

HOUSE OF REPRESENTATIVES.  
COMMONWEALTH OF PENNSYLVANIA

\* \* \* \*  
Department of Environmental Protection  
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House Appropriations Committee

Main Capitol Building  
Majority Caucus, Room 140  
Harrisburg, Pennsylvania

Thursday, February 14, 2019

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MAJORITY COMMITTEE MEMBERS PRESENT:

Honorable Stanley Saylor, Majority Chairman  
Honorable Rosemary Brown  
Honorable Lynda Schlegel-Culver  
Honorable Sheryl Delozier  
Honorable George Dunbar  
Honorable Jonathan Fritz  
Honorable Matt Gabler  
Honorable Keith Greiner  
Honorable Seth Grove  
Honorable Marcia Hahn  
Honorable Doyle Heffley  
Honorable Lee James  
Honorable Fred Keller  
Honorable John Lawrence  
Honorable Jason Ortitay  
Honorable Chris Quinn  
Honorable Greg Rothman  
Honorable James Struzzi  
Honorable Jesse Topper  
Honorable Ryan Warner  
Honorable Martina White

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**Key Reporters**

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## 1 MINORITY COMMITTEE MEMBERS PRESENT:

2 Honorable Matthew Bradford, Minority Chairman  
3 Honorable Donna Bullock  
4 Honorable Morgan Cephas  
5 Honorable Austin Davis  
6 Honorable Maria Donatucci  
7 Honorable Elizabeth Fiedler  
8 Honorable Marty Flynn  
9 Honorable Edward Gainey  
10 Honorable Patty Kim  
11 Honorable Stephen Kinsey  
12 Honorable Leanne Krueger  
13 Honorable Stephen McCarter  
14 Honorable Benjamin Sanchez  
15 Honorable Peter Schweyer

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NON-COMMITTEE MEMBERS:

11 Honorable Jim Cox  
12 Honorable Jeffrey Pyle  
13 Honorable Dave Zimmerman  
14 Honorable Greg Vitali  
15 Honorable Mike Zabel  
16 Honorable Eddie Day Pashinski

1 STAFF MEMBERS PRESENT:

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David Donley  
3 Majority Executive Director

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Ritchie LaFaver  
5 Majority Deputy Executive Director

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Miriam Fox  
7 Minority Executive Director

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Tara Trees, Esquire  
9 Minority Chief Counsel

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**Key Reporters**

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DEPARTMENT OF ENVIRONMENTAL PROTECTION

Patrick McDonnell, Secretary

REQUEST FOR PRODUCTION OF DOCUMENTS

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1 MAJORITY CHAIRMAN SAYLOR: Good morning,  
2 everybody. We'll call the meeting to -- and  
3 hearing to order.

4 We're joined today by the Secretary of  
5 the Environmental Protection Agency and --  
6 Secretary Patrick McDonnell. And, Mr. Secretary,  
7 if you would rise and raise your right hand.

8 SECRETARY McDONNELL: Absolutely.

9 (Whereupon, Secretary McDonnell was  
10 sworn to tell the truth by Chairman Saylor).

11 MAJORITY CHAIRMAN SAYLOR: Very good.  
12 Thank you.

13 With that, we'll go immediately to  
14 questions, and I call on Representative Grove.

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

17 Good morning. How are you?

18 SECRETARY McDONNELL: Good. How are  
19 you?

20 REPRESENTATIVE GROVE: My family is  
21 sick, so a little bit of congestion.

22 SECRETARY McDONNELL: That time of year.

23 REPRESENTATIVE GROVE: So I apologize.  
24 Yeah.

25 Per the Governor's budget, he's

1 proposing shifts of about \$25.48 million out of DEP  
2 funds through the Environmental Stewardship Fund  
3 and the Recycling Fund, ultimately doing some  
4 increases. Obviously, the General Fund looks like  
5 some decreases, but ultimately some increases in  
6 those line items.

7 I'm just curious, do you support that  
8 plan?

9 SECRETARY McDONNELL: Yes. It allows us  
10 to keep level of effort for those General Fund line  
11 items without impacting any of the services because  
12 of the way they're handling the shifts and, for  
13 example, the debt service moving out of the  
14 Environmental Stewardship Fund.

15 REPRESENTATIVE GROVE: Back in  
16 September 8, 2017, the Department sent out a press  
17 release, House Republicans Budget Plan Threatens  
18 Environment and Breaks Promises to Pennsylvania  
19 Communities. Plan would raid funds dedicated to  
20 environmental education/hazardous site cleanup  
21 among others, quote:

22 This proposal will create serious  
23 threats to the health and safety of Pennsylvanians  
24 and environments said DEP Secretary Patrick  
25 McDonnell. Taking money from these funds, which

1 were not filled with taxpayers' dollars to begin  
2 with, breaks a promise to the people of  
3 Pennsylvania. Pennsylvania expects DEP's resources  
4 are used to restore watersheds affected by  
5 abandoned mine lands, clean up brownfields and  
6 restore them to good use, and teach our children  
7 the importance of a healthy environment.

8 Further down, quote: There's no reason  
9 to trade the proposed one-time transfers for long-  
10 time environmental degradation. Further goes: It  
11 does not matter if it's a dollar or a million  
12 dollars, these funds are not a piggy bank. These  
13 funds have been strategically dedicated to projects  
14 that are making a difference for Pennsylvania  
15 communities.

16 What changed between the two from 2017  
17 to today?

18 SECRETARY McDONNELL: So, I think  
19 there's two things. One, again, just to reiterate  
20 a point I made a moment ago, these are transfers  
21 being done without impacts on that level of effort.  
22 So again, for example, in the Environmental  
23 Stewardship Fund, by moving the debt service out of  
24 the Environmental Stewardship Fund, it allows those  
25 grant line items to remain relatively constant.

1           In addition to that, I'd say, I mean,  
2           every budget is -- the budgeting process is an  
3           annual one. As they look broadly at how to manage  
4           this year's budget, in particular, in an  
5           environment of no revenue increases, there was one  
6           of the solutions that was come up with.

7           REPRESENTATIVE GROVE: I'm not saying  
8           I'm not against it. I'm just curious as the  
9           180-degree reverse from your position two years ago  
10          to today. I mean, from what we heard two years ago  
11          where all those funds are committed; they all have  
12          contracts; there's no excess money; there's no  
13          excess capital, so what happened in the fund to  
14          actually free up dollars today?

15          SECRETARY McDONNELL: So, again, in the  
16          Environmental Stewardship Fund, the debt service  
17          moved; made dollars available within that.

18          Within the Recycling Fund, and we talked  
19          about this previously, there was -- when we were  
20          going into the unknown about the sunseting of the  
21          fee, that was ultimately resolved. One of the  
22          things we had done was slow down those grants. So  
23          we had a four-year process by which we would have  
24          done the level of effort above and beyond what we  
25          had traditionally done to kind of catch up.

1           So, we're going to maintain the usual  
2 level of effort within the Recycling Fund, but that  
3 accelerated schedule won't be occurring.

4           REPRESENTATIVE GROVE: The Recycling  
5 Fund, you said there's -- did you just mention  
6 there's a four-year cycle of funds to go through  
7 there?

8           SECRETARY McDONNELL: So there was a --  
9 When we had the recycling fee sunseting, we had  
10 started slowing down. And, in fact, there was a  
11 year we did not offer those grants, so to -- which  
12 led to the balance building up. So, in order to  
13 deal with that, we had to develop internally a  
14 four-year plan to manage that and move those grant  
15 dollars out.

16           We're basically taking advantage of the  
17 fact that we had an accelerated schedule so that we  
18 can maintain that level of effort that has  
19 traditionally been there in the fund.

20           REPRESENTATIVE GROVE: What year was  
21 there no release of funds?

22           SECRETARY McDONNELL: I want to say  
23 about two years ago.

24           REPRESENTATIVE GROVE: Two years ago?

25           SECRETARY McDONNELL: Yes.

1 REPRESENTATIVE GROVE: Okay.

2 Thank you, Mr. Chairman.

3 SECRETARY McDONNELL: Thank you.

4 MAJORITY CHAIRMAN SAYLOR: Before I move  
5 to our next questioner, I want to recognize we've  
6 been joined also as members who are not members of  
7 our committee, by Representative Pyle and  
8 Representative Zimmerman.

9 With that, we'll move on to the next  
10 questioner, is Representative Bradford.

11 MINORITY CHAIRMAN BRADFORD: Thank you,  
12 Chairman. And thank you, Secretary.

13 I want to begin by complimenting the  
14 Administration on making some very important moves  
15 in terms of investments and the GGO line items. I  
16 think for a lot of us who have long concerns about  
17 complement levels and, you know, just general  
18 commitment to seeing that you guys are staffed up  
19 to do the important work you do in terms of  
20 protecting our environment, I think that is very  
21 encouraging and we're very glad to see that. I  
22 think it's a step in the right direction.

23 I know right now pipeline is obviously a  
24 big concern, understandably. And I think if we're  
25 going to build trust and, frankly, restore trust

1 that has been breached in many ways in southeastern  
2 PA with, I'll call it certain actors in that area,  
3 it's gotten to the point where it's really at a  
4 critical mass. When you have a Republican district  
5 attorney opening a criminal investigation, I think  
6 you get a feel for exactly where the political  
7 ground is in our neck of the woods.

8 I also realize, from the business  
9 community, that there's continued concern about  
10 permitting in turning around, getting timely  
11 permits. This false choice that you can't be pro  
12 business and pro environment I think has  
13 perpetuated for too long.

14 So again, whatever we can do in terms of  
15 making sure that those investments and complements  
16 that can turn around permits and restore faith on  
17 these core complement issues and jobs of DEP, I  
18 think we want to see maintained in this budget as  
19 this conversation continues.

20 One of the things, though, we also  
21 realize, and Representative Grove raised this, and  
22 we realize the structural challenges that this  
23 budget and, frankly, several budgets in a row have  
24 presented, continue to make hard choices. Some of  
25 the use of special environmental funds trouble many

1 of us. And I would be -- I wouldn't be forthright  
2 if I told you that many of my caucus are supportive  
3 of that at this time. There's real concerns about  
4 the sustainability of these transfers long term,  
5 and the impact that it will have on the important  
6 programs that are funded through these special  
7 funds.

8 So there is some real tension, and I  
9 realize some conflict even with what I'm saying,  
10 which is glad to see these increases, but concerned  
11 about the use of these special funds to support  
12 them. I don't know if it is truly sustainable, and  
13 I've had some conversations with the  
14 Administration.

15 I know we look forward to seeing how it  
16 is sustainable over a period of years that the core  
17 missions of these special funds will be maintained  
18 and protected; that this isn't just a use of one-  
19 time funds for a one-year budget challenge. So I  
20 hope you appreciate that.

21 Many of those programs, farmland  
22 preservation, open space preservation that are  
23 really core to what people expect in my neck of the  
24 woods from DEP and DCNR and from the environmental  
25 community are at stake. So I hope you appreciate

1 the sensitivity that many of us take this, and just  
2 appreciate our sincere desire to work with the  
3 Administration, realizing it's a conversation;  
4 realizing this is a starting point, but a starting  
5 point that uses these funds in that way is  
6 problematic.

7 I just want to get that on the record  
8 and get out in front. I realize I've given you  
9 quite a bit to chew on. But I would kind of just  
10 get your opening thoughts on kind of how you see  
11 this going and what assurances you can give. Many  
12 in our caucus have these concerns about the  
13 long-term environmental impact and sustainability  
14 of these type of transfers and the ability of these  
15 funds to continue to drive out necessary funds.

16 SECRETARY McDONNELL: Sure. I neglected  
17 to mention at the outset when Representative Grove  
18 was speaking, Happy Valentine's Day, and I love you  
19 all too.

20 On the two sides of kind of what was  
21 brought up, one, I mean, I think it's important to  
22 note that the budget as presented is, last year we  
23 received an additional 35 positions within the  
24 General Fund. That does not change. So level of  
25 effort that we've already seen increase here within

1 the current fiscal year, none of that changes.

2 Completely agree and I think fair to  
3 say that the Governor and the Governor's office  
4 agrees that, while it's something that we're  
5 looking at in out years, the commitment and the  
6 discussion we just had, which is, the level of  
7 effort within a Environmental Stewardship Fund, the  
8 level of effort within Recycling Fund cannot change  
9 as a result of that. It's something that we want  
10 to manage as well.

11 Budgets are, as I said, an annual  
12 process, and this is something that I'm sure will  
13 be reevaluated next time we have one of these  
14 hearings.

15 MINORITY CHAIRMAN BRADFORD: The only  
16 thing I would follow up, and again, I want to begin  
17 with a compliment. I realize the promise of  
18 Restore PA and what that can do on the back end,  
19 assuming we get a severance tax, and that's the  
20 conundrum that many of us feel.

21 We realize Restore PA, which is not a  
22 budget issue per say, but could be very essential  
23 to backfilling some of these needs if we go down  
24 this road in this budget. That is -- So there's  
25 great hope for Restore PA with a robust severance

1 tax. But short of a severance tax, without Restore  
2 PA, that obviously gets harder.

3 So tell me what role you think Restore  
4 PA could have in terms of making these programs,  
5 frankly, Growing Greener 3 type initiative for  
6 Pennsylvania?

7 SECRETARY McDONNELL: So Restore  
8 Pennsylvania is, I think, critical not just because  
9 of the discussion we've been having, but it's  
10 really a proposal that deals with the scale with  
11 some of the problems that we're dealing with.

12 Even if the Environmental Stewardship  
13 Fund was being left untouched, it doesn't address  
14 the scale of what we're talking about in terms of  
15 flooding, in terms of stormwater, in terms of  
16 brownfields, in terms of energy.

17 So, Restore Pennsylvania is for us a  
18 critical piece, a critical idea moving forward for  
19 how we address, not just things within the  
20 Environmental Stewardship Fund, but a lot of these  
21 concerns.

22 I've been out in some of the flooded  
23 areas, for example, dealing with communities, and  
24 there are no really great answers because we just  
25 don't have that resource base. This is an answer

1 to those concerns.

2 MINORITY CHAIRMAN BRADFORD: Thank you.

3 SECRETARY McDONNELL: Thank you.

4 MAJORITY CHAIRMAN SAYLOR:

5 Representative Ortitay.

6 REPRESENTATIVE ORTITAY: Thank you, Mr.

7 Chairman.

8 Good morning, Mr. Secretary.

9 SECRETARY McDONNELL: Good morning.

10 REPRESENTATIVE ORTITAY: Last week,  
11 February 7th, the Chairman sent a letter over to  
12 you. I was just wondering if you had seen it, read  
13 it, and had a chance to get some info.

14 SECRETARY McDONNELL: Seen it, read it.  
15 Some of that was the request for the 10 years of  
16 data. A lot of that is contained within our  
17 regional offices, so we're still in the process of  
18 assembling that information.

19 REPRESENTATIVE ORTITAY: Okay. The main  
20 concern that I'm looking at, and the real info that  
21 I wanted, when an outside group challenges a permit  
22 and they win in court, DEP is required to pay  
23 attorney fees. That's the real number I'm looking  
24 at. I don't know if you have a ballpark or if  
25 you're ready to throw out a number.

1                   SECRETARY McDONNELL: I don't have a  
2 number off the top, but that's something, as soon  
3 as we get it, I can provide back. And then,  
4 whatever form we want to have to discuss that, I'm  
5 more than willing to do.

6                   MAJORITY CHAIRMAN SAYLOR: Mr.  
7 Secretary, I'm going to interrupt just a second.  
8 I'm going to have to have you come back if you  
9 don't have those numbers today.

10                   SECRETARY McDONNELL: I don't.

11                   MAJORITY CHAIRMAN SAYLOR: It's  
12 important for the committee members to really have  
13 an opportunity to discuss those. That's why I sent  
14 you the letter ahead of time is that, it is so  
15 critical for us to understand what these  
16 organizations are costing the taxpayers of  
17 Pennsylvania in these lawsuits. While you're  
18 diligently working to try and clean up the  
19 environment, other environmental groups are  
20 basically destroying your budget, we believe, with  
21 their constant lawsuits and constant harassment.

22                   Just to put you on notice, we'll have  
23 you come back. And I'll turn it back to  
24 Representative Ortitay.

25                   REPRESENTATIVE ORTITAY: Thank you.

1           And it's basically for everyone here and  
2 everyone listening. The crux of it is to figure  
3 out, we have all these lawsuits against the State,  
4 against DEP. I'm just trying to figure out how  
5 much we're spending, how much taxpayer dollars  
6 we're paying out, and then how much time and effort  
7 your department attorneys are also taking up on  
8 these issues as well.

9           Have you had to hire outside counsel to  
10 deal with any of these?

11           SECRETARY McDONNELL: Again, I'd have to  
12 get you an answer. I don't know off the top of my  
13 head if they're specific.

14           I guess the two things I would point out  
15 is, one, I think it's specific statutes that have  
16 the attorney fee provision in it.

17           And two, I think it's important to point  
18 out the balancing thing.

19           REPRESENTATIVE ORTITAY: For your staff.

20           SECRETARY McDONNELL: Yeah.

21           REPRESENTATIVE ORTITAY: I know that one  
22 of the issues has been the complement staff that  
23 DEP has. I guess what I'm getting at is, do you  
24 feel you have adequate staff to handle these types  
25 of lawsuits, or lawsuits in general that DEP has to

1 defend?

2 SECRETARY McDONNELL: I think the cases  
3 where we would bring in someone else. Again, I'd  
4 have to get the specifics would be a particular  
5 area of expertise or something like that, that we  
6 would want to look to bring someone into.

7 The one point I would make is, one,  
8 there is -- there is the budgetary impact that was  
9 brought up. Two, a lot of the private groups don't  
10 necessarily have the resources to bring a challenge  
11 or the wherewithal to bring a challenge. So, I  
12 think that was why that was originally established  
13 to law.

14 REPRESENTATIVE ORTITAY: Oh, and I  
15 understand that. I'm not debating the merits to  
16 that. I'm just curious as to what the taxpayers  
17 been on the hook for. Why we've gone -- not why  
18 we've gone down that road, but where we are in the  
19 process for those permits.

20 Why are we continually getting sued? Is  
21 it a process that DEP is not doing? Is it a  
22 permitting issue? Is it an evaluation? I mean,  
23 what's the real issue?

24 SECRETARY McDONNELL: So the thing I  
25 would point out is, and again, we can look at some

1 of these figures, but I would hazard to guess it's  
2 a relatively small percentage of our permits and  
3 authorizations that are ultimately subject to any  
4 sort of challenge. So, it's not something that is  
5 every permit or the majority of permits that are  
6 subject to those kind of challenges.

7 REPRESENTATIVE ORTITAY: I would love to  
8 have those stats if you have them.

9 SECRETARY McDONNELL: I'll see what we  
10 can pull.

11 REPRESENTATIVE ORTITAY: Absolutely.  
12 That would be fantastic.

13 You mentioned tracking a lot of this  
14 information is housed regionally. Now, the  
15 regional offices track this and then report it back  
16 up to you. Because I would imagine if DEP is  
17 cutting checks to pay for legal fees, that's gotta  
18 come out of some sort of account at the state  
19 level; not so much the local level, right?

20 SECRETARY McDONNELL: Sure. So, for  
21 example, if it was within the Clean Water Program  
22 would come out of the Clean Water Fund.

23 REPRESENTATIVE ORTITAY: Okay. So it  
24 comes out of there. It doesn't come out of the  
25 general operations or that special fund that you

1 guys have set aside for that.

2 SECRETARY McDONNELL: It would come out  
3 of particular special funds that receive fees,  
4 fines, penalties into them.

5 REPRESENTATIVE ORTITAY: Switching  
6 gears, I wanted to discuss a little bit about the  
7 climate action plan and its effect on AEPS. Are  
8 you able to talk about that at this point?

9 SECRETARY McDONNELL: The final plan  
10 itself is being put out next month. I can share,  
11 within the draft plan and then more specifically in  
12 the Pennsylvania Solar Future recommendations,  
13 there are a number of recommendations. One of  
14 those was to increase the solar carve-out for the  
15 advanced energy portfolio standard to -- between  
16 4 and 8 percent. So that was one of the  
17 recommendations within the Solar Future Report.

18 REPRESENTATIVE ORTITAY: As part of this  
19 recommendation, are they giving any recommendations  
20 on how we're going to get there? I know there are  
21 some other recommendations in there that really  
22 change our portfolio here.

23 I'm just wondering if they're looking at  
24 how much it's going to drive up utility cost; cost  
25 in general to get there. I think Pennsylvania has

1 done a really good job in cutting their emissions  
2 so far without government intervention, government  
3 mandates.

4 I see that I'm out of time.

5 I'm just wondering why we are deviating  
6 from that when it's already working without us  
7 really getting involved?

8 SECRETARY McDONNELL: There's definitely  
9 cost-benefit information within the climate action  
10 plan. I'd be more than happy to share that  
11 information.

12 REPRESENTATIVE ORTITAY: Thank you.

13 SECRETARY McDONNELL: Thank you.

14 MAJORITY CHAIRMAN SAYLOR:  
15 Representative Fiedler.

16 REPRESENTATIVE FIEDLER: Thank you for  
17 being here. As the Chairman mentioned earlier, the  
18 state of affairs outlined in the budget, it seems  
19 is likely contingent upon passage of Restore PA,  
20 and specifically passage of a severance tax.

21 Now, I am new here, but I have heard a  
22 great deal about what has gone on in the past with  
23 that tax. On behalf of my constituents and many  
24 people across the state, I would say that I am  
25 deeply troubled at the prospect of funding our

1 environmental needs with this sort of tax.

2 I think that we need to have reliable  
3 revenue streams for such fundamental parts of our  
4 government as ensuring clean water and clean air;  
5 and further, giving our need to move to a clean  
6 energy economy and make sure that workers' rights,  
7 union rights and the environment are prioritized.

8 I'm also troubled that we would pin the  
9 environmental health of this beautiful State of  
10 Pennsylvania on the continuance and growth of the  
11 fossil fuel industry. I think that this move would  
12 hold us back, in fact, from reaching the clean  
13 energy economy we need, and the renewable energy  
14 jobs our constituents need.

15 Do you have any thoughts that you would  
16 like to share on whether our state's environmental  
17 future should be tied to the big companies that  
18 profit off fossil fuels?

19 SECRETARY McDONNELL: Sure. So, a  
20 couple things I'd say is, one, in terms of the  
21 severance tax itself, one of the things -- And I  
22 know the Governor and others have pointed this out.  
23 We are all paying some version of that severance  
24 tax. We're just not paying a Pennsylvania version  
25 of that for the natural gas that we use within the

1 Commonwealth. It does get priced into commodity  
2 price for everyone else. I point that out as  
3 starting point.

4 Two, I think, you know -- and even just  
5 some of what we were talking about, for example,  
6 Environmental Stewardship Fund is funded by the  
7 waste that we deposit at our landfills. We have  
8 processes and projects in place that are already  
9 dependent on exactly these types of funding and  
10 resources.

11 And three is, in particular, we've moved  
12 a lot more of our operations off of General Fund  
13 onto special funds. A lot of it is having  
14 permittees and those engaged in activities paying  
15 the cost to do that work. I think on all of those,  
16 there's a consistency there.

17 In terms of Restore Pennsylvania itself,  
18 I think it can play a major role in taking those  
19 severance tax revenues and helping to drive some of  
20 those clean energy economy provisions that you were  
21 just discussing supporting clean energy jobs;  
22 supporting things like combine heat and power that  
23 really drive down emissions and drive down cost for  
24 businesses, as well as providing jobs right here in  
25 the Commonwealth.

1           REPRESENTATIVE FIEDLER: Thank you for  
2 that. And I think that it is specifically the  
3 monetization of the severance tax and tying that  
4 into the need for the severance tax to increase for  
5 us to have those funds that I find --

6           We've all mentioned having children and  
7 grandchildren. I have two very little ones. I  
8 think about the fact they're going to be part of  
9 paying that off for decades to come. So that for  
10 me specifically is troubling. Thank you.

11           I would like to get some clarification  
12 also on the DEP complement, just getting into the  
13 numbers. From what I understand, in 2002, the DEP  
14 was fully funded at 3200?

15           SECRETARY McDONNELL: That is about ---  
16 Yeah, I don't have that number off the top of my  
17 head in front of me, but I know that was about what  
18 our peak was.

19           REPRESENTATIVE FIEDLER: And right now  
20 DEP is considered fully staffed at about 2300.

21           SECRETARY McDONNELL: We have 2300  
22 filled; about 2500 complement. Yeah, just under  
23 2500 complement positions, that's correct.

24           REPRESENTATIVE FIEDLER: So I'm  
25 wondering with about--what is that?--about 700

1 fewer employees, that would be 900 fewer if you  
2 look at who's actually, I understand, working.

3 Do you feel like DEP is still able to  
4 fulfill its mission with hundreds fewer people;  
5 able to fulfill its mission to protect  
6 Pennsylvania's right to clean water and clean air?

7 SECRETARY McDONNELL: I mean, that's an  
8 evaluation we're constantly doing. Some of what we  
9 have engaged in here over the last two years has  
10 been a new focus on information technology, a new  
11 focus on training and permit process improvement,  
12 inspection improvement.

13 We're doing more inspections today;  
14 almost twice the inspections today and that oil and  
15 gas pays, for example, than we were back in 2010.

16 When you're talking about that kind of  
17 an evaluation, it really is a program-by-program  
18 evaluation. We are looking, for example, at fee  
19 increases within the Clean Water Program that would  
20 include some additional staff with it. We are  
21 looking at our quality program, our oil and gas  
22 program.

23 So, program by program we do that  
24 evaluation. And if we feel the need to, we -- I'll  
25 look for other fees or budget proposal.

1           REPRESENTATIVE FIEDLER: Thank you. I  
2 appreciate it.

3           SECRETARY McDONNELL: Thank you.

4           MAJORITY CHAIRMAN SAYLOR:  
5 Representative Rothman.

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

8           I'd like also to take the personal  
9 privilege to wish a happy birthday to my colleague,  
10 Leanne Krueger. Mr. Secretary, we're not gonna  
11 sing.

12           Mr. Secretary, in your testimony you  
13 mentioned about a year ago standing with the  
14 Governor to reform and modernize the permit process  
15 in Pennsylvania. Could you please give an update  
16 on how DEP's efforts to improve the permit review  
17 and the decision-making process in regional offices  
18 is going? I understand you process about 31,000  
19 permits a year.

20           I would like you to talk a little bit  
21 about your ePermitting initiative and what's going  
22 on with --

23           SECRETARY McDONNELL: Certainly.

24           REPRESENTATIVE ROTHMAN: -- ending the  
25 permit paralysis that even the Governor has spoken

1 about.

2 SECRETARY McDONNELL: Certainly. As  
3 with a lot of the issues that we face, we say it's  
4 not one thing; it's a lot of things that we need to  
5 deal with and manage to get things right.

6 On permitting, as I mentioned, high  
7 level, we have moved forward with electronic  
8 permitting processes. We started in our mining  
9 program that's since expanded to, I'll say some  
10 high volume things that we deal with that maybe  
11 don't capture as much attention. Storage tank  
12 renewals, asbestos notifications that we deal with  
13 thousands of.

14 But also our 105 wetland stream crossing  
15 permits, oil and gas permitting process. In there  
16 we're still in data working with the industry and  
17 working through issues. And we're looking to  
18 expand all of that to the Clean Water Programs as  
19 well, erosion sedimentation and the federal clean  
20 water permits that we manage.

21 REPRESENTATIVE ROTHMAN: Are you  
22 consulting with the industries on this?

23 SECRETARY McDONNELL: Yes. We've been,  
24 in all of those cases, working through the  
25 industries to make sure we're getting it right.

1 I would like to point out, because I  
2 think the front end gets the most focus, but the  
3 real value is, the efficiency that we get in terms  
4 of receiving the permit, processing the permit, and  
5 then being able to communicate what's going on  
6 internally to the public and get better insight  
7 into that.

8 REPRESENTATIVE ROTHMAN: We'd like to  
9 see more of that too.

10 Mr. Secretary, how do you feel about  
11 third party -- bringing in third parties to help  
12 with the permit process?

13 SECRETARY McDONNELL: On third-party  
14 review, I think, one, we run into issues with just  
15 federal delegation. We're federally delegated to  
16 run these programs and it becomes a difficult thing  
17 to hand off. I think -- and it goes to one of the  
18 earlier questions as well.

19 When you get into an appeals process  
20 where the Department wasn't involved, you start  
21 figuring out how do you charge those costs; have  
22 some third-party expert. We have not been in favor  
23 of that. We think there are ways of managing it,  
24 and that's why we've been focused on our own  
25 process improvement internally.

1           REPRESENTATIVE ROTHMAN: You mentioned  
2 in your testimony about the time periods and that  
3 you are trying to speed up the process. How is  
4 that going? And would the applicants agree there's  
5 been noticeable reform in the permit process?

6           SECRETARY McDONNELL: I think if you  
7 look at top level, we've definitely seen  
8 improvement in our permit processing time. That's  
9 not to say -- And I've talked to many in this room  
10 about a permit here, a permit there that doesn't  
11 meet those time frames.

12           We also have a number of permits where  
13 we've been -- gotten them over a finish line much  
14 quicker. So I think, on average on the whole,  
15 we've seen permit process improvement. We've seen  
16 in our southwest region for oil and gas, for  
17 example, reduction by over 200 days in the permit  
18 processing time within that one region.

19           But, A, I think there's more we can be  
20 doing and more we are doing. And, B, part of the  
21 way I always discuss this is narrowing the band;  
22 try to bring in the outliers and bring us into a  
23 band so that people know within a reasonable time  
24 frame what the expectation should be.

25           REPRESENTATIVE ROTHMAN: Along with the

1 ePermit initiative, are -- is there transparency in  
2 the permitting process where the public can see  
3 what permits are being applied to, or the applicant  
4 can see where it is in the status? Are you doing  
5 that in your department?

6 SECRETARY McDONNELL: So there's some  
7 information available through eFACTS, and then for  
8 some I'll say higher profile permits on our  
9 regional websites, we'll establish kind of sub-  
10 pages to communicate and show, here are letters  
11 we've sent out, letters we've received, decisions  
12 that we've taken. That's something we're moving  
13 forward to.

14 When we talk about ePermitting the  
15 inspection, one of the things that's going on  
16 behind all of that is what we also call our  
17 eContent Management System. So we've moved  
18 13 million pages of records into that here over the  
19 last year and a half. Are continuing to digitize  
20 existing records; add new records as we get in and  
21 start down a process, whereby, a lot of that  
22 information will be available publicly.

23 REPRESENTATIVE ROTHMAN: Thank you.

24 Thank you, Mr. Chairman.

25 SECRETARY McDONNELL: Thank you.

1 MAJORITY CHAIRMAN SAYLOR:

2 Representative Cephas.

3 REPRESENTATIVE CEPHAS: Thank you, Mr.  
4 Chairman, and good morning.

5 I first wanted to thank you for coming  
6 to my district in last April with Jerome Shabazz  
7 from the Overbrook Environmental Center. As you  
8 know, he sits on the board of the newly-created  
9 Environmental Justice Department within your  
10 agency. So I thank you for that.

11 I have a question centered around  
12 workforce development. What role is your  
13 Department playing in the creation of workforce  
14 development opportunities for the next generation  
15 of environmental stewards?

16 SECRETARY McDONNELL: Thank you very  
17 much for that question. There's a few things.

18 One is, just internally amongst cabinet  
19 secretaries, this is an area of focus and area of  
20 discussion. On our end, it's everything from some  
21 of the clean energy programs and projects we were  
22 just discussing a moment ago, to things like  
23 certified operators for our wastewater drinking  
24 water plants and sewage enforcement officers.

25 So, in particular through our

1 Environmental Justice Office, we've been engaged  
2 with some foundations and others. We've also been  
3 engaged with Department of Corrections for training  
4 inmates on certified operators. Just at the  
5 beginning of that process, scoping it out, but  
6 something that our Operators Certification Board  
7 has been supportive of.

8 So, we're identifying kind of where the  
9 needs are out in the environment and trying to  
10 identify places where we might be able to go to  
11 fill those needs.

12 REPRESENTATIVE CEPHAS: I thank you for  
13 that, because recently you guys funded a  
14 lev (phonetic) remediation training program in my  
15 district. Given the significant challenges that  
16 Philadelphia faces around environmental issues, it  
17 just essentially speaks to a job incubator to  
18 address those issues. So, I thank you for that.  
19 Thank you.

20 MAJORITY CHAIRMAN SAYLOR:  
21 Representative Struzzi.

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

24 Good morning, Secretary McDonnell.

25 SECRETARY McDONNELL: Good morning.

1           REPRESENTATIVE STRUZZI: I want to  
2 continue relating to Representative Rothman's  
3 comments on the permitting process.

4           First of all, I applaud your efforts to  
5 speed up that process. I come from a business  
6 background, Chamber of Commerce, and that's been  
7 one of the impediments to attracting businesses,  
8 particularly in the western Pennsylvania area when  
9 we have competition from Ohio and West Virginia.

10           So, anything we can do to continue that  
11 is greatly appreciated. And we certainly, given  
12 the business climate in the state right now, we  
13 don't want to do anything to push business away.  
14 So, please continue those efforts.

15           Related to the permitting process,  
16 though, I know there are certain complexities that  
17 come with permits. Some can be derailed by simply  
18 a minor glitch. I just have a question about how  
19 your staff are trained.

20           Do you work with the developers, with  
21 the permittees to work through those issues, or is  
22 that something that it goes back to the beginning  
23 of the process?

24           SECRETARY McDONNELL: Sure. That's  
25 something that -- Again, I'll take it in kind of

1 two pieces.

2 One is, we've always had and encourage,  
3 and any time I get the chance to advertise it, we  
4 have a pre-application tool that's actually  
5 available online that potential -- someone looking  
6 to do a permit application can fill out. It will  
7 actually help walk through what requirements are  
8 there. We encourage pre-application meetings; you  
9 know, all of that.

10 We have been engaged, and it's something  
11 that we've been doing a lot more deliberately over  
12 the last year, in engaging with industry, engaging  
13 with groups on exactly the kind of trainings that  
14 you're talking about; trying to identify where we  
15 have particular issues; trying to identify where  
16 the process slows down because of what we receive  
17 from consultants, for example, within this.

18 So, we're definitely focused on the  
19 training element right now.

20 REPRESENTATIVE STRUZZI: Excellent,  
21 excellent.

22 Of course, I understand the balance  
23 between promoting business, promoting growth and  
24 maintaining environmental protections, which, as  
25 it's been said, we all have children here. We're

1 looking ahead to future generations.

2 But it gets me to the issue of the  
3 pipelines that growing vastly through the  
4 Commonwealth. I think they're very important, as  
5 we sit on the epic center of some of the best  
6 natural gas reserves anywhere on the planet.

7 But that requires, I would think, a  
8 special effort from your organization. How does  
9 that impact the processing of permits in other  
10 areas, and how much time is spend related to the  
11 permitting of the pipeline issues?

12 SECRETARY McDONNELL: It has, in some  
13 cases, been a drain on the resources for sure and  
14 required a significant level of that to address the  
15 permits.

16 Actually, one of the things that we  
17 stood up just at the beginning of this year, which  
18 we've been planning over the last year, is a  
19 regional permit coordination office, essentially.  
20 One of the challenges, as you can imagine, when  
21 you're looking at these pipelines that extend in  
22 our case over two or three of our regions is, just  
23 the coordination amongst staff to get that done.

24 So, for those large linear projects now,  
25 we're managing that centrally in order to help both

1 expedite the project and also give some relief out  
2 in the region so that they can manage those other  
3 projects.

4 REPRESENTATIVE STRUZZI: Good.

5 I have a little bit more time.

6 We've all seen the amount of flooding  
7 that's been occurring and the impacts that has on  
8 our local municipalities. What can you offer as  
9 far as assistance or some guidelines?

10 I hear it a lot, and people are  
11 struggling right now and it doesn't seem to be  
12 getting any better related to stormwater  
13 management. So, can you give me some of your  
14 thoughts on that, please?

15 SECRETARY McDONNELL: Sure. A couple  
16 things that's there.

17 One, on our end, we try to be proactive.  
18 This past year, flooding, I don't know how many  
19 hundred of emergency permits we issued, for  
20 example, to get work done. And usually within 24,  
21 48 hours, people are getting those permits.

22 We are doing -- As we talk about water  
23 quality and talk about Chesapeake Bay and other  
24 water quality issues, one of the solutions to that  
25 is work that impacts flooding and takes some of

1 that pressure off, wetland mitigation, stream bank  
2 restoration helps with some of those erosion  
3 problems that lead to some of the flooding issues.

4 And then the last thing, I'd just say  
5 again, Restore Pennsylvania, that's a big focus. I  
6 know it's something that is personally important  
7 for the Governor who has stood with those families.  
8 As he said in his press conference a few weeks ago,  
9 wanted to be able to do something more than offer  
10 his -- keep them in his thoughts.

11 We've had a number of these small  
12 systems, small precipitation events that don't  
13 cross the federal threshold. So, as people are  
14 dealing with rebuilding their lives, there's really  
15 no -- It's a gap. There's no place for them to go  
16 to deal with that.

17 REPRESENTATIVE STRUZZI: Thank you.

18 I would just encourage you moving  
19 forward to continue to be an impetus for business  
20 and growth and development while maintaining that  
21 environmental balance so we're not an impediment to  
22 attracting businesses to Pennsylvania.

23 SECRETARY McDONNELL: Absolutely.

24 REPRESENTATIVE STRUZZI: Thank you.

25 SECRETARY McDONNELL: Thank you.

1 MAJORITY CHAIRMAN SAYLOR:

2 Representative Bullock.

3 REPRESENTATIVE BULLOCK: Thank you,  
4 Chairman.

5 Good morning, Secretary McDonnell. I'm  
6 right in front of you.

7 SECRETARY McDONNELL: Oh, my gosh.

8 REPRESENTATIVE BULLOCK: Good morning.  
9 It's always good to see you.

10 SECRETARY McDONNELL: Good to see you.

11 REPRESENTATIVE BULLOCK: I think it's  
12 probably one of the first years you're not here on  
13 Doctor Seuss Day, so I won't pull any Lorax for  
14 you.

15 But I will ask you about your workforce  
16 and diversity numbers and your efforts. I know you  
17 mentioned briefly some of those efforts in a more  
18 global sense and diversifying the green economy,  
19 but what efforts are you taking within your own  
20 agency, and what are your current statistics around  
21 workforce diversity?

22 SECRETARY McDONNELL: Sure.

23 So, within our agency, our current  
24 workforce diversity, we're about 30 percent female,  
25 which is right around the average for the state.

1 We're 7 and a half percent minority, which is below  
2 the average for the state.

3 I think -- We've had a number of things  
4 we've traditionally done, including some direct  
5 recruitment out to the, historically, black  
6 colleges; efforts like that.

7 But I think, to the previous point, part  
8 of what we're trying to do is build the capacity  
9 and awareness out there that jobs within this area  
10 are even a possibility. So having those  
11 discussions about even things within the community  
12 that people can be working on, be it watershed  
13 restoration, be it clean energy jobs, be it, as I  
14 said, certified operators or sewage enforcement  
15 officers is important.

16 REPRESENTATIVE BULLOCK: I met a young  
17 man from my neighborhood who was in one of those  
18 programs, I think it was through DCNR, working at  
19 the discovery center.

20 SECRETARY McDONNELL: Conservation  
21 Corps.

22 REPRESENTATIVE BULLOCK: Yeah. The  
23 discovery center, cleaning some invasive plants  
24 around there. It's really exciting to see young  
25 folks from North Philadelphia engaged in that kind

1 of activity.

2 Moving forward in regard to the  
3 Environment Justice Office, I know that you are --  
4 last year hired new staff and have revamped and  
5 vamped up that particular office.

6 Can you share with me how many  
7 environmental justice areas we have in the  
8 Commonwealth of Pennsylvania, and give sort of a  
9 brief description of where they would be located;  
10 that they aren't -- typically aren't necessarily  
11 just urban areas, but they include other parts of  
12 the Commonwealth as well?

13 SECRETARY McDONNELL: I don't have the  
14 number off the top of my head, but it's both an  
15 income and a minority population criteria that we  
16 go through for that. So it is, I mean, in some  
17 rural areas of the state or some of the poorest  
18 areas of the state, so they would definitely fall  
19 within the purview of the environmental justice  
20 policy.

21 A couple things I'll say we've been  
22 doing are, one, taking, really, the first look in  
23 over a decade at our environmental justice public  
24 participation policy. It's been a draft out there  
25 that we received some comment on, so we're looking

1 to finalize that here in the new year.

2 I did -- As part of that, I did a series  
3 of listening sessions across the state. Since  
4 then, myself and staff have been engaged in  
5 roundtables where, let's gather 20, 30 people  
6 around the table and really have a discussion.  
7 I've done that in places like Shamokin. I know  
8 we're doing one in Johnstown coming up; one in  
9 Philadelphia. So, those kinds of efforts as well.

10 There's an environmental justice viewer  
11 tool that we've developed and be available online.

12 REPRESENTATIVE BULLOCK: Great. I think  
13 maybe two years ago you kicked off those listening  
14 sessions in my district, I appreciate that, and I  
15 know you've been back to Philadelphia several  
16 times.

17 Just briefly, in Philadelphia we've seen  
18 an increase in illegal dumping, particularly  
19 construction debris, tires. Had a really massive  
20 site in my district recently. What efforts can --  
21 or what support can the state offer, and how can we  
22 address illegal dumping, particularly in urban  
23 areas, and I'm sure across the Commonwealth? Tire  
24 dumping is on the rise and other short-term dumping  
25 and other acts of dumping throughout the city,

1 particularly.

2 SECRETARY McDONNELL: So one of the  
3 things we've worked on in the last year with the  
4 "Keep Pennsylvania Beautiful" organization is  
5 actually a litter survey that either was just done  
6 or is about to be done, to get some idea exactly of  
7 what we're up against in terms of the illegal  
8 dumping. That's the first time, I want to say,  
9 again, in 10 years or so where we've done that kind  
10 of survey.

11 In addition, we've been working through  
12 our Waste Advisory Committee to identify things we  
13 might want to look at in Act 101, which is our  
14 waste statute, our recycling statute, going  
15 forward. It's been 30 years and it's really  
16 substantively hasn't been touched. So, I think all  
17 of that fodder for future discussion.

18 REPRESENTATIVE BULLOCK: Thank you very  
19 much.

20 SECRETARY McDONNELL: Thank you.

21 MAJORITY CHAIRMAN SAYLOR:  
22 Representative Greiner.

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

25 Good morning, Mr. Secretary.

1 SECRETARY McDONNELL: Good morning.

2 REPRESENTATIVE GREINER: Something came  
3 up yesterday. It's funny. I guess I'm starting my  
4 fourth term, and I usually don't get too shocked or  
5 exasperated at some things up here. But there was  
6 something that came up yesterday during the  
7 Attorney General's (sic) presentation in his  
8 questioning. It was specifically about the audit  
9 of the SRBC.

10 He highlighted some serious deficiencies  
11 that they uncovered. And, actually, was pretty  
12 firm and said they need to get back to their  
13 mission and do the job for the Commonwealth. Maybe  
14 you're aware; maybe you're not aware.

15 I know I have some colleagues from south  
16 central Pennsylvania in here today. I haven't been  
17 involved as directly, but quite a few have talked  
18 with the SRBC because there's seems to be a lack of  
19 -- I don't know what I want to call it. It doesn't  
20 seem like a real warm relationship with them.

21 Then in light of what the Attorney --  
22 I'm sorry, the Auditor General said yesterday, I  
23 thought it became more problematic, because you  
24 have to respect the people you're working with.

25 He had mentioned, too, that they

1 actually had parties where they spent money on  
2 lobster dinners and -- taxpayer money. Wanted to  
3 maybe get your thoughts on that; wanted to get your  
4 comments about, you know, do you agree with his  
5 assessment? Are you aware that we need to do some  
6 things to maybe -- Be very upfront, I'll be blunt.  
7 We need to have more professionalism as we work  
8 together with them. I wanted you to maybe comment  
9 on that.

10 SECRETARY McDONNELL: Sure. And I'll  
11 comment at the outset, I'll admit on my end, my  
12 staff knows this about me. I'm one who is, you  
13 know, the small hotel room is fine. McDonald's is  
14 great. If I need the drive-through, I need to  
15 drive through that's --

16 So yeah, I'm not one who -- who is -- it  
17 is supportive for sure of those kind of  
18 expenditures.

19 I will say, on the broader point, one of  
20 the things he identified is a need for both SRBC  
21 and DRBC, the Delaware River, to update the  
22 agreements that we have with them. That is  
23 something, actually prior to the audit, we had  
24 already been engaged in working through updating  
25 those agreements. One case is 20 years old and

1 another case is 40 years old, to make sure that we  
2 had a good process there.

3 So, we're engaged in that process now  
4 and will be updating those agreements that should  
5 clarify exactly where all the lands are.

6 REPRESENTATIVE GREINER: I guess my  
7 point is, they need to show some responsibility to  
8 the taxpayers and to the legislature. They're  
9 doing things like that, that's not appropriate.

10 Like I said, there are other things that  
11 municipalities are frustrated in the fees that are  
12 being charged. Not necessarily in my district, but  
13 throughout Lancaster County and I know other  
14 counties in south central Pennsylvania. I thought  
15 this just brought to light --

16 It's just hard to deal with an agency  
17 like this when there's already a level of  
18 frustration, and you kind of see -- It kind of  
19 smacks an arrogance a little bit the way -- the way  
20 they were spending money. Then you have the  
21 Auditor General saying they just need to kind of  
22 get back on track.

23 Like I said, I think it's unfortunate,  
24 but I thought it was only fair to maybe see what  
25 you thought since you have oversight of that.

1 SECRETARY McDONNELL: Sure.

2 REPRESENTATIVE GREINER: You know I -- I  
3 want to bring -- You know about it. I'm assuming  
4 you do know about it.

5 SECRETARY McDONNELL: Absolutely. And I  
6 can share with you, I mean, we're one state on  
7 SRBC, but all the commissions -- all the other  
8 commissioners want to make sure we're attentive to  
9 the Auditor General's findings as well.

10 REPRESENTATIVE GREINER: Thank you for  
11 your time.

12 SECRETARY McDONNELL: Thank you.

13 REPRESENTATIVE GREINER: And thank you,  
14 Mr. Chairman.

15 MAJORITY CHAIRMAN SAYLOR:  
16 Representative Sanchez.

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

19 Thank you, Secretary McDonnell, for  
20 being here today. I just wanted to follow up on  
21 some of Representative Fiedler's questions and a  
22 few others regarding complement, and also the  
23 funding request levels for specifically the safe  
24 drinking water account.

25 SECRETARY McDONNELL: Um-hm.

1           REPRESENTATIVE SANCHEZ: As I'm sure  
2 you're aware, this is of particular concern to  
3 southeastern Montgomery County at the moment  
4 because of a -- and I won't try to pronounce the  
5 full names, but the PFAS and the PFOA  
6 contamination.

7           SECRETARY McDONNELL: Polyfluoroalkyl  
8 substances.

9           REPRESENTATIVE SANCHEZ: You know,  
10 leaking from the Willow Grove Naval Air Station.  
11 As I'm sure you may have been aware, you might not  
12 have seen it, because I believe it happened at  
13 9:00 a.m. this morning. You're, I'm sure, on the  
14 way here preparing.

15           The federal Environmental Protection  
16 Agency, Region 3, basically announced, if I'm told  
17 correctly, that they were putting this back to the  
18 states to set the mandatory contamination limits,  
19 the MCLs, for PFAS and PFOA.

20           So, with that said, do you believe that  
21 the DEP will have the resources and to set and  
22 enforce MCLs for PFAS and PFOA and continue to  
23 monitor that? And then also to expand the same  
24 testing for other things in the PF spectrum, other  
25 chemicals we don't know about that may be dangerous

1 may also be present in the water but just haven't  
2 come to the surface of the science yet, for lack of  
3 a better term?

4 SECRETARY McDONNELL: Sure. I'll take  
5 the broadest part of that first, which is, last  
6 year we did a fee increase within the drinking  
7 water which has allowed us to bring on 33 new  
8 positions, and we're about finished with the  
9 filling of those.

10 In terms of PFAS directly -- I didn't  
11 get a chance to either read the action plan that  
12 was released this morning or hear the statements by  
13 the administrator, Administrator Wheeler, in  
14 Philadelphia. I do think the announcement was that  
15 they're going to proceed with the determination,  
16 basically, over the next year as to whether there  
17 should be an MCL and what that MCL should be for  
18 two specific PFAS chemicals; the ones engendered in  
19 the southeast region of the state, PFOA and PFAS.

20 That said, I think, you know, we are  
21 looking at options to move more aggressively. We  
22 just actually did a purchase of equipment for the  
23 lab so we can be doing the testing ourselves. I  
24 think here within the next few weeks we'll have a  
25 sampling plan out for going across the state to

1 make sure it's -- where else we have that problem  
2 to help inform exactly that process of moving ahead  
3 with a state MCL. Given that's what it looks like,  
4 we'll need to do as you said.

5 REPRESENTATIVE SANCHEZ: I'm excited to  
6 hear that. Please, I'm enthusiastic to work with  
7 the various legislators from that region. I know  
8 Representative Murt had a bill last year; didn't  
9 make it at the end, and be great to -- or it may  
10 have been Representative Stephens. I apologize.

11 We would look forward to working closely  
12 with your office to do that, and in a science-based  
13 way would be most efficient course. So, thank you.

14 SECRETARY McDONNELL: Absolutely. Thank  
15 you.

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

18 MAJORITY CHAIRMAN SAYLOR:  
19 Representative Keller.

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

22 And thank you, Mr. Secretary. I'm over  
23 here. Good to see you again.

24 I wanted to ask a few questions  
25 regarding some of the money that's been shifted

1 from the General Fund into the Environmental  
2 Stewardship Fund and -- to help with increases to  
3 some of the commissions, the SRBC, DRBC, and those  
4 kinds of things.

5 And I guess the question I have, why are  
6 such increases warranted for these appropriations?  
7 Why are we needing to shift the funds out of the  
8 General Fund into the -- and pay with the  
9 Environmental Stewardship Fund?

10 SECRETARY McDONNELL: Sure. The candid  
11 answer is, we have dues that we have a legal  
12 obligation to pay that we have been in arrears on  
13 for the better part of 10 years. So, the funding  
14 that is being requested as part of that is -- is --  
15 basically represents what our dues would be for  
16 SRBC and DRBC, in particular, of -- We were at less  
17 than 30 percent of the dues last year --

18 REPRESENTATIVE KELLER: Okay.

19 SECRETARY McDONNELL: -- that we owe to  
20 participate in the compact.

21 REPRESENTATIVE KELLER: Okay. If I  
22 could follow up on that. So, have the other states  
23 -- Or how do our dues -- Do we pay significantly  
24 more than other states, does Pennsylvania?

25 SECRETARY McDONNELL: I think for -- I

1 don't know the specific numbers. I believe for  
2 SRBC we pay the most because of land area. We have  
3 the highest land area.

4 REPRESENTATIVE KELLER: So we don't  
5 necessarily gauge that on who's actually doing, per  
6 se, maybe the polluting. We just have a formula  
7 for land area?

8 SECRETARY McDONNELL: Because a lot of  
9 what they're managing are groundwater withdraws and  
10 issues like that, yes.

11 REPRESENTATIVE KELLER: So we pay it  
12 just -- We may not be the biggest impact, but we  
13 are paying most of the money because we just have  
14 more area?

15 SECRETARY McDONNELL: Again, I'd say in  
16 the Susquehanna River, in particular, if you look  
17 at, you know, it's not the SRBC fees, but the  
18 Chesapeake Bay pieces, we are by far the biggest  
19 contributor to --

20 REPRESENTATIVE KELLER: As far as land  
21 area?

22 SECRETARY McDONNELL: As far as nutrient  
23 pollution.

24 REPRESENTATIVE KELLER: Wasn't -- I  
25 mean, there was a significant discharge into the --

1 into the river from New York a few years ago,  
2 wasn't there?

3 SECRETARY McDONNELL: Correct, yeah.

4 REPRESENTATIVE KELLER: And they paid a  
5 fine? New York paid that fine, or did they get  
6 help paying that from any other states?

7 SECRETARY McDONNELL: I'm sure we didn't  
8 pay any of that fine.

9 In the case of SRBC, one of the critical  
10 pieces that they would do for us, in an example  
11 like that, frankly, is, is what we call time and  
12 travel, which is, telling us exactly where that  
13 pollution is on the river so that we can alert  
14 drinking water facilities, and they can make sure  
15 they're closing intakes and not bring that  
16 pollution into their systems.

17 REPRESENTATIVE KELLER: So would it be  
18 fair to say, other states have seen increases in  
19 their funding responsibility at the same percentage  
20 as Pennsylvania, or have our increases -- our share  
21 increased disproportionately to fund these  
22 commissions?

23 SECRETARY McDONNELL: There's a formula  
24 by which the dues are levied in both commissions,  
25 and that percentage increases based on that

1 formula. It's not -- More than a 70 percent  
2 increase that we're talking about in terms of the  
3 funding is, again, because we hadn't been paying  
4 those dues.

5 REPRESENTATIVE KELLER: Okay. But if we  
6 had paid those fees, would everybody be going up  
7 the same amount?

8 SECRETARY McDONNELL: Not the  
9 70 percent, if that's your question.

10 REPRESENTATIVE KELLER: I just want to  
11 make sure that Pennsylvania isn't footing more of  
12 the bill for issues that are coming from other  
13 states.

14 I guess it gets back to another thing.  
15 When we measure the quality -- And, of course,  
16 mostly with withdraws from the SRBC, and we look at  
17 that and we say -- would you say we're meeting what  
18 we should for those agreements in Pennsylvania?

19 SECRETARY McDONNELL: In what way  
20 specifically?

21 REPRESENTATIVE KELLER: As far as the  
22 water quality, Chesapeake Bay, Susquehanna River  
23 Basin Commission. You know, as far as, are we  
24 improving?

25 SECRETARY McDONNELL: Again, their

1 primary role is around the groundwater pieces,  
2 groundwater withdraws, and the impacts on the  
3 aquifers.

4 REPRESENTATIVE KELLER: The Chesapeake  
5 Bay, Delaware River?

6 SECRETARY McDONNELL: Yeah. Most of the  
7 water quality falls to the states to manage.

8 REPRESENTATIVE KELLER: Okay. So, I've  
9 heard a lot -- I know you've been up on our farms  
10 in central PA, and they're doing things. I'm  
11 afraid we're basing it off of a formula and not  
12 actual performance, which leads me to believe, I  
13 know we just talked about a question, you know --

14 What are our performance measures and  
15 what are we getting -- are we getting our bang for  
16 our buck? That's really the question I have,  
17 because I keep hearing, we're not improving; we're  
18 not improving in certain areas, or we're not  
19 meeting what we're supposed to meet.

20 My concern is, one, that it's based off  
21 of a formula and not actual performance. Is that  
22 accurate that they use a formula?

23 SECRETARY McDONNELL: I think it's both.  
24 There's a model that gets used within the  
25 Chesapeake Bay, but it's informed by stream

1 conditions. So, if you look at the actual  
2 monitoring data against the model, it is almost  
3 spot on in terms of the actual in-stream conditions  
4 that we see.

5 REPRESENTATIVE KELLER: Okay. We talk a  
6 lot about performance measures. So, do we have  
7 performance measures for the activities? Based  
8 upon the Auditor General's comments, do we have  
9 performance measures set in place, because we now  
10 have, DEP has now increased for East Hempfield  
11 Township, you know, safe drinking water, general  
12 update? Their fees are going from \$100 a year to  
13 \$20,000 a year.

14 I'm very concerned that Pennsylvania's  
15 footing the bill, and some of the other states  
16 aren't going to be paying their fair share. I  
17 think as stewards of our environment, and also  
18 looking out for the best interest of  
19 Pennsylvania's, both the environment and the  
20 resources we have to fund that, I think it would be  
21 incumbent upon us to make sure that there are  
22 specific performance measures that they follow and  
23 that we check up on. And if they don't follow  
24 them, then we should have some -- Maybe that's why  
25 we didn't pay some of our money.

1 I know I'm out of time.

2 But I would just like a commitment from  
3 you that we're going to set performance standards  
4 for these agencies or these compacts and make sure  
5 they hit those.

6 SECRETARY McDONNELL: Yeah. I mean,  
7 that's something we can --

8 REPRESENTATIVE KELLER: I would like to  
9 see those when we have them.

10 SECRETARY McDONNELL: Certainly.

11 REPRESENTATIVE KELLER: Thank you.

12 SECRETARY McDONNELL: And I would be  
13 interested in those specifics you said about East  
14 Hempfield Township --

15 REPRESENTATIVE KELLER: Like I said, it  
16 came from a regulatory analysis for the township.  
17 The increase was in there, and the township  
18 actually sent us the information.

19 SECRETARY McDONNELL: Okay.

20 REPRESENTATIVE KELLER: Thank you.

21 SECRETARY McDONNELL: Thank you.

22 MAJORITY CHAIRMAN SAYLOR:

23 Representative McCarter.

24 REPRESENTATIVE McCARTER: Thank you very  
25 much, Mr. Chairman.

1           Again, thank you, Secretary McDonnell,  
2           for being here today. We've had a lot of good  
3           conversations over the years about changing  
4           climate. As an example, of the, you know, the  
5           challenges that we face as a state and beyond.  
6           Surely, the complexity of the issues around that  
7           topic will not be lessening over the years to come.

8           The state has, through the Governor back  
9           in January, has made the commitment to basically  
10          follow the Paris Accords in terms of reduction of  
11          emissions by 26 percent coming up in 2025, and  
12          80 percent by 2050. And surely, every day we've  
13          all seen the reports in the last several weeks of  
14          enhanced glacial melt. We've seen it in  
15          Antarctica. We're seeing it in the Himalayas, and,  
16          obviously, Greenland as well, and rising sea levels  
17          as a result.

18          And the latest report, just on Monday,  
19          coming out of how our climate in Pennsylvania  
20          within the next half century will move to that of  
21          the southern states. That's a very, very  
22          concerning element of that.

23          So when we look at the budget this year,  
24          and we look at the commitment that the state is  
25          making to achieve those goals into the future, can

1 we go back, I guess, a little bit to the Restore PA  
2 plan as one area just to look at. This is one that  
3 happens in my district. It's happened all over the  
4 state; in southwestern Pennsylvania with the  
5 extreme weather events that are coming, and looking  
6 at flood control and infrastructure alone.

7 One of the things that I've noted within  
8 the plan for Restore PA, again, is to make money  
9 available to upgrade flood walls and levies, to  
10 replacing high hazard dams and conducting stream  
11 restoration and maintenance. All those things are  
12 critically important, as are the other things,  
13 stormwater infrastructure and the ground field  
14 cleanup as well.

15 Can you comment, though, on the need for  
16 flexibility; flexibility within giving the local  
17 communities and your own Department; the  
18 flexibility to use the money most effectively when  
19 it comes to making decisions as to whether to  
20 continue to try to use walls, or whatever it be,  
21 levies to try to solve problems, or would it be  
22 better to have flexibility where you could actually  
23 do buyouts, which has not been one of the things  
24 that we've done?

25 SECRETARY McDONNELL: Sure. And thank

1 you for that, and thank you for all of your  
2 attention on the climate and the flooding issues.

3 The flexibility, absolutely. And, in  
4 fact, it's not exactly the flooding issue, but one  
5 of the things as we've been having the Bay  
6 conversation, we've worked very closely with  
7 counties -- at the county level I should say,  
8 because counties are certainly involved, but it's a  
9 lot of other stakeholders as well, and having them  
10 formulate plans. So, for example, Lancaster County  
11 coming up with a plan that would reduce nitrogen by  
12 over 9 million pounds.

13 Having that kind of thoughtful approach  
14 and buy-in necessitates that we, as a state, take  
15 that seriously and figure out ways that we can  
16 support exactly those kind of efforts as counties  
17 are engaged in and local communities are engaged in  
18 these conversations. So I think we absolutely need  
19 flexibility around, whether it's hardscape, whether  
20 its green infrastructure, whether it's buyouts in  
21 the flooding conversation, how we approach that and  
22 how we deal with it.

23 REPRESENTATIVE McCARTER: Thank you for  
24 that. And let me add to that, I guess, in going  
25 forward, too.

1           When we look at the flexibility also  
2 when it comes to use of funds, for instance, all of  
3 these projects that we're talking about under the  
4 Restore PA program, how much money would be  
5 available for those programs that we're talking  
6 about if, in fact, that's not passed; a severance  
7 tax is not passed to fund them?

8           SECRETARY McDONNELL: So, currently, we  
9 do for those hardscape flood protection projects,  
10 that's part of capital budgets. That's a number  
11 that will vary year by year based on where  
12 individual communities are, and there's an economic  
13 and effectiveness test for that.

14           We have for the stream bank restoration  
15 directly for flooding, our stream improvement  
16 program, we have about a quarter of a million  
17 dollars that we put into that. Then there's a  
18 number of things related --

19           REPRESENTATIVE McCARTER: But that  
20 quarter of a million dollars is nowhere near the  
21 1.5 billion that we're estimating we'd be able to  
22 have available over the next three years, at least,  
23 of a severance tax as proposed; is that correct?

24           SECRETARY McDONNELL: Correct. And it's  
25 nowhere near -- it doesn't get into a lot of the

1 issues you just raised in terms of buyouts and  
2 other things. It really is about stream bank  
3 stabilization and smaller projects.

4 REPRESENTATIVE McCARTER: So without  
5 that money coming from Restore PA, we would not be  
6 able to do the programs that you're talking about?

7 SECRETARY McDONNELL: Correct.

8 REPRESENTATIVE McCARTER: Thank you very  
9 much, and I appreciate --

10 SECRETARY McDONNELL: Thank you.

11 REPRESENTATIVE McCARTER: -- your  
12 candor. Thank you.

13 MAJORITY CHAIRMAN SAYLOR:  
14 Representative Quinn.

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

17 Mr. Secretary, I first want to thank you  
18 for being here today. In my district, the Mariner  
19 II East project continues to be a huge concern.  
20 I'm sure you're well aware of that.

21 I first want to applaud you for your  
22 recent ban on permits in our area. I think that's  
23 a fantastic thing.

24 Given the many infractions by Sunoco, do  
25 you currently have the necessary staffing to deal

1 with their many infractions?

2 SECRETARY McDONNELL: So, we do, between  
3 the county conservation districts--And I can get  
4 you the specific numbers to where this is today--we  
5 do have a number of inspectors who are out there.  
6 We have a lot of reviews go before the bar. We've  
7 been engaged in around the horizontal directional  
8 drilling, reevaluations and some minor  
9 modifications.

10 I know there's some additional permits  
11 that will likely be coming in at some point in  
12 southeast to address exactly some of the issues  
13 your constituents have been dealing with.

14 We have had a robust response to the  
15 issues going on around that particular pipeline  
16 and, frankly, engendered by some of what we've seen  
17 in violations.

18 REPRESENTATIVE QUINN: I appreciate  
19 that.

20 It looks, when I go through the numbers,  
21 that you're essentially level funded; is that  
22 correct?

23 SECRETARY McDONNELL: That's  
24 approximately correct. I mean, there's increases,  
25 but it's primarily around salary increases, health

1 benefits, those kinds of things.

2 REPRESENTATIVE QUINN: Okay. But you  
3 will be able to add additional inspectors, if  
4 needed, in order to --

5 SECRETARY McDONNELL: That would be  
6 something we would need some additional funding  
7 for. As I said, we're looking at clean water fee  
8 increases for our Chapter 91, Chapter 92A programs.  
9 That would allow us to hire some additional staff  
10 which would include some inspectors, but --

11 REPRESENTATIVE QUINN: All right. Well,  
12 thank you. I appreciate you being here today.

13 SECRETARY McDONNELL: Thank you very  
14 much.

15 MAJORITY CHAIRMAN SAYLOR:  
16 Representative -- The birthday girl, Representative  
17 Krueger.

18 REPRESENTATIVE KRUEGER: Thank you, Mr.  
19 Chairman. I'm pleased to be here on my birthday  
20 fighting for clean air and clean water for my  
21 constituents.

22 Mr. Secretary, I've got a number of  
23 questions for you today. And thanks so much for  
24 joining us.

25 The first is this, many environmental

1 groups and a number of us, as legislators, are  
2 concerned about the proposed transfer of money  
3 meant for community-based watersheds, restoration  
4 projects for creation, recycling and other projects  
5 from a number of special funds to pay the admin  
6 cost for both DEP and DCNR. And my understanding  
7 is that this isn't a proposal. It will just last  
8 one year, it's potentially four or even five years  
9 of a proposal.

10 Environmental groups and, frankly, many  
11 of us here in this room have been fighting for  
12 years and even for decades to keep this funding for  
13 community projects, and some of us believe that  
14 these are actually restricted funds.

15 Now, I believe that some of the grants  
16 are administered by DEP and some by DCNR, so I'll  
17 have the same set of question for Secretary Dunn  
18 later today. But, can you tell us this:

19 What assurance can you give us that  
20 these much needed community projects will be funded  
21 at the same level or higher, and that the money  
22 will be there to pay for these projects when the  
23 time comes as they're completed two and three years  
24 down the road?

25 SECRETARY McDONNELL: Sure. So, again,

1 to reiterate something I said earlier, the one-year  
2 versus the multi-year piece was put out as  
3 something that might be multi-year. I think that's  
4 something that will be subject to an evaluation on  
5 a year-by-year basis, specifically to address  
6 exactly that concern; to make sure that we have the  
7 resources we need to implement the water programs  
8 under the Environmental Stewardship Fund, as well  
9 as the Recycling Program. So, that's absolutely  
10 100 percent the position we've taken.

11 The secondary piece is, again, Restore  
12 Pennsylvania would be a massive boost in funding  
13 for all of these types of programs.

14 REPRESENTATIVE KRUEGER: So my  
15 understanding is, Restore Pennsylvania is not  
16 actually part of this budget proposal?

17 SECRETARY McDONNELL: Correct, correct.

18 REPRESENTATIVE KRUEGER: So the budget  
19 before us, what assurance can you give us that  
20 these programs won't be impacted in the next year?

21 SECRETARY McDONNELL: So, again, within  
22 the next year, what we're talking about is level  
23 funding for Recycling programs and level funding  
24 for the Environmental Stewardship Fund.

25 REPRESENTATIVE KRUEGER: My second

1 question, like my colleague from across the aisle,  
2 I also want to thank you for last week's action on  
3 the review of permits for the Mariner East II  
4 pipeline and other energy transfers, Sunoco  
5 Logistics Pipeline projects, until they finally  
6 come into compliance with of the orders you've  
7 issued to them so far.

8           After 80 violations and almost  
9 \$13 million in fines, and now the fourth gaping  
10 sinkhole in Chester County, it was clearly time for  
11 some strong action. At the same time that your  
12 order was issued last week, Governor Wolf called on  
13 the General Assembly to fill in gaps in the way  
14 that the state regulates pipelines and pipeline  
15 safety, including rooting, which we do not have any  
16 regulations for right now.

17           While I think we probably need even  
18 stronger action from your Department and the  
19 Administration at some point, what specific  
20 legislative initiatives would you support to deal  
21 with the very real pipeline safety issues we're  
22 facing on the ground?

23           SECRETARY McDONNELL: Sure. And, you  
24 know, need to offer the caveat at the beginning,  
25 that we're not the pipeline safety agency. That

1 would be the Public Utility Commission.

2 But I think the Governor was pretty  
3 clear last year about, one, wanting to create that  
4 intrastate citing authority that was really the gap  
5 that was identified in terms of citing provisions  
6 without having PERC or somebody else in the mix.  
7 And then, provisions around reporting to schools  
8 within a certain amount of fee provisions, around  
9 reporting when there are impacts.

10 We can again have further discussions  
11 around that. But I'll admit, it's probably a  
12 little outside of what our agency is directly  
13 dealing with on those safety and reporting  
14 concerns.

15 REPRESENTATIVE KRUEGER: And on those  
16 three issues, I know that there was a number of  
17 legislative initiatives that the Governor  
18 referenced last week. Are any of those things that  
19 you or the Administration could initiate on your  
20 own, or do they all require legislative authority?

21 SECRETARY McDONNELL: I'm not sure. I  
22 mean, if there was authorities around that, I think  
23 it would be primarily housed within the Public  
24 Utility Commission, so it would be a better  
25 question for them. I think it's all legislative,

1 but I'm just not a hundred percent certain.

2 REPRESENTATIVE KRUEGER: Okay. Thank  
3 you. Then my third question -- I see I still have  
4 a little bit of time.

5 In the three and a half years that I've  
6 been here, I've noticed that the DEP often appears  
7 to be in court fighting lawyers from the oil and  
8 gas industry who are challenging your new  
9 regulations that they've been promulgated and  
10 legislation.

11 Can you tell us how much staff time and  
12 how much money the Department has spent fighting  
13 oil and gas lawyers in court?

14 SECRETARY McDONNELL: I'd have to go  
15 back and get specific figures. I wouldn't have  
16 that off the top.

17 REPRESENTATIVE KRUEGER: But that's  
18 something you could look into and follow up with  
19 the committee on?

20 SECRETARY McDONNELL: I can look to see  
21 if we have that information, yes.

22 REPRESENTATIVE KRUEGER: Thanks. I'd  
23 appreciate that. Thank you.

24 MAJORITY CHAIRMAN SAYLOR:

25 Representative White.

1           REPRESENTATIVE WHITE: I just wanted to  
2 follow up as a member from the southeast. I have a  
3 number of colleagues in the area of that Willow  
4 Grove Naval Air Station. Just wondering if you are  
5 currently keeping track and monitoring the  
6 discharges coming off that base.

7           There's an adjacent stream that's right  
8 next to it that's used as a drinking water source  
9 for drinking. I just wanted to follow up with that  
10 to make sure that it's, you know, is being  
11 monitored and it is, hopefully, getting under that  
12 required level of 70 parts per trillion.

13           SECRETARY McDONNELL: So, I can get you  
14 some specific information related to the discharge.  
15 We have really, and I'll just say primarily because  
16 there's others, but three areas that we, as a  
17 department, are engaged in this issue.

18           One, which was discussed earlier is the  
19 drinking water side. But we also, as you said, we  
20 have the clean water side with the stormwater  
21 discharges coming out of -- off of these sites, as  
22 well as the cleanup program, Hazardous Sites  
23 Cleanup Program and staff engaged in that as well.

24           So it's been a group effort. It's been  
25 all three of them looking at the drinking water

1 source, well monitoring, the stormwater discharge  
2 monitoring, as well as the cleanup program.

3 REPRESENTATIVE WHITE: And can you just  
4 describe the kind of -- in dollars and cents what  
5 kind of money you're talking about to help get that  
6 project cleaned up?

7 SECRETARY McDONNELL: I would have to --  
8 I'm not sure that we have that scope because we are  
9 -- In the case of most of that, what we're looking  
10 at is responsible parties, so we're holding them  
11 responsible, in this case Department of Defense  
12 primarily, for the actual cleanup activities and  
13 oversight.

14 EPA has lead on those DOD sites, but  
15 we're involved, again, from the hazardous sites  
16 cleanup and the drinking water sides of things.

17 REPRESENTATIVE WHITE: It kind of has  
18 been going on for a few decades now, and the  
19 families there are suffering.

20 SECRETARY McDONNELL: Absolutely.

21 REPRESENTATIVE WHITE: And I hope we, as  
22 a state, as a Commonwealth, will just kind of make  
23 that decision to help these families. They are  
24 Pennsylvanians.

25 So I'm just curious to find out what do

1 you need from the legislature in order to get that  
2 done, or do you -- are you already in the process  
3 of cleaning it up, or you're just kind of waiting  
4 for approval from the feds to --

5 SECRETARY McDONNELL: No, no.

6 REPRESENTATIVE WHITE: -- clean it up?

7 REPRESENTATIVE WHITE: Yeah. Okay.

8 SECRETARY McDONNELL: So we've been  
9 enforcing on those wells, even though it's not the  
10 maximum contaminant limit, the health advisory  
11 limit, the 70 parts per trillion for the PFOA and  
12 PFAS combined on those sites. So when we haven't  
13 seen it in a well, that well is taken off-line and  
14 managed, which is the primary regulatory  
15 responsibility that we have.

16 The cleanup portion of it we're managing  
17 through the feds. But as I mentioned earlier,  
18 we're also looking at developing our own sampling  
19 capacity, because one of the things around this is,  
20 under --

21 The way we know about this, right, is  
22 from the unregulated contaminant monitoring rule,  
23 which every few years the public water sources over  
24 a certain threshold are required to test for  
25 chemicals that aren't currently regulated. That's

1     how this came to our attention in the first place  
2     back in 2014.

3             That process now has led to a number of  
4     things that people are looking at regulatorily at  
5     the federal level and at our level. We're looking  
6     at sampling. We're looking at our own lab setup to  
7     evaluate that sampling and knock down the cost, and  
8     looking at contracting. Department of Health has  
9     been working on bringing on toxicologists.

10            We're looking at contracting for  
11     toxicologists just on this issue; just so we can  
12     hit the fast-forward button a bit on evaluating  
13     what the MCL should be for the Commonwealth of  
14     Pennsylvania for those chemicals.

15            REPRESENTATIVE WHITE: And has there  
16     been any progress in that regard? I know the  
17     Administration was looking into having a MCL level  
18     that was reasonable. Is there any -- or is there a  
19     deadline for that at all?

20            SECRETARY McDONNELL: So that's why we  
21     need both sampling -- the sampling plan and the  
22     toxicologists.

23            The sampling plan right now what we know  
24     is, it's only a small portion of the public water  
25     sources that have tested. We know we have this

1 issue in the southeastern part of the state. We  
2 don't know the extent of it across the rest of the  
3 Commonwealth. That's why we're engaged now in this  
4 -- In the coming months we'll be doing sampling  
5 across the state, at areas where we suspect there's  
6 been firefighting foams used for manufacturing, et  
7 cetera. And then the toxicologists to evaluate the  
8 science behind, what should our limit be given our  
9 authorities and statutes?

10 REPRESENTATIVE WHITE: And do you know  
11 how many families, just in the southeast regions,  
12 have been impacted specifically by the Willow Grove  
13 issue?

14 SECRETARY McDONNELL: I don't have that  
15 number off the top of my head.

16 REPRESENTATIVE WHITE: Okay. No  
17 problem. Thank you very much.

18 MAJORITY CHAIRMAN SAYLOR:  
19 Representative Schweyer.

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

22 And thank you, Mr. Secretary. I want to  
23 follow up a little bit of what we've been talking  
24 about with the Restore PA proposal, understanding  
25 that it's still kind of a work in progress.

1 There's still negotiations. Legislators are still  
2 unraveling it and trying to figure what its actual  
3 impacts would be both positive and if there are any  
4 concerns.

5           Following up on some things that  
6 Representative McCarter had asked about, he  
7 discussed questions -- or your goals of stream  
8 water renovation and bank stabilization. You  
9 discussed dams and levies for water -- flow water  
10 mitigation. You discussed just recently a couple  
11 of times concerns about the Willow Grove Air Force  
12 Base.

13           But, I guess sort of taking a step back,  
14 trying to get out of the weeds about whether or not  
15 monetizing a severance tax is the right way  
16 forward, if we should be looking to reusing, you  
17 know, just basically an annual severance tax, or  
18 some other kind of fund, what would --

19           If you had your wish list or your  
20 priority, may not be everything you'd like to do.  
21 But if you have a priority list of some of the  
22 things outside of maybe stormwater and bank  
23 stabilization of dams and levies reconstruction.  
24 What are some of the specific things that you would  
25 prioritize in terms of capital projects to improve

1 the environmental -- our environmental climate and  
2 area here in Pennsylvania?

3 SECRETARY McDONNELL: So I think, again,  
4 under the Restore Pennsylvania initiative, even as  
5 written, it covers a lot of the things we'd be  
6 looking at.

7 One of -- One of the dangers I always  
8 talk to staff about this is when we even silo what  
9 they think the solution is. So, when we, for  
10 example, focus on flooding, the thing you miss in  
11 that discussion is, one of the ways you can address  
12 that is, for example, an issue that we have across  
13 the Susquehanna River Basin, legacy sediments that  
14 build up behind old mill dams.

15 You take out those sediments, you're  
16 reducing sediment and nutrient pollution, but  
17 you're creating wetlands. You're creating habitat.  
18 You're creating a place to take some of the forced  
19 energy volume out of that water that impacts that  
20 downstream, as opposed to, in some cases, and we've  
21 seen this in some of the older projects where you  
22 do the concrete and rebar, and now you have a  
23 highway for that water; that you're just adding  
24 energy to the water and impacting another community  
25 downstream and needing to solve another problem.

1           So, there's a lot of these solutions on,  
2     for example, the flooding side that deal with that.  
3     On the greener infrastructure side, some of that  
4     green infrastructure would include, I think, things  
5     like agricultural best management practices,  
6     riparian buffers, those kinds of initiatives that  
7     carry with it a water quality benefit, a flood  
8     mitigation benefit, erosion sedimentation benefit.

9           So, a lot of the things that we should  
10    be talking about should be focused on where we have  
11    these opportunities; not just to impact one vector  
12    that we're concerned about, but multiple vectors  
13    all at the same time.

14           REPRESENTATIVE SCHWEYER: I appreciate  
15    that. It's interesting that you talk about some of  
16    the farm management as well.

17           The Lehigh River that goes through my  
18    district. And we have several miles of navigable  
19    river and in the City of Allentown, which most  
20    people don't realize. We have an island with homes  
21    on it where folks actually live and reside on it.

22           Unfortunately, with the incredible  
23    amount of storms that we had last year, we had a  
24    very acute concern of upstream wastewater that was  
25    coming off largely agricultural lands but not

1 exclusively, and those sorts of concerns.

2           Again, as part of your prioritization,  
3 could I assume that you would include in there the  
4 opportunity to mitigate those things so that  
5 downstream folks like the people in Allentown, can  
6 continue to use our natural resources for  
7 everything from drinking water to recreation?

8           SECRETARY McDONNELL: Absolutely. I'm  
9 very familiar with, went to DeSales; went to  
10 Lehigh, so I'm very familiar with --

11           REPRESENTATIVE SCHWEYER: You know Adams  
12 Island, so I appreciate that.

13           Changing subjects a little bit. On next  
14 week, bipartisan group of legislators, including  
15 myself and Representative Bullock here on  
16 Appropriations, are going to be announcing a  
17 reintroduction of legislation that we had pushed  
18 last year on community solar projects. It's  
19 something that I know -- Solar continues to grow in  
20 Pennsylvania. We are one of the states that are  
21 seeing an increased number of jobs in the solar  
22 industry.

23           I just want to take a purview of being  
24 an Appropriations -- a member of the Appropriations  
25 Committee to put it on your radar screen and hope

1 that it gets due consideration from the  
2 Administration.

3 SECRETARY McDONNELL: Absolutely. I'm  
4 very curious about the specifics, but it was  
5 actually -- it was again one of those things that  
6 we included in the solar future report that we need  
7 a focus on community solar, in particular.

8 I think the rooftop is on a good path.  
9 It's really the grid scale in the community solar  
10 that there's some specific provisions in that  
11 report to deal with.

12 REPRESENTATIVE SCHWEYER: Fair enough.

13 Thank you, sir.

14 Thank you, Mr. Chairman.

15 SECRETARY McDONNELL: Thank you.

16 MAJORITY CHAIRMAN SAYLOR:

17 Representative Fritz.

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

20 Secretary McDonnell, good to see you.

21 SECRETARY McDONNELL: Good to see you.

22 REPRESENTATIVE FRITZ: Mr. Secretary, I  
23 have heard you reference that the pronounced shift  
24 toward natural gas for power generation in our  
25 Commonwealth has markedly improved our air quality.

1 Can you kindly provide some specific details and  
2 insights on those improvements, and how that has  
3 translated into public health benefits for all  
4 Pennsylvania residents?

5 SECRETARY McDONNELL: Sure. What we've  
6 seen as -- For example, when we were discussing the  
7 Clean Power Plan proposal that the Obama  
8 Administration had put forward, we were already  
9 well on our way, in large part, and actually since  
10 met those what were proposed goals, primarily  
11 because of the shift toward the cleaner and natural  
12 gas.

13 We've seen improvements on ozone. We've  
14 seen improvements in, you know, those asthma  
15 precursors, VOCs and nitrogen oxides.

16 I think the other thing we see is, um --  
17 I think if you look at the Climate Change Action  
18 Plan and the provisions within that, you'll see, I  
19 think, two things. One is, a lot of that now we've  
20 achieved in terms of the benefits that we're going  
21 to get from there. And 2, I think there's still a  
22 big opportunity in the transportation space, both  
23 electric vehicles, which again, are primarily fed  
24 by natural power plants at this point, as well as  
25 natural gas vehicles.

1           REPRESENTATIVE FRITZ: Can you give us a  
2 number of how much that percentage has decreased?

3           SECRETARY McDONNELL: I know the Clean  
4 Power Plan percentage was around 30 percent. I'm  
5 not sure how much of that is specifically  
6 attributable to the shift in the power as opposed  
7 to other clean air provisions that have been  
8 pursued over the years.

9           REPRESENTATIVE FRITZ: What year did you  
10 start with DEP?

11          SECRETARY McDONNELL: I started in DEP  
12 in 1998.

13          REPRESENTATIVE FRITZ: And I heard your  
14 reference this number. I just want you to share  
15 this with everyone gathered here.

16          Given our portfolio back then, natural  
17 gas versus coal versus nuclear, give us the  
18 percentage how that has shifted toward natural gas?

19          SECRETARY McDONNELL: Sure. So  
20 nuclear's traditionally been right around  
21 35 percent, give or take. Coal, when I started, I  
22 want to say was right around 55 to 60 percent. Gas  
23 was not something you saw in the pie chart. It was  
24 that smaller percentage, primarily big peaking  
25 plant turbines at that point. Today that's more

1     like 25, 30 percent gas with the nuke staying the  
2     same and the coal decreasing by that same amount.

3             REPRESENTATIVE FRITZ: That's some  
4     interesting data.

5             So on that same thing, do you see an  
6     ongoing increase toward natural gas power  
7     generation in our Commonwealth?

8             SECRETARY McDONNELL: So there's  
9     definitely still some plants that haven't come  
10    online, both that are in the PJM grid and that  
11    we've had permits in front of us; permits we've  
12    acted on that are just not online yet. Those are  
13    boilers that are still coming online.

14            The one thing I always say, it's not a  
15    state thing. It's the PJM and the grid issue, but  
16    it's zero sum. If a new plant is providing a  
17    thousand megawatts, somebody else isn't. Somewhere  
18    else that isn't being generated.

19            REPRESENTATIVE FRITZ: So you see that  
20    piece of the pie that is natural gas power  
21    generation, you see that as growing?

22            SECRETARY McDONNELL: It will have an  
23    increase for sure.

24            REPRESENTATIVE FRITZ: Great, great,  
25    great. So given our familiarity with natural gas

1 development, and now having a substantial lookback  
2 period 10-plus years to study and analyze that  
3 activity, do you concur that it can be done safely  
4 and responsibly?

5 SECRETARY McDONNELL: Yes, absolutely.  
6 That's why we've pursued things under, again, the  
7 Chapter 78A regs; the air omissions under the  
8 general permit, as well as the regulation draft  
9 that we put out to the Air Quality Technical  
10 Advisory Committee around VOC emissions.

11 REPRESENTATIVE FRITZ: Do you feel as  
12 though it can be done safely in the Delaware River  
13 Basin?

14 SECRETARY McDONNELL: I think that in  
15 the Delaware River Basin, that's again a  
16 multi-state process, and there are concerns about  
17 how we do that.

18 REPRESENTATIVE FRITZ: But you feel as  
19 though it can be done safely in other basins?

20 SECRETARY McDONNELL: I feel as though  
21 there are safety concerns, but within the context  
22 of the DRBC regulations. Specifically, they have  
23 other issues around critical protection areas and  
24 things like that.

25 REPRESENTATIVE FRITZ: Thank you for

1 your testimony. No further questions.

2 SECRETARY McDONNELL: Thank you.

3 MAJORITY CHAIRMAN SAYLOR:

4 Representative Donatucci.

5 REPRESENTATIVE DONATUCCI: Thank you,

6 Mr. Chairman.

7 And good morning, Secretary.

8 Back in 2010, Pennsylvania and  
9 surrounding states were given until 2025 to meet  
10 their Chesapeake Bay obligations. In 2017, halfway  
11 through, Pennsylvania did shortfall.

12 Given that Pennsylvania makes up a third  
13 of the Chesapeake Bay Basin, more than any other  
14 state, and half of PA lies within the basin, these  
15 obligations are important to help restore the Bay  
16 and also to help ensure that Pennsylvania's rivers  
17 and streams are clean.

18 Can you tell us what our progress is in  
19 reaching our goals, and what is DEP doing to make  
20 sure that we do meet them?

21 SECRETARY McDONNELL: Sure. So, the  
22 things we have remaining to do are -- make up about  
23 34 million pounds of nitrogen; about three-quarters  
24 of a million pounds of phosphorus.

25 The process we have been engaged in over

1 the last year is to develop what's called our  
2 Phase 3 watershed implementation plan, Phase 3 WIP.  
3 That draft will be out in April, kind of  
4 highlighting exactly the plan that we're going to  
5 be engaged in. And the way I always describe it  
6 is, there's top down, there's bottom up. This is  
7 meet in the middle.

8           So we're both looking at those things we  
9 need to do as a state and need to be focused on as  
10 a state as we address the watershed issues,  
11 principally within the Susquehanna, but also  
12 working with creating a process that we're working  
13 with counties, stakeholders within a county, using  
14 a county as organizing the way we organize the  
15 work, but not necessarily putting the obligation on  
16 a county to figure out where are the priorities?  
17 What are the best ways to address this? What are  
18 the best ways to reduce nitrogen phosphorus  
19 sediment, and again, not in the Bay, but in our own  
20 waters.

21           The nitrogen phosphorous sediment hits  
22 us and has a bigger impact before it ever reaches  
23 the Chesapeake Bay. We've seen really, really  
24 good, really incredible plans already as pilots  
25 from York and Lancaster. We'll shortly see the

1 same from Franklin and Adams. And we want to use  
2 that process to really turn local water quality  
3 improvement back over to our local communities and  
4 be supportive of the work going on there in order  
5 to achieve these goals.

6 It's not going to be easy. It's going  
7 to take resources. It's gonna take things like  
8 Restore Pennsylvania in order for us to accomplish.  
9 But I am confident that we can deliver good water  
10 quality to our communities here in the  
11 Commonwealth.

12 REPRESENTATIVE DONATUCCI: Do we expect  
13 to make the goal by 2025?

14 SECRETARY McDONNELL: That's what we're  
15 aimed it. We'll see what the plan -- We're still  
16 in the process of finalizing the plan. And some of  
17 that, frankly, again, it will depend on additional  
18 resources in order to pull off.

19 REPRESENTATIVE DONATUCCI: Thank you.

20 SECRETARY McDONNELL: Thank you.

21 MAJORITY CHAIRMAN SAYLOR:  
22 Representative James.

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

25 Secretary McDonnell, how are you today?

1                   SECRETARY McDONNELL: I'm good. How are  
2 you?

3                   REPRESENTATIVE JAMES: Okay. Holding  
4 up.

5                   Since we're in a budget hearing, I'd  
6 like to talk about some budget matters that are of  
7 interest to me and, hopefully, to others.

8                   I checked your cover letter here, and I  
9 see that your total budget is around \$783 million,  
10 or it was last year, and we provided about  
11 146 million through the General Fund, 19 percent;  
12 considerable funds from the federal government and  
13 some other special sources, and that left, for me  
14 in my math, about a 126-million-dollar gap, which I  
15 believe is probably made up largely by fees, which  
16 are imposed. I'll call them penalty fees. You may  
17 have a different name for them.

18                   So, I got to thinking that -- Do you  
19 have like a formula? I understand that when a new  
20 program comes on stream, it's usually passed before  
21 the Environmental Quality Board, and they bless it,  
22 and you get some of your ideas from an advisory  
23 board, which would be made up by members from  
24 affected industries. It makes complete sense to  
25 me.

1           But when you go in there and propose a  
2 new penalty structure, you're asking the people who  
3 are most likely to be paying them, something of a  
4 conflict of interest in my book. But, I wonder if  
5 I could just ask an open-ended question and if you  
6 could share with us how you arrive at the fees? Is  
7 it a formula? Just take it from there, if you  
8 would, please.

9           SECRETARY McDONNELL: Sure. So, on the  
10 first piece, I actually think -- and we have both  
11 special funds and restricted revenue accounts. I  
12 always think of the restricted revenue accounts  
13 more like the special funds. So, you can think of  
14 special funds, restricted revenue accounts as fees,  
15 fines, penalties.

16           The really, in some ways, the main  
17 difference between them is where the interest  
18 lands. So, restricted revenue, the interest in  
19 that fund will go into the General Fund. Special  
20 funds the interest stays in the special fund.

21           In terms of the fee evaluation, it  
22 really is a program-by-program workload evaluation.  
23 In some cases informed by, for example, feedback  
24 that we will get from EPA telling us in order -- or  
25 a clean air program, for example, they feel we do

1 not have the resources in order to meet our clean  
2 air obligations, so that drives some of that fee  
3 discussion.

4 In the case of the oil and gas program,  
5 it's bluntly, we're losing between 600 and \$800,000  
6 a month operating that program under its current  
7 fee structure. The only source of revenue that we  
8 have for it is the permit application fee, which is  
9 why we've engaged in that.

10 I would say on some of this I'm agnostic  
11 as to how we manage it and deal with it. If  
12 there's another funding source someone wants to  
13 have a discussion about, we're open to those.

14 But, the reality is, we have the levers,  
15 we have to manage the work and manage the work  
16 effectively.

17 REPRESENTATIVE JAMES: Okay. So I think  
18 my interpretation then would be that you have  
19 certain mandates that you're required to meet --

20 SECRETARY McDONNELL: Correct.

21 REPRESENTATIVE JAMES: -- in order to  
22 fund them, which are 2,500 employees. This is --  
23 This is a source, perhaps 20 percent of your total  
24 budget? Is that reasonable?

25 SECRETARY McDONNELL: Correct. I'd say

1 between the restricted accounts and the special  
2 funds it's probably closer to 50 percent --

3 REPRESENTATIVE JAMES: Okay.

4 SECRETARY McDONNELL: -- which is,  
5 again, that's fees, fines and penalties paid into  
6 the agency.

7 REPRESENTATIVE JAMES: Okay. Well, I  
8 just wanted to get those numbers out there to kind  
9 of put things in perspective. I appreciate your  
10 answer.

11 SECRETARY McDONNELL: And again, to put  
12 that in some perspective, again, to go back to the  
13 question I got asked earlier about when I started,  
14 at one point that was about a third, a third, a  
15 third, so we were about thirty -- a third of the  
16 General Fund, a third federal and a third of the  
17 special fund restricted accounts. Today, as you  
18 said, about less than 20 percent General Fund,  
19 50 percent special fund restricted account, and  
20 then 30 percent still from the feds.

21 REPRESENTATIVE JAMES: Okay. Thank you,  
22 Mr. Chairman. No more questions.

23 MAJORITY CHAIRMAN SAYLOR:  
24 Representative Dunbar.

25 REPRESENTATIVE DUNBAR: Thank you, Mr.

1 Chairman.

2 Secretary, right here in front of you.

3 SECRETARY McDONNELL: The voice just  
4 comes.

5 REPRESENTATIVE DUNBAR: I wish my kids  
6 would say that.

7 Can you tell me how often DEP reviews  
8 its air quality state implementation plan with EPA?

9 SECRETARY McDONNELL: We're always -- I  
10 think we're always engaged in some activities  
11 around --

12 REPRESENTATIVE DUNBAR: Do you ever  
13 revise it?

14 SECRETARY McDONNELL: Absolutely, yeah.  
15 It will get revised based on -- We are part of the  
16 Ozone Transport Commission. So, within the ozone  
17 transport region, there's certain things we're  
18 obligated to include within our state  
19 implementation plans.

20 There's, usually, they require a rate  
21 change, so we go through a rate change. And then,  
22 ultimately, submit that to EPA for inclusion in our  
23 SIP. And then that goes through their common  
24 process.

25 REPRESENTATIVE DUNBAR: That's good.

1                   We've had some discussion about  
2                   Pennsylvania joining some other -- and other Middle  
3                   Atlantic states to create a regional cap on carbon  
4                   emissions from vehicles.

5                   Do you anticipate any additional  
6                   requirements on emission testings or any additional  
7                   regulations on them?

8                   SECRETARY McDONNELL: At this point,  
9                   really, and to be clear, that's -- having a  
10                  discussion about the policy and what it looks like,  
11                  so there's no specificity to that degree of what  
12                  that might look like --

13                  REPRESENTATIVE DUNBAR: At this point?

14                  SECRETARY McDONNELL: -- what that might  
15                  require. Correct.

16                  REPRESENTATIVE DUNBAR: And I also in  
17                  earlier discussions, I heard you discussing about  
18                  the potential for additional funds for  
19                  implementation. Do you have any idea where we're  
20                  at on that?

21                  SECRETARY McDONNELL: For implementation  
22                  of?

23                  REPRESENTATIVE DUNBAR: Of the regional  
24                  cap; implementing that?

25                  SECRETARY McDONNELL: Again, the

1 specificity of the proposal would drive anything we  
2 would look for within that.

3 REPRESENTATIVE DUNBAR: Just a --

4 SECRETARY McDONNELL: And, frankly,  
5 whether or not we would ultimately join as well.  
6 At this point it's a conversation.

7 REPRESENTATIVE DUNBAR: Thank you.

8 And following up on Representative  
9 Greiner's comments earlier, I know you connect to  
10 the salacious nature of the discussion about  
11 lobsters and shrimp dinners as the Auditor General  
12 had pointed out.

13 I must admit, my mind started to wander  
14 when someone named McDonald started talking about  
15 going to McDonald's, and I'm sitting up here  
16 thinking about Big Macs and things like that.

17 SECRETARY McDONNELL: So --

18 REPRESENTATIVE DUNBAR: Does the  
19 Secretary of DEP use a straw when he goes to  
20 McDonald's?

21 But really what was lost in the whole  
22 thing was the discussion about SRBC. This is a  
23 budget hearing. The Governor has a proposal for  
24 like a 257 percent increase in funding. I'm not  
25 sure where you stood on that. Do you advocate for

1 that increase?

2 SECRETARY McDONNELL: Yes.

3 REPRESENTATIVE DUNBAR: Are we rewarding  
4 bad behavior?

5 SECRETARY McDONNELL: No. In fact, it's  
6 -- it's, as I said in the response earlier, I think  
7 there's two things going on, both in the right  
8 places. One is that, in the case of the Auditor  
9 General's report, the big thing we're working on is  
10 to make sure we're clear about where the  
11 authorities are in updating the agreements. I  
12 think that's the key piece we need to manage.

13 I think there are a lot of services that  
14 we get. Some of it is supportive of the Chesapeake  
15 Bay goals that we're engaged in. Some of it being  
16 that time of travel of contaminants going down.  
17 They have a very robust watershed model that they  
18 use to help inform decisions that we make. It's a  
19 multi-state compact.

20 I can tell you, and I think I probably  
21 shared a version of this last year when we were  
22 having this discussion. When you're the one in the  
23 room who is not paying their dues, that can't help  
24 but color the discussion a bit in terms of  
25 engagement with other states on these issues. So,

1 I think the dues are appropriate for the services  
2 that we're receiving from the commission.

3 REPRESENTATIVE DUNBAR: Okay. For once  
4 I'm going to get done early, and I appreciate the  
5 side bar we had earlier, and do I expect --

6 SECRETARY McDONNELL: Sure.

7 REPRESENTATIVE DUNBAR: -- feedback on  
8 what we talked about.

9 SECRETARY McDONNELL: I'll embarrass him  
10 terribly and point out that I'm the son of Ronald  
11 McDonald.

12 REPRESENTATIVE DUNBAR: Okay. Thank  
13 you.

14 MAJORITY CHAIRMAN SAYLOR:  
15 Representative Gabler.

16 MR. GABLER: Thank you very much, Mr.  
17 Chairman.

18 And thank you, Mr. Secretary. I just  
19 had a couple of follow-ups, first to Representative  
20 Dunbar's questions.

21 Regarding the nine-state vehicle carbon  
22 emission plan, how much say will Pennsylvanians  
23 have over how that plan comes together?

24 SECRETARY McDONNELL: Again, I mean,  
25 right now we're in very early stage. I'll tell you

1 my instinctual reaction as we move through.  
2 Anything, be it climate change action plan or the  
3 variety of other things is that, we do robust  
4 stakeholder engagement in a variety of ways, either  
5 through ad hoc committee or putting things out for  
6 comment. I think you can expect all of that as  
7 part of what we would look for.

8 MR. GABLER: Thank you. Will the  
9 legislature have the opportunity to review that  
10 plan before a decision is made whether or not to  
11 join?

12 SECRETARY McDONNELL: We'll definitely  
13 be laying out exactly what is within that plan. As  
14 I said, it's early stage, so the specifics of that  
15 I don't know. I can't really lay out.

16 MR. GABLER: I appreciate it. Being  
17 that we are early in the stages, I just look  
18 forward to that being an open, continued  
19 conversation.

20 SECRETARY McDONNELL: Absolutely.

21 MR. GABLER: Thank you.

22 I wanted to shift gears a little bit to  
23 a conversation that was held yesterday with the  
24 Attorney General. There was some questions about a  
25 program pertaining to the New York University

1 School of Law. And, specifically, there was an  
2 opportunity that the Attorney General's Office had  
3 looked at as far as a way to bring in funding from  
4 outside sources to offset some of their costs. The  
5 Attorney General had reviewed a potential agreement  
6 with the New York University School of Law. He  
7 said, upon reviewing that agreement he decided not  
8 to join it.

9 I was wondering if the Department of  
10 Environmental Protection has had any interaction  
11 with this program, and is the Department of  
12 Environmental Protection participating in that  
13 program?

14 SECRETARY McDONNELL: I know absolutely  
15 nothing about it. Unless something is going on at  
16 a staff level, I wouldn't. I need to look into it  
17 to verify, but I'm not aware of anything.

18 MR. GABLER: And I appreciate your  
19 candor. I would appreciate if we could, as a  
20 follow-up, I just would like to know what the role  
21 of the Department of Environmental Protection is  
22 relative to this program and if there are any staff  
23 participation, either in a formal agreement process  
24 or in some sort of an informal communication  
25 process.

1                   SECRETARY McDONNELL: As I said, I'm  
2 completely unfamiliar with it, so I'll find out  
3 from staff.

4                   MR. GABLER: Thank you, Mr. Secretary.  
5 I appreciate that. That's all the questions I have  
6 at this time.

7                   Appreciate, Mr. Chairman.

8                   Thank you, Secretary, for your time this  
9 morning.

10                  SECRETARY McDONNELL: Thank you.

11                  MAJORITY CHAIRMAN SAYLOR:  
12 Representative Davis.

13                  REPRESENTATIVE DAVIS: Yes. Thank you,  
14 Mr. Secretary. Thank you for being with us today.

15                  The Governor highlighted -- And this  
16 kind of dovetails off of what my colleague,  
17 Representative Cephas, brought up earlier about  
18 workforce development. The Governor highlighted  
19 the need to do more as it relates to well-trained  
20 workforce development in his budget address earlier  
21 this month.

22                  Can you explain to me what, if anything,  
23 your Department is doing as it relates to investing  
24 in programs to train individuals who are coming out  
25 of incarceration to get the workforce training they

1 need to be able to integrate back into society?

2 SECRETARY McDONNELL: Sure. Again, kind  
3 of similar to the last question. We're still very  
4 early stage, but we started talking with Department  
5 of Corrections about training inmates within  
6 certain parameters around certified operator -- you  
7 know, certified operator training.

8 I think one of the attractive things  
9 about that on our end, beyond the need for  
10 certified operator training is, the Department of  
11 Corrections actually operates its own wastewater  
12 plants, for example, so there's potential if we can  
13 structure these programs right that we're not only  
14 getting them the classroom and online training.  
15 But some of that time on the actual equipment,  
16 that's a key part of being a certified operator.

17 I think as we proceed down some of these  
18 other -- As we proceed down that path, I'm hopeful  
19 there will be other opportunities, like I said,  
20 around clean energy programs, sewage enforcement  
21 officers, some other things, just both solve some  
22 problems, frankly, that we have on our end, but  
23 also providing that workforce opportunity.

24 REPRESENTATIVE DAVIS: Thank you. I  
25 want to thank you and the Governor for your

1 commitment to that. I think it's important outside  
2 of just the workforce needs to make sure that we're  
3 creating ladders of opportunity and hope for people  
4 to be productive members of our society. So thank  
5 you for your commitment to that.

6 SECRETARY McDONNELL: Absolutely.

7 REPRESENTATIVE DAVIS: Mr. Chairman,  
8 thank you.

9 MAJORITY CHAIRMAN SAYLOR:  
10 Representative Heffley.

11 REPRESENTATIVE HEFFLEY: Thank you, Mr.  
12 Chairman.

13 Thank you, Mr. Secretary.

14 Well, first off, I want to commend DEP  
15 for the work that you did at the Jeansville mine  
16 fire. Just to note, the mine fire is out for  
17 anybody who is not aware. Right at the Carbon and  
18 Luzerne County line there was a mine fire. Part of  
19 it was in an active mine; part of it was in waste  
20 coal piles. And I believe the price tag was  
21 somewhere above \$9 million to put that out.

22 SECRETARY McDONNELL: Yes.

23 REPRESENTATIVE HEFFLEY: And that was  
24 just the fire that was burning in the waste coal  
25 opinion. The active mine was extinguished by the

1 mining company that was mining it. But this was a  
2 tremendous concern to the residents in that area  
3 because they could smell the sulfur gas and all the  
4 fumes right in their house.

5 So that brings me to my point. The buzz  
6 word right now is clean energy, green energy. I  
7 wish we had free energy. My kids always leave the  
8 lights on, and it would make my electric bill a  
9 little bit cheaper. But there's nothing free and  
10 there's nothing that's totally clean.

11 However, one of the benefits that we see  
12 in our community is the waste coal fire power  
13 plants. The estimates for what I've heard is for  
14 identifiable waste coal is over 300 million tons  
15 identifiable that we can use to burn to create  
16 energy and, therefore, clean up an environmental  
17 hazard when rain falls on those waste coal piles of  
18 water that runs off that's acid mine drainage,  
19 obviously. Our Constitution, it's clean water for  
20 everybody.

21 What are the incentives? What can we  
22 do, because this industry really has been taking it  
23 on the chin, so to speak. Now they're looking at  
24 the Clean Air Fund and increasing some of the fees.  
25 That will be another detriment to this industry,

1       which is really cleaning up a significant hazard.  
2       Anybody that's not aware of any kind of lightning  
3       strike, or somebody goes and builds a camp fire on  
4       one of these piles, it could cause a mine fire  
5       that's going to cost million of dollars. You're  
6       literally digging up and extinguishing a mountain  
7       of waste coal.

8                        So what are some of the initiatives that  
9       DEP can do, or what can we do to enhance that,  
10      because this is -- this is cleanup if you want to  
11      -- cleaning up the environment and producing the  
12      energy at the same time.

13                      SECRETARY McDONNELL: Sure. And the one  
14      thing I'll say is, even as we pursued a number of  
15      other policies, it's an industry we've been very --  
16      try to be very supportive of the -- from when we  
17      did the comments to the federal government on their  
18      ozone standard, that was one of the areas we  
19      suggested be exempted or at least looked at because  
20      of the water quality benefit that you cite that  
21      they provide.

22                      They're part of that advanced energy  
23      portfolio standard. I won't say that's a huge  
24      credit that they get or a huge dollar amount per  
25      credit they get, but it's something -- And I know

1 the tax credit that DCED deals with for that  
2 industry as well. You know --

3 I'll just say on air quality, I know the  
4 fee issue for a number of industries is problematic  
5 and troubling. But, as I answered earlier, we have  
6 obligations to demonstrate to the federal  
7 government that we're meeting the resource needs to  
8 oversee those programs, and that's part of it,  
9 right, is making sure we're properly assessing  
10 fees.

11 So, I think we tried to be judicious in  
12 the way --

13 REPRESENTATIVE HEFFLEY: Just weighing  
14 out -- just weighing out because I am capped on my  
15 time her. Just weighing out the cost benefit of  
16 those fees, and possibly having those businesses  
17 not be there. And then, there's nobody, there's  
18 nobody is cleaning this up. They would dump sludge  
19 on it and try and plant grass or trees.

20 SECRETARY McDONNELL: No. When we have  
21 to deal with those, in some cases through, like,  
22 the AML Pilot Program, some of what we're doing is  
23 reclaiming some of these massive banks. It's a big  
24 expensive proposition to do. As you say, it's  
25 millions of dollars per site that we're looking at

1 dealing with. So, it's absolutely critical that we  
2 keep those kinds of facilities engaged.

3 REPRESENTATIVE HEFFLEY: And I just want  
4 to make sure we keep that at the forefront of the  
5 discussion as we talk. There's a lot of talk, like  
6 I said, about clean, green, whatever.

7 Windmills right now have been proven to  
8 be a detriment to the environment. The Game  
9 Commission recently came out and said there's no  
10 more wind development on state game lands because  
11 the amount of birds and bats that they're killing.  
12 But also, the environmental footprint is huge and  
13 the energy is very unreliable.

14 As we have these discussions as to  
15 really what truly is cleaning up the environment  
16 and creating better quality of water in regions of  
17 the state, that's all at the forefront.

18 I have one question real quick. There's  
19 an issue we have, is there ever an issue with DEP  
20 in working with PennDOT? We have an issue where  
21 there's flooding on a section of road--it's a state  
22 road--and it freezes over and cars --

23 SECRETARY McDONNELL: No.

24 REPRESENTATIVE HEFFLEY: -- have  
25 accidents on that ice. I've come upon an accident

1 last year where a car had flipped over. The black  
2 ice forms because the water puddles.

3 Now, PennDOT needs to do work on that  
4 road. But, of course, the endangered bog turtle  
5 seems to be everywhere, is there, and really can't  
6 put a foot in the ground. So my question is, at  
7 what point do bog turtles outweigh human lives or  
8 public safety when trying to address the safety of  
9 the road?

10 I have talked to PennDOT, I've talked to  
11 DEP officers and it seems, like, well they're  
12 getting permits for this and that. But now this  
13 has been going on for two years now and, really,  
14 nothing has been done. It's been exacerbating  
15 because we had a very wet year. But then --

16 I'll let you respond. I see I got the  
17 red light.

18 SECRETARY McDONNELL: Yeah. Please get  
19 me the information. I don't think -- To a point  
20 that's been made earlier, I don't think it's a  
21 matter of either/or. I mean, there's processes  
22 around endangered species, but it's not a full stop  
23 no. That's processes around it and there's ways  
24 through it. If you can get me the info, we'll  
25 follow back up and see what's going on.

1 Thank you.

2 REPRESENTATIVE HEFFLEY: Thank you.

3 MAJORITY CHAIRMAN SAYLOR:

4 Representative McCarter has a second-round  
5 question. We're going to give him three minutes,  
6 and we have another one as well.

7 REPRESENTATIVE McCARTER: Thank you very  
8 much, Mr. Chairman. And again, I just wanted to  
9 follow up for a second.

10 Mr. Secretary, on the questions from  
11 Representative Fritz dealing with methane. I  
12 should say really the gas industry and methane.  
13 You mentioned that, in fact, the benefits that have  
14 come from natural gas in terms of reducing  
15 emissions mostly through CO2 have already been  
16 really achieved and will be in the next few years.

17 The fact is, though, that methane itself  
18 is a very potent greenhouse gas. And in the  
19 future, it's going to be one of our biggest  
20 challenges to deal with as well for climate change  
21 and trying to reduce that.

22 What role does DEP currently play in  
23 monitoring the methane emissions across the state?

24 SECRETARY McDONNELL: So a couple  
25 things, as I mentioned, in the answer to that

1 question, where we've had the general permit 5 and  
2 5A for air quality requiring leak detection and  
3 repair at new wells and tantra (phonetic) surface  
4 facilities.

5 REPRESENTATIVE McCARTER: How many  
6 monitors do we actually have out there, inspectors  
7 at the present moment checking?

8 SECRETARY McDONNELL: I'm not sure the  
9 exact number of inspectors. I can get you both the  
10 monitors and inspector numbers.

11 REPRESENTATIVE McCARTER: And, I mean,  
12 the reality is, though, that's a small number  
13 compared to the number of wells they have to deal  
14 with; isn't that correct?

15 SECRETARY McDONNELL: Correct.

16 REPRESENTATIVE McCARTER: So the  
17 industry is really self-monitoring overall?

18 SECRETARY McDONNELL: Yes, and there's  
19 reporting requirements around that.

20 But, the other thing is, it's -- One of  
21 the challenging things about air quality in this  
22 regard is, you're really talking about more like  
23 fugitive emissions as opposed to a point source.  
24 You know, where you have a Title 5 facility. You  
25 put a continuous emission monitor on a stack.

1           Here you're talking about it over the  
2 course of pipeline miles, you know, distributed  
3 facility wells requires a different approach.

4           REPRESENTATIVE McCARTER: Roughly the  
5 EPA goes on a 3 percent emission rate is what's  
6 estimated roughly across the country. But recent  
7 reports have shown it could be much higher.

8           SECRETARY McDONNELL: I think there's  
9 areas where they talk about super admitters in  
10 particular places. I've seen numbers. They say  
11 it's less than 1 percent and I've seen numbers up  
12 to 10 percent. It really seems to depend on  
13 methodology.

14           REPRESENTATIVE McCARTER: So the  
15 monitoring by DEP actually could be quite  
16 important. We hope in the future that we get a  
17 chance to talk more about that and increase the  
18 budget in that area. Thank you.

19           SECRETARY McDONNELL: Thank you.

20           MAJORITY CHAIRMAN SAYLOR: For a second  
21 round and three minutes, Representative Struzzi,  
22 and then we will move to Representative Vitali.

23           REPRESENTATIVE STRUZZI: Thank you.  
24 Good afternoon again, Mr. Secretary.

25           Back to the permitting issue, I do have

1 some concerns related to the rather dramatic  
2 increase you're proposing for well permit fees for  
3 natural gas.

4 At a time when we're finally starting to  
5 see these industries coming back to Pennsylvania.  
6 We're seeing the jobs back in our rural  
7 communities. We're already imposing over the past  
8 -- since we implemented the impact fee, more than  
9 \$2 billion has been collected, and now there's talk  
10 of a severance tax. It seems to me we're punishing  
11 an industry that's creating jobs in Pennsylvania.  
12 They're finally coming back.

13 Commodity prices, while they're still  
14 very low, they're starting to increase. And now an  
15 increase from 5,000 to \$12,500 for the well fees,  
16 my question is, why -- how do you justify that?  
17 How much money will be raised, and what will that  
18 be used for?

19 SECRETARY McDONNELL: Sure. That will  
20 -- The simple answer on the money itself is, it  
21 will be used to make sure we're maintaining current  
22 effort.

23 As I said earlier, the fund that  
24 supports the program is losing 600 to \$800,000  
25 every month to support the existing staff, which is

1 down to 190 from 226. We've implemented some  
2 things around electronic inspection; improving  
3 productivity there by over 20 percent. Still  
4 aren't getting to all the inspections we're  
5 supposed to be doing under our guidelines. Have  
6 increased and supported additional reductions in  
7 amount of time the permit process takes.

8 So, the reason for the permit  
9 application fee is because you only guess access  
10 the way we can raise money is the permit fee. So  
11 effectively, for every inspection, policy change,  
12 everything, when that well permit comes in, that's  
13 the one shot to kind of monetize everything forever  
14 in all ways.

15 Very open to a discussion around other  
16 ways of dealing with that and addressing that  
17 issue. I wouldn't say it's the fairest way to go  
18 about it.

19 REPRESENTATIVE STRUZZI: Right.

20 SECRETARY McDONNELL: But it's the only  
21 lever we have to support the plan. Thank you.

22 REPRESENTATIVE STRUZZI: Okay. Thank  
23 you.

24 SECRETARY McDONNELL: Thank you.

25 MAJORITY CHAIRMAN SAYLOR:

1 Representative Vitali.

2           MINORITY CHAIRMAN VITALI: Thank you,  
3 Mr. Chairman.

4           Thank you, Secretary McDonnell, for  
5 coming here today, and thank you for the great work  
6 you do for the DEP. I think the Department is  
7 lucky to have someone as bright and committed and  
8 as hard working as you.

9           SECRETARY McDONNELL: Thank you.

10           MINORITY CHAIRMAN VITALI: I just want  
11 to comment on the DEP, the 2300 members who are --  
12 per staff who are still there, I think -- I think  
13 they do a great job. I think they're very  
14 committed people. Nothing I might comment on  
15 should be interpreted as just impugning the fine  
16 job they do. I always try to work with them and  
17 try to get the resources they needed.

18           But I think as mentioned earlier, I am  
19 concerned about the budget proposal and the fact  
20 that it maintains current staffing levels, which --  
21 at 2300 filled positions. I'm on conversation on a  
22 regular basis with three other DEP secretaries, who  
23 have some really serious concerns about your  
24 staffing level. One mentioned that the last time  
25 it was properly funded was in 2004 when you had

1 about 900 positions more.

2 I mean, some of the concerns I have  
3 maybe you can address. I mean, the Air Quality  
4 Monitoring Program. The EPA audit, not too long  
5 ago, said you're severely, severely understaffed.  
6 The Oil and Gas Program you mentioned you're down  
7 36 positions. Your people tell me they can't  
8 fulfill their mission with the current staffing  
9 levels.

10 Methane leakage is an important climate  
11 change factor. Regulations for existing sources,  
12 the 11,000 wells leaking right now. It's been  
13 three years since those regulations were proposed  
14 and they're still not done. I'm told you have just  
15 one person working on them, and that's the problem.

16 You had mentioned the Chesapeake Bay.  
17 The Chesapeake Bay Foundation basically assess  
18 Pennsylvania's performance as poor, which endangers  
19 your downstream rivers and is really hurting our  
20 efforts to restore the Chesapeake Bay.

21 You mentioned in a webinar this past  
22 summer, you just don't have the resources to do  
23 that. You have 200,000 orphaned and abandoned  
24 wells. There's no money in this budget to address  
25 that.

1           So I think we have to really come to  
2 grips with the fact that -- And this is not your  
3 fault. This is not the Governor's fault. I have  
4 watched over the past 14 years how the legislature  
5 -- the conservative legislature has really cut your  
6 funding to the point where you guys can't really do  
7 the job, and I feel bad for your people.

8           I just also want to express my concerns  
9 about trying to buttress this with a Marcellus  
10 Shale tax. I introduced the first bill under the  
11 Rendell Administration. We're still waiting for  
12 that. So, I would not pin my hopes on that.

13           But, yeah, I really want to work with  
14 you. I really want to get the department to where  
15 it should be. But these are some of the concerns I  
16 have. I just wanted you to know that.

17           SECRETARY McDONNELL: Thank you very  
18 much. The one thing I guess I'd tell you, one of  
19 the -- and I may have even said it in one of these  
20 hearings previously. But, day 1, I would spend a  
21 couple seconds every morning in the office looking  
22 for the switch that fixes everything. I haven't  
23 found it yet in the office.

24           We definitely do have issues we're  
25 facing. Chesapeake Bay, we are going to need

1 additional resources to deal with water quality,  
2 and frankly, to help communities outside of the bay  
3 manage their water quality. It's not just a bay  
4 issue.

5 The comment about EPA and air quality,  
6 that's one of the reasons we're looking at raising  
7 the fees; the same with the Oil and Gas Program.  
8 There are things that we are doing and can do with  
9 technology.

10 And I think one of the things I said  
11 probably in the first hearing that I was here and  
12 have said to a number of you one on one is, I'm  
13 going to deliver to you the best run, most  
14 efficient, most effective organization I can with  
15 the resources. If we're identifying gaps, the  
16 thing left is the resources.

17 So, to the extent we should continue to  
18 have the discussion about where people are seeing  
19 those gaps and whether or what we can do about it.  
20 I do think Restore Pennsylvania is a real potential  
21 way for us to address some of these gaps; in  
22 particular, around some flooding issues and some of  
23 those energy programs.

24 REPRESENTATIVE VITALI: Thank you.

25 SECRETARY McDONNELL: Thank you.

1 MAJORITY CHAIRMAN SAYLOR: Mr.  
2 Secretary, I have just one question here.

3 SECRETARY McDONNELL: I had asked this  
4 of the Susquehanna River Basin Commission. We're  
5 all are aware that New York had dumped 2 million  
6 gallons of solid waste into the Susquehanna River.  
7 Can you tell me what their fine was for doing so?

8 SECRETARY McDONNELL: I don't know what  
9 the fine was for that.

10 MAJORITY CHAIRMAN SAYLOR: Were they  
11 fined?

12 SECRETARY McDONNELL: I don't have the  
13 detail of that.

14 MAJORITY CHAIRMAN SAYLOR: The reason I  
15 ask that is, I've asked it before, not to you, but  
16 to other agencies and I've gotten no answer on it.  
17 We know that we have a former senator that went to  
18 jail for releasing far less pollutants. And I'm  
19 not arguing with that conviction.

20 But we also know that a lot of our  
21 municipalities as well have been fined for smaller  
22 -- far smaller amounts being dumped. And it  
23 concerns me greatly that I think a lot of our  
24 people in Pennsylvania are farmers, in particular,  
25 get blamed when I think they probably have the best

1 practice of any state in the nation when it comes  
2 to our conservation districts for polluting the  
3 Chesapeake Bay.

4           As I talked to former Secretary McGinty,  
5 I think Pennsylvania is getting far more blame than  
6 it deserves; that I don't believe Maryland is doing  
7 its fair share. I've interacted down there, and I  
8 find their DEP Secretary and people down there very  
9 uncooperative in dealing with pollution issues. I  
10 haven't seen New York State being held to the same  
11 standard that Pennsylvania is.

12           I'm very concerned that the Chesapeake  
13 Bay is putting on the back of taxpayers of  
14 Pennsylvania while the other states are failing to  
15 meet their responsibilities as well.

16           I do want to say, I appreciated what  
17 Chairman Vitali talked about in your budget. But I  
18 think one of the things that has changed. One,  
19 we've all in state government, including the House  
20 Democrats and House Republicans, have cut our  
21 staff, basically because technology has allowed us  
22 to move forward.

23           What you guys have done at DEP has been  
24 a great job, and I compliment you and former  
25 secretaries. I've always have had some

1 disagreements with each of the secretaries over the  
2 year (sic), whether it was Secretary McGinty or  
3 whoever was there. But I think the secretaries and  
4 the way they dealt with a lot of issues have been  
5 very good. That doesn't mean we're always going to  
6 agree. But the partnerships you felt and done  
7 through other organizations I think has been a  
8 positive thing.

9 Not that long ago I had some flooding in  
10 my district. I was out with Phil Wanger and a  
11 bunch of his volunteers helping clean up along  
12 streams. Those are the kind of things that return  
13 a real investment on Pennsylvania. We can find  
14 volunteers to do things, people who want to help,  
15 rather than always sitting down and hiring  
16 employees at the state level to do those same  
17 things.

18 I think what we need to figure out how  
19 to do is better encourage those volunteers,  
20 encourage how we can partner with private  
21 enterprise and our volunteers to do what sometimes  
22 maybe we can't do as well.

23 So again, I want to thank you for coming  
24 today. Any comment?

25 SECRETARY McDONNELL: Yeah.

1           The only thing I'd point out is, I think  
2 particularly on the Bay comment, completely agree  
3 with all the amazing work our conservation  
4 districts have done. I think the PSU farm survey  
5 and all that bore out that there's a lot of good  
6 work going on in the farm communities.

7           I think the issue we have in the  
8 Commonwealth is really one of scale. Even just to  
9 mention the number, Lancaster's come up with a plan  
10 to incredibly deal with 9 million pounds of  
11 nitrogen. Maryland is 5 million pounds behind.  
12 So, Lancaster is almost doubling what that lift is  
13 for Maryland that is left for them to make up.

14           So, when you just think about the volume  
15 of activity that we have in the Commonwealth, it's  
16 different. That means, we need a different  
17 response and a different way of approaching it.

18           MAJORITY CHAIRMAN SAYLOR: The other  
19 thing I said to Secretary McGinty, and she agreed  
20 at the time, I don't know if she still does, is  
21 that one of our things that nobody is paying  
22 attention to, and we all in this room and everybody  
23 watching, in about another couple of weeks we'll be  
24 getting multiple letters from fertilizing companies  
25 who want to spray our yards. And they don't say we

1 want to come and spray it once. They spray it  
2 eight times.

3           So farmers today really don't fertilize  
4 very often. They have learned techniques so they  
5 don't need to. So I have a real problem when we're  
6 blaming our agricultural community for things that  
7 aren't being done, anything about other areas. I  
8 don't know what the solution to that is, but I can  
9 say that when you're fertilizing your lawn eight  
10 times in one year, I'm not sure they need to even  
11 be fertilized every year. But I understand there's  
12 sometime a competition in some communities over who  
13 can have the greenest grass and the least amount of  
14 dandelions.

15           But, it is something that I think we  
16 need to pay attention to if we truly are going to  
17 clean up, quote unquote, the Chesapeake Bay and the  
18 Susquehanna River, in that, it's not all about  
19 farmers, and it surely isn't all about  
20 Pennsylvania, because, like I said, I will continue  
21 to question what Maryland is doing with the amount  
22 of water they draw out of the Susquehanna River  
23 before it even gets to the Chesapeake Bay, and what  
24 New York is doing and whether they're meeting their  
25 obligation.

1           Again, thank you very much. I really  
2 appreciate it.

3           SECRETARY McDONNELL: Thank you.

4           MAJORITY CHAIRMAN SAYLOR: If you would  
5 get those answers to us that we asked today.

6           I did want to mention that  
7 Representative Comitta had submitted some questions  
8 to Chairman Bradford. In time, we're going to  
9 submit those to you and appreciate answers for  
10 Representative Comitta.

11           SECRETARY McDONNELL: Of course.

12           MAJORITY CHAIRMAN SAYLOR: Thank you.

13           SECRETARY McDONNELL: Thank you so much.

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C E R T I F I C A T E

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