you.

15 SECRETARY MCGINTY: Thank you.

16 CHAIRMAN ADOLPH: Thank you. Representative
17 Hutchinson.

18 REPRESENTATIVE HUTCHINSON: Thank you.

19 Thank you, Madam Secretary. I'm sorry I
20 missed your earlier remarks, but I was able to peruse
21 them real quickly.

22 I do want to thank you for what I think has
23 been a balanced approach, and hope that goes forward.
24 You know, balancing the fact that Pennsylvania does
25 have a lot of traditional fossil fuel type energy

1 available here and we should and must continue to use
2 those sources.

3 But also to -- to look at the alternative
4 arena and -- and look at that more as a long-term
5 thing that starts small and then maybe, you know, many
6 years in the future that will be a bigger portion of
7 our energy needs.

8 I guess more than anything I wanted to
9 follow up on what Representative Rapp was talking
10 about, and that was the drilling in Lake Erie.

11 And as a matter of fact, maybe I'll phrase
12 this more as a invitation, if I'm able to do that.
13 Because there is drilling in the lake. On the
14 Canadian side. I've been there. The piping is laid
15 on the bottom of the lake.

16 SECRETARY MCGINTY: Yes. That's right.
17 Right.

18 REPRESENTATIVE HUTCHINSON: But the drilling
19 goes on in the lake with the drilling rig. The rig is
20 gone in about two weeks, and you see nothing from the
21 surface. The pipes are all buried on the -- on the
22 bottom of the lake, and -- and they have done that.

23 I think they started in the year 1904. So
24 it's over a hundred years. I think it's very safe. I
25 think it's something you should see. And I think the

1 added benefit of that -- I think I'm right on this --
2 not only is it a great potential source, my
3 understanding is the state owns the mineral rights.
4 So not only would it provide energy, provide jobs, but
5 it would also be a source of income for the state.

6 And I -- you know, I guess I invite you to
7 visit the area.

8 SECRETARY MCGINTY: Sure.

9 REPRESENTATIVE HUTCHINSON: I'd love to be
10 part of that if you'd like to do that sometime.
11 Not -- remembering -- I also remember there are
12 federal restrictions, and that's the first hurdle.

13 SECRETARY MCGINTY: Sure.

14 REPRESENTATIVE HUTCHINSON: And then after
15 that, we'd get into the real estate debate on this.

16 SECRETARY MCGINTY: And seriously, I did not
17 understand, and I guess I just want to ask you, that
18 there are floating platforms, for example, on the
19 lake, that the infrastructure abuts the lake --

20 REPRESENTATIVE HUTCHINSON: The
21 infrastructure --

22 SECRETARY MCGINTY: And then the pipes, as
23 you say --

24 REPRESENTATIVE HUTCHINSON: The pipes are
25 all under. The only infrastructure, it's there while

1 they drill.

2 SECRETARY MCGINTY: Right.

3 REPRESENTATIVE HUTCHINSON: Then it leaves.

4 And then they come back for maintenance.

5 SECRETARY MCGINTY: Right.

6 REPRESENTATIVE HUTCHINSON: But it's very
7 short. And you really -- so it's there and it's gone.

8 It's not like it's sitting out there forever and you
9 see this rig.

10 But, if anything, you need to see the maps
11 of the lake and just miles and miles of pipes
12 underneath.

13 SECRETARY MCGINTY: Right. Right.

14 REPRESENTATIVE HUTCHINSON: And nothing can
15 be seen.

16 SECRETARY MCGINTY: Right.

17 REPRESENTATIVE HUTCHINSON: It's pretty
18 incredible. And I encourage you to look into that.

19 SECRETARY MCGINTY: Mr. Chairman, you would
20 not consider this a junket if we decided to head up to
21 Canada for a while?

22 CHAIRMAN ADOLPH: You know, after
23 Representative Rapp was talking about that --

24 SECRETARY MCGINTY: Yes.

25 CHAIRMAN ADOLPH: -- I mentioned to Joe

1 Deklinski, our executive director, I think it would be
2 a worthwhile trip for the Committee to look into.

3 SECRETARY MCGINTY: Sure.

4 CHAIRMAN ADOLPH: I, for one, have never
5 been to Lake Erie, and I would certainly like to
6 see -- to see this.

7 Commissioner Shane is giving me the sign it
8 would be okay. So, you know.

9 REPRESENTATIVE HUTCHINSON: Get your
10 passports.

11 SECRETARY MCGINTY: You don't need a
12 passport for that.

13 CHAIRMAN ADOLPH: I understand Lake Erie can
14 get a little rough in the wintertime. It sounds like
15 maybe something we can do in the late spring, early
16 summer. But it certainly would be a worthwhile trip
17 for the members of this committee.

18 Thank you very much. Anything else,
19 Representative Hutchinson? Okay.

20 Representative Reed.

21 REPRESENTATIVE REED: Thank you, Madam
22 Secretary, for your testimony.

23 SECRETARY MCGINTY: Thank you.

24 REPRESENTATIVE REED: And I applaud you. I
25 think you've done a very good job up to this point at

1 least in acting responsibly and balancing our state's
2 environmental needs with our economic needs.

3 SECRETARY MCGINTY: Thank you.

4 REPRESENTATIVE REED: And I've supported
5 many of your proposals. The ATF standards with the
6 enclosure of the waste coal, the coal bed methane gas
7 provisions within those standards, the Growing Greener
8 II once we removed the new taxes and new fees for our
9 power industry, and we've worked together, as you
10 mentioned earlier, on the manure digester in Indiana
11 County which I'm happy to report that I believe the
12 electric co-ops have worked out an agreement where
13 that the manure digester will begin the final
14 production -- yeah -- the final production of the
15 lines to connect the actual digester to the power grid
16 within the next couple weeks.

17 So we do appreciate the DEP's responsiveness
18 and your assistance in those matters.

19 Now, throughout your testimony you mentioned
20 coal several different times --

21 SECRETARY MCGINTY: Yes.

22 REPRESENTATIVE REED: -- in several ways.
23 Both directly and indirectly, you mentioned, as I just
24 mentioned, waste coal and coal bed methane gas.

25 SECRETARY MCGINTY: Right.

1 REPRESENTATIVE REED: And in response to
2 Representative Armstrong's question of coal
3 gasification. Now, I guess where I'm failing to
4 see -- I guess where I'm seeing a little bit of a
5 disconnect, obviously you recognize coal as a
6 significant power source, not only -- not only today,
7 but also into the future, even as we look at
8 alternative energy sources, many of them are
9 indirectly related to coal. And yet we've seen over
10 the last couple of months the DEP has moved forward
11 through the environmental -- environmental quality --
12 but I just want to make sure I get it right -- of
13 proposing a new rule that would increase our state's
14 mercury standards above the mercury standards --

15 SECRETARY MCGINTY: Right.

16 REPRESENTATIVE REED: -- that federal DEP --
17 EPA had implemented just over a year ago.

18 And I guess this is a debate that we're
19 going to have over the next year in the legislature
20 and in the public arena.

21 SECRETARY MCGINTY: Sure.

22 REPRESENTATIVE REED: And I'm sure at points
23 we're going to agree to disagree on many of those
24 issues --

25 SECRETARY MCGINTY: Sure.

1 REPRESENTATIVE REED: -- but I think it
2 would be helpful for the members of this committee
3 here today --

4 SECRETARY MCGINTY: Sure

5 REPRESENTATIVE REED: -- to kind of hear how
6 you justify seeing coal as a positive energy source
7 but then implementing these mercury standards that,
8 you know, according to not only the Pennsylvania Coal
9 Association Cooperators --

10 SECRETARY MCGINTY: Sure.

11 REPRESENTATIVE REED: -- but the folks who
12 mine the coal, the folks who work at the power plants,
13 including IBEW and many of the unions representing
14 those plant, you know, see that it has a very
15 negative -- possible negative impact not only on our
16 energy industry but our economy and our consumers.

17 SECRETARY MCGINTY: Sure.

18 REPRESENTATIVE REED: So I'd just like to
19 hear your justification at this point why the DEP
20 needs to be moving forward above and beyond the EPA
21 standards.

22 SECRETARY MCGINTY: Sure. Well, actually
23 I -- we are joined in some of the legal challenges
24 we've brought against the federal proposal by the
25 Pennsylvania Coal Association and, in fact, I was

1 joined by the Pennsylvania Coal Association and the
2 United Mine Workers in challenging several substantial
3 parts of that proposed rule.

4 It is exactly because we have worked so hard
5 to bring that coal resource to work for our economy
6 and to lead the country in those coal technologies
7 that we are reacting very vigorously against what is
8 an unprecedented and, I would suggest, illegal move by
9 the federal administration to prejudice against
10 Pennsylvania coal.

11 The way that rule now in its final form
12 stands, it identifies different standards that
13 different coal types need to meet, with Wyoming coal
14 having the least stringent standard; bituminous coal,
15 that would be ours, having the second most stringent
16 standard; and waste coal having the most stringent
17 standard.

18 So it completely tilts the playing field
19 against our economic interest. We were promised by
20 then Administrator Levitt, before the 2004
21 presidential election, when the Governor personally
22 met with him to express our grave concern about this,
23 that it would be removed, it was an oversight, it was
24 a mistake, and that did not happen.

25 The final rule, while it reduces the

1 disparity among those standards, nonetheless retains
2 that prejudicial treatment.

3 So that is something on which we completely
4 agreed with the Coal Association and the United Mine
5 Workers.

6 Now, as it relates to what that standard
7 should be, I don't at all think it is against the
8 interests of Pennsylvania coal to -- to talk about
9 ensuring that our citizens are healthy when we are
10 using that resource. In part, because the chemical
11 nature of bituminous coal is such that the mercury can
12 be taken out of it much more readily than
13 subbituminous coal. That's the coal with which we
14 compete.

15 The reason for that is because we have a
16 higher percentage of chlorine in bituminous coal than
17 exists in the subbituminous coal and the
18 mercury-capture technology actually grabs chlorine and
19 pulls the mercury out with it.

20 So I don't at all see a disconnect, although
21 I think, Representative, you're exactly right. There
22 will be much occasion for further discussions with the
23 legislature about all of this as we go forward.

24 And there are other dimensions to the issue
25 which I'm happy also to discuss.

1 But on the specific point of is this
2 completely contradictory to our efforts to promote
3 coal, for the reasons I've just said, I think it's an
4 essential part if we're going to stay in the coal
5 game. We need a different rule on mercury.

6 REPRESENTATIVE REED: Just to follow up.

7 SECRETARY MCGINTY: Yes.

8 REPRESENTATIVE REED: From what I
9 understand, those are two separate issues in the coal
10 industry, especially how the United Mine Workers and
11 IBEW generally look at that.

12 There's a difference between the court
13 challenge for the federal standards and bringing those
14 standards from state to state in line with one
15 another, which I would certainly agree with you with,
16 and actually implementing higher mercury standards in
17 the state of Pennsylvania.

18 Those are two distinct issues that it seems
19 as though they've been lumped together and off the
20 line over the last couple months.

21 SECRETARY MCGINTY: Right.

22 REPRESENTATIVE REED: And I think it's an
23 important distinction to make.

24 And I guess, secondly, you had mentioned
25 just in your last paragraph or so though that it's

1 probably in the best interests of the coal industry as
2 well to have good quality, you know, air quality and
3 so on and so forth.

4 SECRETARY MCGINTY: Sure.

5 REPRESENTATIVE REED: For everybody in
6 Pennsylvania.

7 SECRETARY MCGINTY: Sure.

8 REPRESENTATIVE REED: And I would just, I
9 guess, on an -- on an ending note would mention that
10 it's also in everybody's best interests to still have
11 those voters working, putting the food on their
12 families' table and also keeping down the price of
13 electricity --

14 SECRETARY MCGINTY: But I --

15 REPRESENTATIVE REED: -- because we've
16 already seen an enormous proposed increase in the cost
17 of a number of fuel sources that we're going to see
18 over this winter, and I think we need to keep in mind
19 that any changes that we make that may put
20 Pennsylvanians at a competitive disadvantage with the
21 energy industry, as opposed to other states, stands
22 to have a very dramatic impact not only on our
23 employment numbers, but also on the cost of utilities
24 in the state of Pennsylvania.

25 And I think that's a very dangerous area to

1 be treading into, especially given the light of the
2 national and international energy state that we're in
3 right now.

4 But, again, that's a subject for another
5 day. And I do appreciate your testimony and I do
6 appreciate, you know, the work that we have done
7 together.

8 SECRETARY MCGINTY: Sure.

9 REPRESENTATIVE REED: And I'm confident that
10 over the next year that you'll see the balance as well
11 and we will work together to come to a realistic
12 standard --

13 SECRETARY MCGINTY: Sure.

14 REPRESENTATIVE REED: -- that will help
15 balance our environment and our economy for the years
16 and generations ahead.

17 So, thank you, Madam Secretary.

18 SECRETARY MCGINTY: Appreciated and agreed.
19 But the only way to get there is with a Pennsylvania
20 specific rule, because the federal rules are so tilted
21 against our interests.

22 REPRESENTATIVE REED: Did you not just state
23 though that there's a court challenge at this time?

24 SECRETARY MCGINTY: To the entire rule.

25 REPRESENTATIVE REED: Yes.

1 SECRETARY MCGINTY: But it's all part of the
2 same rule.

3 REPRESENTATIVE REED: But wouldn't --

4 SECRETARY MCGINTY: It's all part of the
5 same rule.

6 REPRESENTATIVE REED: Wouldn't that be
7 another way of getting there? If there's a -- what
8 are you challenging? If the only way to get there is
9 through a rule for the Pennsylvania DEP, then what are
10 you challenging?

11 SECRETARY MCGINTY: We aren't -- we don't
12 have an option not to proceed with a rule making in
13 Pennsylvania, even while the court challenges are
14 pending, because there has not been a supersedeas
15 granted by the judge that would hold the rule in
16 abeyance until these challenges are worked out.

17 So as it stands now, we both are engaged in
18 the challenges but under federal directive by date
19 certain, which is September of 2006, to deliver a
20 mercury rule for the state of Pennsylvania.

21 REPRESENTATIVE REED: Thank you.

22 SECRETARY MCGINTY: So have to do both.

23 REPRESENTATIVE REED: But we can do a
24 mercury rule that's in line with the federal
25 standards.

1 SECRETARY MCGINTY: We could do that. We
2 could do that.

3 REPRESENTATIVE REED: And not a stricter
4 rule because --

5 SECRETARY MCGINTY: That's correct.

6 REPRESENTATIVE REED: -- I'm not an attorney
7 by any means, but I would imagine that if we have
8 somewhat different standards as far as what's being
9 challenged in court, there is a -- it becomes
10 interstate commerce laws that are going to come into
11 play with -- you know, why wouldn't every state not
12 just do it?

13 SECRETARY MCGINTY: Well, every state is
14 left with the discretion when it comes to most
15 environmental standards that are produced at the
16 federal level.

17 At least historically a state always retains
18 the discretion to exercise its authorities to be more
19 protective, if it so -- if it deems that appropriate,
20 than what the federal standard might be. So there
21 wouldn't be a commerce laws problem in that respect.

22 But you are quite right. At the end of the
23 day we could produce a rule, for example, that
24 addresses that part of the rule, that I think we agree
25 and share the same concern, where it is the federal

1 rule prejudices against Pennsylvania coal types, but
2 adopt the same control standards as the rest of the
3 federal law.

4 Maybe that's where we'll wind up. I --
5 we'll see. We have the working group process at the
6 EQB directed and under way and that process has not
7 yet begun to draft a rule.

8 So in terms of what the standards are,
9 that -- that remains to be seen. But I just do want
10 to underscore just adopting the federal rule and not
11 doing something Pennsylvania specific takes away our
12 opportunity at least to try to minimize the adverse
13 impact on bituminous coal that the federal rule
14 represents.

15 REPRESENTATIVE REED: Well, I guess I would
16 conclude that I would certainly support something that
17 would --

18 SECRETARY MCGINTY: Address that.

19 REPRESENTATIVE REED: -- even the playing
20 field --

21 SECRETARY MCGINTY: Right.

22 REPRESENTATIVE REED: -- with the quality of
23 coals varying from state to state and those standards
24 but at the same time keep the mercury standards in
25 line with the EPA --

1 SECRETARY MCGINTY: Okay.

2 REPRESENTATIVE REED: -- proposed for the
3 entire country.

4 SECRETARY MCGINTY: Understood.

5 REPRESENTATIVE REED: And I would be
6 certainly more than willing to work with you and the
7 department on that --

8 SECRETARY MCGINTY: Okay.

9 REPRESENTATIVE REED: -- over the next year.

10 SECRETARY MCGINTY: Understood. Thank you.

11 REPRESENTATIVE REED: Thank you, Madam
12 Secretary.

13 CHAIRMAN ADOLPH: Thank you. That
14 conversation kind of reminds me of the conversation I
15 have with my wife all the time. I could never get the
16 last word. My wife has succeeded for 33 years to
17 always have the last word.

18 But I'd like to thank the members of this
19 Committee for their attendance and their
20 participation.

21 And I want to thank Madam Secretary for her
22 willingness at all times to come in and make a
23 presentations to this Committee, take phone calls from
24 the members of this Committee, and she -- her -- her
25 door has always been open to the Chairman of this

1 Committee and I appreciate that.

2 So without further ado, I'd like to remind
3 members that the next meeting regarding Pennsylvania's
4 energy strategy will be December 6th.

5 Without further ado, this meeting is
6 adjourned. Thank you.

7 (The proceedings concluded.)

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I HEREBY CERTIFY that I was present upon the hearing of the above-entitled matter and there reported stenographically the proceedings had and the testimony produced; and I further certify that the foregoing is a true and correct transcript of my said stenographic notes.

Brenda S. Hamilton, RPR
Notary Public