

COMMONWEALTH OF PENNSYLVANIA

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SENATE OF PENNSYLVANIA
ENVIRONMENTAL RESOURCES AND ENERGY COMMITTEE

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HEARING TO CONSIDER THE NOMINATION
OF JOHN HANGER AS SECRETARY OF THE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

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Before:

- SENATOR MARY JO WHITE, Chairman
- SENATOR EDWIN B. ERICKSON, Vice Chairman
- SENATOR RAPHAEL J. MUSTO, Minority Chairman
- SENATOR LISA BAKER
- SENATOR ELDER A. VOGEL, JR.
- SENATOR DONALD C. WHITE
- SENATOR GENE YAW
- SENATOR ANDREW E. DINNIMAN
- SENATOR J. BARRY STOUT
- SENATOR ANTHONY H. WILLIAMS

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Date: April 1, 2009, 9 a.m.
 Place: North Office Building, Hearing Room #1
 Harrisburg, Pennsylvania

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Pennsylvania State Senate
SENATOR JEFFREY E. PICCOLA

Department of Environmental Protection
JOHN HANGER, ACTING SECRETARY

1 CHAIRMAN WHITE: Good morning. I'm going
2 to call this Committee meeting to order. The
3 purpose of the Committee meeting is to
4 consider the nomination of John Hanger as
5 Secretary of the Department of Environmental
6 Protection. We recognize Senator Piccola for
7 an introduction.

8 SENATOR PICCOLA: Thank you, Madam
9 Chairman, and members of the Committee. Over
10 the years I've had the opportunity to
11 introduce to various Committees of the Senate
12 any number of individuals who have been
13 nominated by the Governor for confirmation by
14 the Senate, and I have to say that John
15 Hanger's probably the one least in need of
16 introduction since I'm sure he is well-known
17 to this Committee and virtually every member
18 of the Senate.

19 He's no stranger to any of us. We all
20 know of his work in Philadelphia on behalf of
21 consumers, his work with the PUC as a member
22 of the staff and as a Commissioner, and more
23 recently is his work with that, if I can
24 characterize it maybe left-leaning interest
25 group PennFuture, but that's my

1 characterization, not his.

2 John and I don't agree on everything
3 particularly on environmental issues, but
4 there's two things that have me come before
5 this Committee and be very, very happy to
6 introduce him and recommend his confirmation
7 as Secretary of DEP.

8 First, in the late 1990s when the idea of
9 electric deregulation came before the
10 Legislature, I was, to say the least, a
11 skeptic, but it was John Hanger looking at
12 this particular issue from a consumer and a
13 conservation point of view that helped me,
14 along with John Quain looking at it from a
15 different perspective at that time, that this
16 idea was good for Pennsylvania, good for
17 Pennsylvanians and good for Pennsylvania's
18 future.

19 The other reason, and it sort of
20 dovetails with the first, is that, while I
21 don't agree with John on everything, he's one
22 of the few Liberals, and that's my
23 characterization, probably not his, that I
24 have met who is willing to sit and discuss
25 face-to-face in a rational and fact-based way

1 the issues that we have of mutual concern. So
2 I believe there's hope for John Hanger, and as
3 a Conservative member of the Senate, I would
4 urge this Committee to recommend his
5 confirmation.

6 CHAIRMAN WHITE: Thank you, Senator.
7 Mr. Hanger, do you have an opening statement?

8 ACTING SECRETARY HANGER: I do. First I
9 want to thank Senator Piccola for those
10 remarks. We've had a long relationship over
11 the years and we've exchanged views. I have
12 often learned from my conversations with
13 Senator Piccola. I think, Senator, I can
14 perhaps reassure you about where I am on the
15 political spectrum. Yesterday the Green Party
16 of Pennsylvania called for my resignation from
17 this position, so I have a long record with
18 you, and I've enjoyed working with you, and I
19 look forward to doing more of that in this
20 position.

21 Madam Chairman, I have prepared a pretty
22 lengthy statement which I'm not going to read
23 in its entirety at all. It's about eleven
24 pages in length, but I would like to be able
25 to read about three and a half pages of that

1 opening statement, if I could. Before I get
2 right into it, I want to also thank my wife,
3 Dr. Luanne Thorndyke, who is a Professor of
4 Medicine and an Associate Dean at the Penn
5 State College of Medicine in Hershey, for
6 coming today. She has an exceptionally busy
7 schedule. It includes administrative duties,
8 community duties, as well as seeing patients,
9 and I appreciate her willingness to come here
10 this morning.

11 I also want to thank the FERC, that's the
12 Federal Energy Regulatory Commissioner, Nora
13 Brownell, and former Public Utility
14 Commissioner Nora Brownell, who served with me
15 when I was on the Public Utility Commission
16 from 1993 to 1998, and indeed, our meetings,
17 our public meetings were in this very room. I
18 want to thank her for traveling here today. I
19 did not ask her to come, and it is an act of
20 friendship that I very much appreciate.

21 The Department of Environmental
22 Protection is also a tremendous collection of
23 public servants. They have been a joy to lead
24 for the last seven months, and I want to thank
25 them, too, for the great work that they're

1 doing on behalf of the people of Pennsylvania
2 and our natural resources and also their
3 kindness that they've extended to me.

4 Madam Chairman, Senator Musto and
5 distinguished members of this Committee, it is
6 an honor for me to appear before you as
7 Governor Edward G. Rendell's nominee for the
8 Commonwealth of Pennsylvania's Secretary of
9 Environmental Protection. Since I became
10 Acting Secretary on September 2, 2008, I have
11 worked with you, Madam Chairman, members of
12 this Committee, as well as members of the
13 Senate and House to address the important
14 environmental and energy issues that face your
15 districts, as well as the Commonwealth. The
16 last seven months have been full of challenges
17 for the people of Pennsylvania and its public
18 officials, but together we have made progress.

19 Just consider the following: On energy
20 conservation, the General Assembly passed
21 Act 129 in October of 2008, a landmark piece
22 of legislation that will make Pennsylvania a
23 leader in electricity conservation when it is
24 fully implemented. Pennsylvanians will now
25 have additional tools to reduce their

1 electricity bills, and Act 129, by reducing
2 total annual consumption by 3 percent and peak
3 electricity demand by 4.5 percent, will help
4 to reduce or moderate electricity prices, as
5 price caps end in the remaining parts of
6 Pennsylvania. In fact, rate caps have ended
7 already in six electric service territories.
8 Act 129 will also reduce pollutants in the
9 most economical manner and help protect public
10 health.

11 In January 2009, after years of work by
12 you, Madam Chairman, this Committee, the
13 General Assembly and Governor Rendell to
14 update our coal mining safety laws, the
15 inaugural meetings of the new Board of Coal
16 Mine Safety were held. Protecting the safety
17 of miners is a daily job that the Department
18 takes most seriously. It is my responsibility
19 to serve as the Chairman of this important
20 Board.

21 Also after years of work by Senator
22 Erickson and Representative Vitali, Act 70 was
23 passed that directs the Department of
24 Environmental Protection to work with a
25 Climate Change Advisory Committee and to write

1 a report for the General Assembly and the
2 Governor. In September the Climate Change
3 Advisory Committee met for the first time, and
4 we have been hard at work to write a report
5 that will make climate change recommendations.

6 In November, the voters approved a
7 referendum that provides another \$400 million
8 for water projects. Governor Rendell asked
9 that I work to explain the importance of that
10 referendum, and I did a large number of events
11 to do so. Now there is a combined
12 \$1.4 billion in State and Recovery money for
13 water projects. As Vice-Chairman of PENNVEST,
14 spending this money wisely is a high priority
15 for me. The 1.4 billion gives Pennsylvania
16 the resources to address pressing issues like
17 raw sewage flowing into rivers and the
18 Chesapeake Bay clean-up.

19 Since September, we have also focused on
20 the opportunities and challenges posed by the
21 enormous Marcellus natural gas reserve.
22 Producing the gas and protecting the water are
23 equally vital. We have taken concrete
24 measures to do both, such as adding 37
25 employees to DEP's oil and gas staff to assist

1 with permits and inspections, opening a new
2 oil and gas office in Williamsport, and
3 raising the gas permit fee for Marcellus wells
4 that had been \$100 and had not been raised
5 since 1984 when it was first set.

6 Pennsylvania now stands ready to be a
7 clean energy powerhouse. We can be a top five
8 natural gas producing state, and natural gas
9 is cleaner burning than many alternative
10 fuels. We can lead on conserving energy,
11 creating tens of thousands of jobs and reduce
12 pollution. We can be a national and world
13 leader in the solar industry, using solar
14 power and manufacturing it. Solar will be a
15 major global industry within 20 years, and it
16 will be an enormous industry within 50 years,
17 and Pennsylvania must be a leader in its
18 growth.

19 We can be a wind power, geothermal and
20 hydro leader, too. We also must be a world
21 leader in deploying carbon capture and storage
22 technology for our coal plants and other
23 carbon resources. Capturing carbon and
24 storing it is essential to both our economy
25 and to stabilizing atmospheric concentrations

1 of carbon dioxide. The Governor has asked me
2 to do whatever I can to move forward carbon
3 capture and storage technology. I
4 congratulate Senator Erickson, as well as
5 Representatives Vitali and Ross, for their
6 introduction of Senate Bill 92 and House
7 Bill 80 that would boost renewable energy and
8 carbon capture and storage technology.

9 By being a clean energy powerhouse in
10 energy conservation, natural gas, solar,
11 carbon capture and storage technology, as well
12 as wind, geothermal, hydro, biodiesel and
13 cellulosic ethanol, Pennsylvania will create
14 hundreds of billions of dollars of new wealth,
15 hundreds of thousands of new jobs and cut
16 substantially the pollution of our air, land
17 and water that harms ecosystems and sickens
18 human beings.

19 Indeed, recently the New England Journal
20 of Medicine looked at the health impacts of
21 reducing soot in the Pittsburgh region from
22 1980 to 2000 and found that the life
23 expectancy of somebody living in the
24 Pittsburgh region was extended by ten months,
25 which is an incredible number, as a result of

1 those reductions.

2 In January and February 2009, the
3 Department opened two new energy conservation
4 programs made possible by Act 1, the \$650
5 million Alternative Energy Funding bill that
6 was passed in July 2008. One program is for
7 small businesses, and one is for residential
8 consumers. Both programs were opened without
9 adding one additional employee.

10 Also, since September, the Department
11 continues to administer its many vital
12 programs and services, including Growing
13 Greener II, that you, Madam Chairman and
14 members of this Chairman, were instrumental in
15 establishing. As DEP goes about its work, it
16 cannot be a see-no-evil-hear-no-evil
17 regulatory agency. Yet, nobody at DEP comes
18 to work to put anyone out of a job.

19 The old battles between jobs and public
20 health and the environment are being solved by
21 technology and a changing economy, where clean
22 companies and communities are competitive,
23 surviving and growing. Clean companies and
24 communities are efficient and attract and keep
25 investment. They also depend on compliance

1 with the law.

2 Indeed, our market economy to function in
3 a sustainable manner depends on sensible rules
4 and reasonable enforcement of them. I support
5 competitive market approaches to problems, as
6 my career demonstrates. I support nutrient
7 trading markets. I support markets for
8 alternative energy credits. I support sulfur
9 dioxide, nitrogen and carbon markets. I
10 support competitive markets for natural gas,
11 electricity and telecommunications. I also
12 understand that markets can be manipulated and
13 will implode without reasonable rules and
14 without regulators who understand that
15 government plays a vital role in the
16 functioning of a healthy market and are
17 willing to enforce necessary rules.

18 Of course, since September, we also have
19 found ourselves in the middle of a global
20 economic crisis that has caused millions of
21 Americans to lose their jobs, lose health
22 insurance, and have hours of work reduced.
23 While Pennsylvania's unemployment rate is
24 lower than the national average and much lower
25 than states like California, South Carolina,

1 Michigan and Nevada, our unemployment rate is
2 rising, too. And while Pennsylvania's real
3 estate markets are less damaged than
4 Florida's, Arizona's, Nevada's or
5 California's, many Pennsylvanians have lost
6 homes or are near foreclosure. Our economic
7 problems have made state budget cuts
8 necessary. We are in this problem together,
9 and I am committed to working together to play
10 our role in getting us out.

11 These are just a handful of the many,
12 many issues and problems that we have worked
13 on together to sensibly solve just since
14 September. When Governor Rendell asked me to
15 serve as the Acting Secretary of the
16 Pennsylvania Department of Environmental
17 Protection, I had one question for him: "What
18 do you want me to do?"

19 The Governor replied quickly and
20 comprehensively that he wanted me to: Help to
21 enact the remainder of his Energy Independence
22 legislative package, which at that point was
23 mainly Act 129 that was passed in October 2008
24 and which will make Pennsylvania a leading
25 electricity conservation state.

1 He wanted me to implement the numerous
2 landmark energy and environmental statutes and
3 regulations passed since 2003, and all of
4 those provisions have gone through this
5 Committee and with work from you, Madam
6 Chairman, and others on the Committee.

7 He wanted me to work with the Climate
8 Change Advisory Committee to write the climate
9 change plan required by Act 70 that was passed
10 in July of 2008. He wanted me to focus on a
11 series of water issues, including the
12 Chesapeake Bay, buffers, the state water plan,
13 water and sewer infrastructure projects and
14 funding, dam and flood protection projects and
15 flooding, and drilling for Marcellus shale
16 where the Governor stated he wanted to produce
17 the gas and protect our waters, and then he
18 also wanted me to operate and manage the daily
19 operations of the Department of Environmental
20 Protection.

21 Governor Casey, who nominated me to serve
22 as a Commissioner to the Pennsylvania Public
23 Utility Commission, said that in public
24 office, quote, if you do not toot your own
25 horn, there is no music. With that insight in

1 mind, based on my education, knowledge and
2 25 years of experience in utility, energy and
3 environmental law, policy and regulation, I
4 knew that I could move forward the agenda that
5 Governor Rendell described, and so I accepted
6 his request that I serve.

7 Serving people, this state and my country
8 is my reason for being in front of you today.
9 My work as Acting Secretary since September
10 2008 is the second time that I have been in
11 public service. I was previously confirmed in
12 1993 by the Senate to serve as a Commissioner
13 of the PUC. Indeed my 25 years of experience
14 with utilities, energy and the environment
15 give me a great ability to help Pennsylvania
16 in these critical times to win billions of
17 dollars of investment that will create
18 hundreds of thousands of jobs in clean or
19 cleaner energy sectors such as energy
20 conservation, renewable energy and natural gas
21 industries.

22 Specifically between September 2008 and
23 the end of Governor Rendell's term, our goal
24 is to build another 1,000 megawatts of
25 renewable energy and to help Pennsylvania

1 companies and communities successfully compete
2 to bring more than \$1 billion of new federal
3 energy and other environmental funding to
4 Pennsylvania.

5 My belief in public service stems in part
6 from my immigration to this country five days
7 before my thirteenth birthday in 1970. I
8 received opportunity and support in the United
9 States of America, including government
10 student loans that enabled me to pay for my
11 legal education at the University of
12 Pennsylvania School of Law from 1981 to 1984.
13 As most immigrants do, I work hard each day.
14 The death of my father at an early age during
15 the first semester of my first year of law
16 school taught me today is precious and the
17 next day is not guaranteed, so it's important
18 to make the most of and to be thankful for
19 each day.

20 Public service and efficient government
21 is vital to our market economy, our
22 environmental, public health and national
23 security. Public service done well requires
24 hard work, thoughtfulness, attention to facts,
25 a willingness to listen and pragmatically

1 solving problems. I also fully understand the
2 difference between being an advocate in the
3 private sector and being a public servant.

4 Today, Pennsylvania and the nation are in
5 difficult times. Our economy's performing
6 better than the nation, but our economy is
7 struggling, too. I think in these times we
8 need to put aside the petty things, the
9 ideological answers and blind partisanship to
10 play our role together in getting the global,
11 national and state economy stabilized and then
12 growing again.

13 Through the American Recovery and
14 Reinvestment Act, our Department will have the
15 ability to do its part to create and save jobs
16 by implementing advanced energy measures and
17 creating green collar jobs, investing in the
18 state's water and wastewater infrastructure,
19 and implementing new technology through
20 Pennsylvania's air quality and waste
21 management programs.

22 DEP will help to steward more than
23 \$350 million of recovery money, including more
24 than \$219 million for water and wastewater
25 infrastructure that will go through PENNVEST,

1 \$123 million for energy projects, and
2 \$8 million for air and waste projects. The
3 Department quickly responded to the Governor's
4 request by mobilizing its resources and
5 providing recommendations for funding streams
6 and putting these federal dollars to work.

7 Through its Office of Energy and
8 Technology Development, DEP will help
9 Pennsylvania also compete for the \$25 billion
10 in competitive energy funding. We hope to win
11 \$1 billion with private sector partners and
12 others here in Pennsylvania. This act will
13 require a great deal of work and cooperation
14 within the agency, but the Department will
15 deliver results for all Pennsylvanians.

16 In conclusion, I'm confident that we will
17 together meet the challenges in front of us,
18 and importantly, those challenges actually
19 contain opportunities to make Pennsylvania
20 cleaner and better. Thank you, Madam
21 Chairman. I look forward to our conversation.

22 CHAIRMAN WHITE: I have just a couple of
23 preliminary questions and then we'll open it
24 up to the Committee. You were previously at
25 Citizens for Pennsylvania's Future called

1 PennFuture. How long were you there and what
2 was your title?

3 ACTING SECRETARY HANGER: I served at
4 PennFuture from 1998 to August 2008.

5 CHAIRMAN WHITE: And your title was?

6 ACTING SECRETARY HANGER: President and
7 CEO.

8 CHAIRMAN WHITE: President and CEO. Why
9 would PennFuture -- you filed suit or notice
10 to sue against DEP in situations where your
11 organization believed that permits were
12 improperly issued or laws were not properly
13 enforced. We have several specific cases that
14 are still open and pending, so you're in
15 the unusual position I think of being both --
16 where you were formerly the Plaintiff in the
17 case you are now the Defendant in the case or
18 you would be as head of DEP.

19 So you were given a letter today I
20 believe from me asking about this pending
21 litigation, how you propose to handle it going
22 forward. I don't expect you to have those
23 answers today or be able to address each of
24 these cases today, but the question is, are
25 you altering DEP's legal position? How will

1 these be handled?

2 ACTING SECRETARY HANGER: The answer,
3 Senator, is in any matter, legal matter, where
4 I served at PennFuture and that matter is now
5 an open matter at the Department of
6 Environmental Protection, I'm recusing myself
7 from handling those decisions. I have no
8 involvement in those cases. Those decisions
9 are being made by the leadership in the
10 Department, in some cases by the Governor's
11 Office and the General Counsel's Office in the
12 Governor's Office.

13 CHAIRMAN WHITE: So settlement
14 discussions and the rest would not be anything
15 you would participate in or even have
16 discussions with your staff concerning those?

17 ACTING SECRETARY HANGER: That's correct.
18 I do not participate whatsoever. On the first
19 day I got to work I said make sure that I am
20 recused from those cases and any other matters
21 that involve PennFuture, for example, grants
22 or other matters like that.

23 CHAIRMAN WHITE: Have you had any
24 discussions with or do you have any
25 understanding with PennFuture as to whether

1 you would have an expectation of returning
2 there at the end of your term as Secretary?

3 ACTING SECRETARY HANGER: No. I don't
4 know what I'm going to do at the end of my
5 service in public life here. I'm actually
6 looking forward to going back to the private
7 sector. PennFuture has filled that spot on a
8 permanent basis. It's not open. It is not
9 being filled on an interim basis. It is
10 permanently filled.

11 CHAIRMAN WHITE: At the beginning of the
12 '03-'04 and '05-'06 legislative session the
13 State Senate adopted a rule requiring anyone
14 lobbying the Senate to register with the Clerk
15 as Secretary of the Senate as a lobbyist. In
16 2005 you failed to register as a lobbyist
17 until November, ten months after you were
18 required to do so. Why was that?

19 ACTING SECRETARY HANGER: I'm not aware
20 of that delay. I can check and get back to
21 you. Obviously I take those obligations
22 seriously and certainly believe I am in full
23 compliance with those obligations.

24 CHAIRMAN WHITE: Okay. Well, we'd be
25 interested to hear the explanation. But it

1 was probably an oversight, is that a fair --

2 ACTING SECRETARY HANGER: It's probably
3 an oversight, because I take those obligations
4 very seriously.

5 CHAIRMAN WHITE: Well, because you were
6 registered in '03-'04, so you were obviously
7 aware of the requirement.

8 ACTING SECRETARY HANGER: And obviously I
9 would intend to have done it in '05 and did do
10 it but apparently not quite on time, which I
11 regret.

12 CHAIRMAN WHITE: Former Secretary of
13 Environmental Protection Kathleen McGinty
14 pledged before this Committee that the Rendell
15 Administration would not seek mandatory
16 reductions of carbon dioxide or other
17 greenhouse gases unless it was through
18 legislation.

19 Would you pledge to maintain this policy?

20 ACTING SECRETARY HANGER: Certainly
21 there's no ability of the Department to
22 mandate confidence of cuts in greenhouse
23 gases. The Governor's made it clear to me
24 that for those matters he's waiting for the
25 Federal Government to decide on things like

1 cap-and-trade, and we are not moving forward
2 with anything that remotely deals with
3 mandatory reductions. Our discussions at the
4 Climate Change Advisory Committee are on a
5 series of policies that would have the benefit
6 of reducing carbon dioxide and often saving us
7 dollars and producing other economic
8 opportunity. It's completely in a different
9 direction from, for example, the Regional
10 Greenhouse Gas Initiative, which is a
11 mandatory provision.

12 The Governor chose not to join the
13 Regional Greenhouse Gas Initiative, and he's
14 made it clear to me that we won't be joining
15 the Regional Greenhouse Gas Initiative. I
16 completely support the Governor's views on
17 these matters.

18 CHAIRMAN WHITE: Well, I guess my
19 question though just to pin it down is, while
20 policies are very good, policies are not a
21 substitute for legislation, and if we are
22 moving forward, would you continue the
23 practice of Secretary McGinty in agreeing that
24 if we do go forward on this it will be through
25 legislation and not through regulation?

1 ACTING SECRETARY HANGER: Certainly for
2 mandatory cuts, it was going to require
3 legislation, yes.

4 CHAIRMAN WHITE: Thank you. Senator
5 Musto.

6 SENATOR MUSTO: Thank you, Madam
7 Chairman. Madam Chairman, if you will allow
8 me the latitude, I have a number of questions
9 by members of the Senate that are not members
10 of the Committee, and I would like to do that
11 on their behalf.

12 CHAIRMAN WHITE: Senator, you have every
13 right to ask any question on behalf of anyone.

14 SENATOR MUSTO: Thank you. Earlier this
15 year the Commonwealth Court ruled that DEP's
16 regulatory scheme for mercury emissions was
17 invalid and unenforceable. In light of that,
18 can you tell the Committee what the status of
19 this regulation is and what the Department's
20 plans are for the future?

21 ACTING SECRETARY HANGER: Yes, Senator.
22 The rule did become final and did become
23 operative for a brief period of time, and it's
24 been challenged by PPL. There was a decision
25 by Judge Pellegrini in Commonwealth Court

1 sitting alone that granted -- that overturned
2 the rule. The Commonwealth has appealed that
3 decision to the Pennsylvania Supreme Court.

4 It rests now in the hands of the
5 Pennsylvania Supreme Court. I think it's fair
6 to say that both the Federal Government and
7 the State Government is having a hard time
8 writing a mercury rule that withstands
9 judicial review. The federal rule has also
10 been thrown out, so in my belief at this
11 point, we're in an unfortunate position where
12 there is no rule that has survived to date at
13 least through judicial review. Obviously the
14 Pennsylvania Supreme Court will decide this
15 matter, and we will fully implement what the
16 Supreme Court says.

17 SENATOR MUSTO: In the interim do you
18 think it's wise to pursue the regulation of
19 mercury emissions from power plants given the
20 fact that EPA will soon consider regulation of
21 this air pollutant? As you did answer the
22 question, I think you're probably not only
23 well aware of it, but I think we should wait
24 and see what EPA's going to do.

25 ACTING SECRETARY HANGER: Well, when the

1 state rule was being considered a bone of
2 contention was whether or not trading of
3 mercury was allowed under the federal law. I
4 know that the Department at that time, and I
5 shared this view, although I was not part of
6 the Department, believed that trading of
7 mercury since it was toxic could not be done
8 under the Clean Air Act, and that was actually
9 illegal under the Clean Air Act. The Federal
10 Courts agreed with that position and threw out
11 the federal rule significantly because of
12 that.

13 At this point with an injunction of the
14 rule, I believe we're in a situation where we
15 have no rules on mercury. I think many
16 companies in the private sector understand
17 that mercury is going to be regulated and have
18 moved forward with treatment technology. I
19 would welcome a federal rule that is
20 protective of Pennsylvania's environment and
21 makes sense for Pennsylvania. We will
22 certainly look at that and hope for that.

23 SENATOR MUSTO: Thank you. Last year
24 when the Legislature passed the Alternative
25 Energy Investment Act, there was provisions

1 for \$25 million to be spent to help power
2 plants install technology that would reduce
3 mercury emissions. DEP is supposed to develop
4 the criteria for distributing the \$25 million.
5 When will we be seeing those guidelines?

6 ACTING SECRETARY HANGER: I believe those
7 guidelines are a matter of weeks away, if not
8 days away, from being published. As you can
9 well imagine, there is a huge amount of work
10 at the Department, and implementing the Act 1
11 is just part of it. We have opened two
12 programs, and this item is important as well,
13 and it is near completion.

14 I personally have a goal that we'll have
15 all of those provisions of Act 1 implemented
16 by within a year. I would like that to be
17 faster, but we've got just an enormous amount
18 of things to do at the Department, and as you
19 well know, Senator, unfortunately, we have
20 difficult budget situations. We have a hiring
21 freeze, although the Governor has given some
22 important exceptions to that for the
23 Department, which we're very appreciative of,
24 so there's only so much that we can do so
25 quickly, but that is an important item, and I

1 think we're near completion on it.

2 SENATOR MUSTO: Good. I understand well
3 there's \$25 million to be distributed, so the
4 sooner we get at it the better.

5 ACTING SECRETARY HANGER: I believe --
6 and I could be wrong on this, Senator -- I
7 believe that has to be -- results from a bond
8 issue which has not yet been done. I believe
9 that's accurate. And obviously the Department
10 is not in a position to issue bonds. We don't
11 have that authority. It's a responsibility of
12 the Commonwealth Financing Authority.

13 SENATOR MUSTO: I understand the
14 Department is in the process of extensively
15 revising the waste related regulations. When
16 might the proposed regulations go before EQB?

17 ACTING SECRETARY HANGER: When would --
18 what was the question, when will they go?

19 SENATOR MUSTO: Revising waste
20 regulations.

21 ACTING SECRETARY HANGER: Yes, we have a
22 proposal. It's going through the normal
23 processes. It will include review by the EQB.
24 We're at the early stages of the normal
25 official public processes. There's been a lot

1 of work done by the staff with interested
2 parties before they publish the regulations.
3 We're looking forward to receiving public
4 comment, and I'm sure there will be some
5 adjustments as we go through that process.

6 SENATOR MUSTO: Very well. The statewide
7 water plan has now been completed. What are
8 the Department's plans for outreach in making
9 sure that the regulated community, local
10 governments and citizens are aware of this
11 plan and how they might be able to use it?

12 ACTING SECRETARY HANGER: Well, we
13 regularly talk with obviously associations
14 like PSATS and County Commissioners. We
15 regularly talk with water companies and
16 business groups. We have a regular meeting
17 with the Chamber of Commerce. We will use our
18 normal regular meetings to make sure this is
19 included in it. We did an event last week
20 celebrating the great work that led to that
21 plan. That was obviously an attempt to get
22 some more attention to it and publicity for
23 it. We will continue to look for ways that we
24 can educate as many people as possible about
25 that.

1 CHAIRMAN WHITE: Senator Stout.

2 SENATOR STOUT: Thank you, Madam
3 Chairperson. Mr. Hanger, I was glad that you
4 mentioned the carbon sequestration is one of
5 the duties that the DEP and the Governor asked
6 you to be involved in. As you know, DCNR is
7 now doing a pilot project on carbon
8 sequestration. What review does DEP have in
9 development of that plan?

10 ACTING SECRETARY HANGER: Well, I
11 personally have engaged in all of that work,
12 and the plan is formally the responsibility of
13 the Department of Conservation and Natural
14 Resources. They have the state geologists,
15 and most of that work involves geological
16 siting work, but I communicate regularly with
17 Secretary DiBerardinis, who I think maybe this
18 is his last day, but also John Quigley, who is
19 chief of staff there and has really personally
20 led that work, so our involvement is almost on
21 a daily basis, Senator, and it's very
22 collaborative.

23 That, you're right, the carbon capture
24 sequestration work I believe is one of the
25 really vital functions and jobs for State

1 Government. It's going to take DCNR. Yes,
2 it's going to take work from the Department of
3 Environmental Protection. It's going to take
4 work by this Committee and the General
5 Assembly to make it a reality.

6 We also have a private sector
7 philanthropy foundation that is working with
8 DCNR to put together what is really an
9 exciting initiative, and that would be to
10 create a carbon capture and sequestration
11 network in Pennsylvania. Most of the projects
12 around the United States and indeed around the
13 world involving this technology are what I
14 describe as essentially one plant, one site,
15 and they tend to be very expensive as a
16 result.

17 The hope of doing a network which would
18 link four to eight sources together is to
19 drive down the cost through getting to
20 commercially viable scale quickly, and the
21 Department of Conservation and Natural
22 Resources is going to come out with a report
23 in May. The Clinton Foundation is doing the
24 business plan and working with private sector
25 partners. It includes utilities, coal

1 companies and others. It will come forward
2 with a business plan in June.

3 I have journeyed with the Governor to
4 Washington, D.C., to meet with Secretary Chu
5 at the United States Department of Energy to
6 discuss this matter. I was in Pittsburgh last
7 week and had an opportunity to be with
8 Secretary Chu again and raised it with him
9 personally, as well as his staff. This is a
10 top item for the Governor and for me.

11 SENATOR STOUT: Thank you, Madam
12 Chairman.

13 CHAIRMAN WHITE: Senator Don White,
14 questions?

15 SENATOR D. WHITE: Thank you, Madam
16 Chairwoman. First of all, Mr. Hanger, we met
17 for the first time a couple weeks ago, and I
18 have to say that prior to meeting you, as I
19 think I jested to you the other day, I thought
20 you had horns and a tail, and I really enjoyed
21 our meeting. I think we found some points
22 where we agree to disagree and especially in
23 regards to carbon capture, and I certainly
24 don't like to be held on the record for things
25 I've said five, ten years ago, but that's part

1 of being a public figure, and you've served
2 the Commonwealth well for a lot of years, but
3 I've got to ask you something.

4 Since I represent an area that basically
5 is the heartland of the potential Marcellus
6 shale play, coal production, generation, oil
7 and gas, I mean, I touch them all, I've got to
8 ask you this question, because as I think I
9 mentioned to you the other day, I believe that
10 the GNP of my district is roughly derived from
11 35 to 40 percent in the energy business with
12 jobs directly related to and indirectly, but
13 as I mentioned, I don't like to be called back
14 on the carpet with something I said, but in
15 1994 you stated your support for PA coal as
16 the best way to reduce power costs, I quote,
17 and keep them stable in the long term. You
18 further stated: The surest way to increase
19 power costs in Pennsylvania is to start
20 figuring out ways to raise the price of coal
21 and the cost of using coal in electric
22 generation.

23 Now, moving ahead to 2004 when you were
24 in a position with PennFuture, you supported
25 the Toxic Release Inventory which made

1 emissions which were illegal under your
2 Department's air quality standards on coal
3 power plants by stating: It's long over. Why
4 should anybody be able to pollute the air, the
5 land and the water for free? Those plants
6 aren't going anywhere, and, frankly, they are
7 cash cows.

8 What happened to change your position --

9 ACTING SECRETARY HANGER: Sure.

10 SENATOR D. WHITE: -- on coal so
11 drastically?

12 ACTING SECRETARY HANGER: Well, first,
13 I'd like to put my answer in a little bit of
14 context, but I'm going to give you a direct
15 answer if you just bear with me. I understand
16 that coal is 50 percent of electricity or
17 provides 50 percent of the electricity that we
18 have here this morning. I've always
19 understood that. And in 1994 I certainly -- I
20 was a member of the Pennsylvania Public
21 Utility Commission. I was very concerned
22 about power cost. That was my primary focus
23 and my primary responsibility in many ways.

24 That's one of the reasons why I was
25 looking for ways to reform how we regulate

1 utilities and to end monopolies where we could
2 and create real competition. Certainly over a
3 fifteen-year period there's also -- and even
4 over a ten-year period, there is changes in
5 technologies, changes in circumstances. I
6 think that quote that you are using in 2004,
7 and it might not be in the most artfully or
8 intelligently way of stating what I'm about to
9 say, is really a statement that pollutants
10 should be included in the price of the fuels.
11 Economists say in order to get an accurate
12 price the external costs should be included in
13 the fuels.

14 So I believe in that as a matter of
15 economics, that externalities need to be
16 included in the price of fuels, and obviously
17 there's a debate in this country about carbon
18 dioxide and including that in the price of
19 fuels, and we've had the discussion with the
20 Chairman about that, and the Governor has
21 said, and I fully support that, that those
22 issues need to be worked out at the federal
23 level in terms of including actual cost of
24 carbon in coal. Coal is going to be a
25 continued part of how Pennsylvania powers

1 itself. It's going to be a continued part of
2 how the United States powers itself, and even
3 perhaps more to the point, it's going to be a
4 major part of how the world powers itself at
5 least for 30 years. And that's one of the
6 reasons I am so pleased to follow the
7 Governor's command here about let's get
8 serious about carbon capture and storage
9 technology.

10 So I hope that helps square the comments.
11 I would concede to you that the comment wasn't
12 the most articulate or well thought out
13 statement. I'm a little embarrassed that
14 somebody caught it and kept it for all this
15 time, but as you say, it's a part of being in
16 public life in one way or another for actually
17 in my case about 30 years.

18 SENATOR D. WHITE: And I appreciate your
19 directness on answering that question. Once
20 again, I look at what's transpired in the
21 energy business, and I look at the generation
22 stations that are immediately in my area, and
23 I basically have three in a twenty-mile
24 radius. I have one in the process right now
25 that's spending four to six hundred million

1 dollars on their scrubbers to comply and meet
2 the standard, the new EPA standards in regard
3 to their emissions.

4 And when I sit -- you and I didn't get
5 into a lot of detail in regards to carbon
6 capture, but the cost, and I put you on the
7 spot and asked you for a number, and that
8 probably wasn't fair, but you said the
9 technology has worked within the oil fields
10 and other places.

11 ACTING SECRETARY HANGER: Yes.

12 SENATOR D. WHITE: But it's a little
13 different situation than what we have with
14 generation. Your idea of those three being
15 able to share the cost of and joining together
16 on the carbon capture might have some
17 potential. But you're looking at the overall
18 cost, and right now with coal being back to
19 the same price standards of five, ten years
20 ago, I just worry about where this leads and
21 how my generators will ever be able to afford
22 this.

23 ACTING SECRETARY HANGER: Well, in terms
24 of the financing of carbon capture and storage
25 technology, in my view there's three things

1 that have to happen to make it economically
2 viable to make it real, and I think we all
3 have a huge stake in making it real regardless
4 of where we come from geographically or where
5 perhaps we are politically or whether we like
6 coal, don't like coal, I think we all have a
7 huge stake in making this real.

8 There's three what I'll describe as
9 wallets that have to be opened to make this
10 viable. The first and foremost is the Federal
11 Government. It's not going to happen in
12 Pennsylvania or anywhere else in America
13 unless the Federal Government comes to the
14 table with a significant financial
15 contribution. I believe the Federal
16 Government is coming to the table with a
17 significant financial contribution. There's
18 \$3.4 billion just in the Recovery Act for
19 carbon capture and sequestration technology.

20 I am working hard, and the Governor is,
21 too, to make the case to the Department of
22 Energy that Pennsylvania has a viable plan to
23 create that network. Our network is one-of-a-
24 kind, nobody else is even proposing anything
25 like it, and that we are worth investing in

1 it. So the first contribution has to come
2 from the Federal Government.

3 The second contribution is really
4 addressed by Senator Erickson's Bill. He
5 creates a new revenue stream by making carbon
6 capture and storage technology a tier within
7 the Alternative Energy Portfolio Standard, and
8 that's an important revenue stream. We've
9 been told that by GE, General Electric. We've
10 been told that by other companies that would
11 be interested in in fact deploying this
12 technology at plants. They said that kind of
13 revenue stream is an important part of
14 financing it, and they have said to us that if
15 the Federal Government is at the table, if we,
16 the state, are involved with Alternative
17 Energy Portfolio Standard, they, too, will
18 then come to the table and make the
19 investments needed.

20 It is also going to take private sector
21 investment, and it will take public-private
22 involvement. I'm not guaranteeing you success
23 here, Senator. What I am guaranteeing you is
24 I'm going to do everything possible to make it
25 happen.

1 SENATOR D. WHITE: I appreciate your
2 answers, and I appreciate your passion for
3 this job. Thank you.

4 ACTING SECRETARY HANGER: Thank you,
5 Senator.

6 CHAIRMAN WHITE: Just as an afterthought,
7 that second piece comes from the rate payers,
8 does it not?

9 ACTING SECRETARY HANGER: Ultimately
10 you're right. I think it's a very good
11 investment on the behalf of rate payers.

12 CHAIRMAN WHITE: It may be, but as a
13 former member of the Utility Commission, I
14 know you understand that legislators are very
15 concerned about what is going to happen to our
16 constituents when the rate caps come off in
17 certain parts of this Commonwealth. We have
18 people right now that can't heat their
19 churches. They stop holding or they have only
20 one service a Sunday because they can't keep
21 these great big cavernous places warm.
22 Hospitals, schools, everybody's coming to us
23 complaining about their electric bills and
24 terrified of what's going to happen if they're
25 going to see 30 percent increases in the next

1 year or two.

2 ACTING SECRETARY HANGER: Well, let me
3 address that, please. Certainly the Governor
4 shares the concern about increasing energy
5 costs and increasing electric bills, and he is
6 supportive of legislation that would provide a
7 phase-in of any rate increases that may result
8 when rate caps end in the rest of the state.

9 I want to quickly emphasis they've ended
10 in six parts of the state already. We have
11 perhaps got a silver lining in the dark
12 economic cloud here. One of the reasons that
13 coal prices are down is the demand in the
14 economy has fallen very substantially, and
15 it's driven down commodity prices, and it's
16 also driven down electric prices.

17 They are much lower than they were in
18 July of 2008. The protections by the Public
19 Utility Commission, our increases are lower.
20 Indeed, in the case of the Exelon service
21 territory, there may not be many or any
22 increases. There maybe in fact be consumers
23 receiving nominal rate decreases. The next
24 point that I want to make is that there are
25 some good deals available to consumers right

1 now, and I wish they would take advantage of
2 them.

3 I think in the Penn Power service
4 territory you go to the Office of Consumer
5 Advocacy website, there is a company, I'll
6 name it, Dominion, and another company, First
7 Energy Solutions, that have an offer for
8 residential electric service that would save
9 in the case of Dominion a residential customer
10 \$37 a month compared to the utility offering.
11 That works out to \$444 a year.

12 CHAIRMAN WHITE: So to cut you short,
13 since this really wasn't my turn to question.

14 ACTING SECRETARY HANGER: Sure.

15 CHAIRMAN WHITE: Are you saying that
16 perhaps electric competition is really going
17 to work after all? I hope that's what you're
18 saying.

19 ACTING SECRETARY HANGER: I personally
20 think that when I was on the Public Utility
21 Commission, here's where we stood on electric
22 prices. The state was ranked eleventh or
23 twelfth highest in the country. We had rates
24 on average 15 percent above the national
25 average.

1 Today our prices are below the national
2 average. We rank typically about 5 percent
3 below the national average. If you look at
4 commercial rates, on average we're about 26th,
5 27th or 28th in the country. In other words,
6 we're falling in a good way. We don't want to
7 be high on this list. And in the residential
8 rates are actually around 20th.

9 Now, having said all of that, these are
10 tough economic times. We all know that, and
11 we're all sympathetic and empathetic in doing
12 everything we can to help our economy, help
13 people who got jobs keep them and help people
14 who don't have jobs, perhaps are retired, deal
15 with things like increasing costs for
16 electricity where they may happen, and there's
17 going to be differences geographically, and we
18 need a policy that addresses those differences
19 and helps folks in a sensible way where there
20 may be some increases.

21 The last point I'd make here is that a
22 30 percent increase is very real and it has to
23 be dealt with. Economists would also point
24 out that after 14 years of rate caps, having a
25 30 percent increase doesn't mean you're

1 actually paying more in real dollars after
2 that point than you were in 1996. Now, that's
3 a point that economists can appreciate, but
4 people who pay bills won't.

5 CHAIRMAN WHITE: The point I was just
6 trying to make is that the 30 percent increase
7 doesn't include whatever we might be tacking
8 on for carbon sequestration or whatever the
9 Federal Government might be putting on in
10 future emissions requirements, so that
11 30 percent could jump.

12 ACTING SECRETARY HANGER: It could, and
13 it could fall. One thing we learned in 2008
14 is how incredibly volatile these prices are,
15 and natural gas went or oil went from 70 bucks
16 in January to 147 bucks in July and closed
17 below 40 in December. There is a great deal
18 of benefit frankly from diversifying. I'm not
19 ready to tell you today that carbon capture
20 and storage of coal is going to be more
21 expensive for sure than some of the other
22 alternatives. If natural gas goes back to \$13
23 or \$16 for thousand cubic feet it might be
24 cheaper than making electricity by burning
25 natural gas. That's not the case today.

1 CHAIRMAN WHITE: Senator Erickson. I'm
2 sorry, I took your time.

3 SENATOR ERICKSON: Not a problem, Madam
4 Chairman. Thank you. Good morning,
5 Mr. Hanger.

6 ACTING SECRETARY HANGER: Good morning,
7 sir.

8 SENATOR ERICKSON: It's a pleasure to see
9 you here, and I appreciate your recognition in
10 your opening comments. Thank you. I have
11 three areas that I would like to touch on.
12 The first is the Climate Change Advisory
13 Committee, which you mentioned. I believe
14 there are two deadlines coming up. One is for
15 the preliminary report, and I believe that's
16 April 9th this year, and then finally the
17 final report, which is October 9th. Will the
18 Department meet those deadlines?

19 ACTING SECRETARY HANGER: If you give me
20 a little bit of wiggle room, yes. I can't
21 promise you --

22 SENATOR ERICKSON: What does that mean?

23 ACTING SECRETARY HANGER: It means
24 formally no, it probably wouldn't be right on
25 April 9th or October 9th, but within what I

1 would call a wiggle room, which is I guess a
2 matter of weeks or perhaps 30 days plus. It
3 won't be plus or minus on those deadlines.
4 Everybody is working very hard to get the
5 report done in an intelligent, thoughtful way
6 involving a lot of different viewpoints, which
7 is important, and we also want to get it done
8 in a timely way, and we're working hard at
9 doing both of those things.

10 SENATOR ERICKSON: Thank you. I see
11 Representative Vitali in the audience, and
12 both of us are very anxious to see these
13 reports.

14 ACTING SECRETARY HANGER: Yes.

15 SENATOR ERICKSON: So we look forward to
16 that. The next issue is transport of airborne
17 pollutants. I believe there's a pending case
18 that you have with the Federal Government.
19 Can you just very briefly discuss the
20 transport of oxides of sulfur and nitrogen,
21 perhaps mercury --

22 ACTING SECRETARY HANGER: Right.

23 SENATOR ERICKSON: -- and CO2 into our
24 area? From the southeast it puts us at a
25 disadvantage in terms of the air quality issue

1 and that on business development.

2 ACTING SECRETARY HANGER: Well, I think
3 it's fair to say that the air regulation at
4 the national level has featured a lot of
5 litigation almost across-the-board, and
6 probably that litigation has in just about
7 every important matter prevailed. In other
8 words, those challenging rules have typically
9 won in the Federal Courts.

10 At times Pennsylvania has joined some of
11 those suits. At other times we have not been
12 part of those suits. In the case of the
13 pollutants that you talked about, we do need
14 federal rules. There are some I think what we
15 call the Clean Air Interstate Transport area
16 and what we call the CAIR Rule that's very
17 important to get on the books, and indeed,
18 there's been another zig and a zag in the
19 litigation around the CAIR Rule that seems to
20 more or less put the CAIR Rule back in play
21 though it hasn't been finalized. And why it's
22 all so important is what you pointed out,
23 we're not completely the master of our own
24 fate here. About -- and this is just a rule
25 of thumb, but roughly speaking, a third of the

1 pollution that we have in Pennsylvania blows
2 in from other states, about a third of it
3 comes from the vehicles in our state, and a
4 third comes from our own sources, and we also,
5 Senator, have been sued by other states or
6 notice for suit by other states concerned
7 about pollution coming from us.

8 Again, we need to certainly keep the
9 pressure on getting a good federal rule, and
10 we also need to work on cleaning up our
11 sources.

12 SENATOR ERICKSON: I certainly would urge
13 that we continue putting pressure at the
14 federal level. And lastly, I just want to
15 make a comment. What we talked here about
16 carbon capture and sequestration, perhaps the
17 format that we have in House Bill 80 and
18 Senate Bill 92 is not the final product, it
19 will be open for discussion. I view it as a
20 business development opportunity. We are
21 sitting on an awful lot of coal. If we can
22 come up with some schemes, and I mean that in
23 a good sense of the word, to advance carbon
24 capture and sequestration, I believe that will
25 ultimately result in a great amount of

1 utilization of a product that we have, and, of
2 course, it will develop business within our
3 Commonwealth.

4 ACTING SECRETARY HANGER: I agree with
5 you.

6 CHAIRMAN WHITE: With regard to wiggle
7 room, I would be completely happy to give you
8 a statutory extension of the time, whatever is
9 needed, for both the interim reports and the
10 final reports, because I am very concerned
11 that this wiggle room involves perhaps a
12 shortening of the opportunity of the public to
13 have the ability to comment on the final plan,
14 and I think if there is one piece we should
15 not shortcut, it would be that piece, so if
16 what we're trying to do is compress the
17 beginning and then have it so that we've not
18 allowed the usual public comment period on the
19 final draft or on the draft as it comes out of
20 Committee, I think we should take a serious
21 look at that timeline and see if it needs some
22 legislative revision. Would you agree with
23 that?

24 ACTING SECRETARY HANGER: Well, I would
25 agree that if that's needed we'll come to you,

1 and I certainly appreciate that offer. I am
2 trying to get the job done without
3 legislation.

4 CHAIRMAN WHITE: I think we'd rather have
5 it done right than have it done quick.

6 ACTING SECRETARY HANGER: I can assure
7 you it's going to be done right, and if that
8 requires coming back and asking for more time,
9 we will do that.

10 CHAIRMAN WHITE: Thank you. Senator
11 Baker.

12 SENATOR BAKER: Thank you, Madam Chair.
13 Mr. Secretary, thank you for being here. You
14 and I have had significant discussion about
15 Marcellus shale play, which is pretty much
16 contained in northeastern Pennsylvania in the
17 20th Senatorial District, and I know you
18 indicated your interest in responsible
19 development of that and the expansion of the
20 natural gas. I appreciate the fact that the
21 Department has moved forward in hiring
22 additional staff both in Williamsport and the
23 Wilkes-Barre region to address the issues
24 related to that. A couple of things that have
25 come up as a result of the Marcellus shale

1 play relates to the ENS permit process and the
2 fact that the Department has issued a ruling
3 advising conservation districts that you are
4 going to be taking that on hand within the
5 Department's purview. Could you discuss that
6 for us?

7 ACTING SECRETARY HANGER: Sure. I'll
8 just answer the question specifically, and
9 then I'd like an opportunity to put it in a
10 little fuller context. The Department is
11 working from the principle of producing the
12 gas and protecting the water, and that's what
13 we're trying to do with everything that we do,
14 and I fully understand that the Marcellus
15 shale reserve is an enormous opportunity and
16 will create a lot of benefits. I also
17 understand that we can't do it with zero
18 impact. There is going to be some impact, and
19 I'm just being honest about that. I'm laying
20 it out. There is no way it's going to be zero
21 impact.

22 What we're trying to do is maximize the
23 benefits and minimize the problems. In terms
24 of the specific manner that you have addressed
25 which involves some of the procedures that

1 we're using and practices that we're using to
2 both review plans or ENS at gas sites and then
3 inspect them, we strongly believe that we have
4 proposed a practice here where the DEP gas
5 inspector will do both review of the plant and
6 then inspection of the plant and that makes
7 it --

8 SENATOR BAKER: Will you do that at all
9 in consultation with the conservation
10 districts? It seems to me the proposal would
11 completely eliminate them from the process,
12 and there's great concern at the local level.

13 Would it have been helpful to issue some
14 type of directive with consistent policy for
15 them to be a key player or a partner with you
16 in that?

17 ACTING SECRETARY HANGER: Well, we have
18 been talking with the conservation districts
19 and many others about all of the incredible
20 changes that are going on in the economy and
21 in Marcellus and then the fact that we can't
22 do business as usual. I will take
23 responsibility if there's a breakdown of
24 communication at any point in that process.
25 The buck stops with me. What I will say is

1 the people at the Department are working
2 incredibly hard to do both of those things.

3 We believe the specific item that you
4 have identified helps to do both, produce the
5 gas and protect the water. That's our
6 judgment. If there is some communication
7 improvement or breakdown, I take
8 responsibility for that. We'll go back and
9 we'll try to correct that. And what I will
10 also say is that we are working hard at
11 communication, too, and it is the case that I
12 think, and specifically in this matter, I know
13 some conservation districts have come to the
14 Department and said, thank you, we agree with
15 you. Now, they don't pick up the phone or
16 send an e-mail that attacks the Department,
17 and I know there is at least one conservation
18 district, and probably some others, who
19 strongly disagree with it. So as with all the
20 things we're doing, there tends to be a
21 difference of opinion about how to move this
22 forward.

23 SENATOR BAKER: And I certainly
24 understand that. Is there a move -- and I
25 know we've discussed the potential for an on-

1 line permitting process so that companies have
2 consistent documentation, they have a
3 consistent process, and do you have the
4 technology in hand to enable companies to file
5 their applications on-line through the
6 process?

7 ACTING SECRETARY HANGER: You raised this
8 with me I think yesterday.

9 SENATOR BAKER: Yes.

10 ACTING SECRETARY HANGER: Yesterday late
11 afternoon. I have not had a chance to talk
12 with folks about that.

13 SENATOR BAKER: I would appreciate --

14 ACTING SECRETARY HANGER: I look forward
15 to it.

16 SENATOR BAKER: -- your looking into
17 that. A number of other questions related to
18 Marcellus. The proposed funding cuts for the
19 Susquehanna River Basin Commission and the
20 Delaware River Basin Commission create some
21 challenges, particularly when we're trying to
22 develop Marcellus.

23 Is there any possibility that you or DEP
24 will consider using some of your higher fees
25 that have gone into effect to help supplement

1 the Basin Commissions for the work that they
2 do?

3 ACTING SECRETARY HANGER: Well, I share
4 your concern. I know the Governor's Office
5 shares your concern when this was brought to
6 their attention after the Governor submitted
7 the budget, and I believe there's going to be
8 some adjustment made. Frankly, the Governor's
9 Office and the Budget Office are involved in
10 that.

11 SENATOR BAKER: That could be a
12 tremendous holdup for these companies going
13 through the application process without
14 adequate staff to address that.

15 ACTING SECRETARY HANGER: You're right.
16 And I think that's one of the reasons why I am
17 concerned about it, and I know that the
18 Governor's Office is also looking at that
19 because of that concern.

20 SENATOR BAKER: One other Marcellus
21 related question. You indicated that the
22 Department is moving forward on a rule for the
23 treatment of waste water, and I think we had
24 the discussion about why the rule approach,
25 why the General Assembly hasn't been involved

1 in that process.

2 Is it something that we should have a
3 voice in or you believe the bulletin process
4 is the most appropriate approach? Could you
5 discuss with us perhaps why it hasn't been
6 addressed to be vetted through the legislative
7 process?

8 ACTING SECRETARY HANGER: Well, of
9 course, the rulemaking does go through a
10 process that includes legislative input in a
11 number of different places in the rulemaking
12 process. Indeed it will come to this
13 Committee. Any rule does come to this
14 Committee. So the rulemaking process does
15 have appropriately substantial legislative
16 input. It also goes to ERC, where each caucus
17 has a member, so there's a significant amount
18 of legislative input in any rulemaking.

19 Generally speaking, this is a technical
20 rulemaking setting forth standards, and
21 normally that has been done through regulation
22 and not statute. I would be the last person
23 in the world to tell you, Senator, that if you
24 wanted to move ahead with a statute, that you
25 obviously can. I would advise you right now

1 probably not to do it, at least let's see what
2 we have here. I believe that we have a rule
3 that is going to protect our waters. It is a
4 rule that the industry also I think
5 understands that it is needed.

6 Our rivers and streams have a limit on
7 how much total dissolved solids they can
8 absorb without causing problems for other
9 users of the streams and without in some cases
10 making water not meet drinking water
11 standards, so we believe this rule is
12 appropriate. We've been talking with a number
13 of people, and we'll keep talking. We're
14 going to have I think a public meeting on it
15 on April 15th I believe, and that will be the
16 beginning of the formal proposed process,
17 which has a lot of public comment opportunity.

18 SENATOR BAKER: One final question.
19 You're aware that PP & L is planning a
20 proposed expansion at the nuclear power
21 facility in Salem Township in Luzerne County.
22 Has the Department taken a formal position on
23 their application for a third reactor?

24 ACTING SECRETARY HANGER: Well, there's
25 nothing -- the answer is no, because the

1 Department has no formal role in any of that
2 at least so far, but the Governor did send a
3 letter in support of the PPL application to
4 the Department of Energy, at least to the
5 Federal Government. I believe it went to the
6 Department of Energy.

7 SENATOR BAKER: Thank you.

8 CHAIRMAN WHITE: Thank you, Senator.
9 Just to follow up, it's not a Marcellus
10 related question, but you and I had a
11 discussion earlier of situations where the
12 Department lacks the internal expertise to do
13 this -- my particular issue involved air
14 modeling, if you recall, and the computers
15 simply were not geared up to do the type of
16 air modeling that's required for this
17 particular permit.

18 We may run into those kinds of things
19 with Marcellus. Is there any thinking in the
20 Department on the permitting scene generally
21 to allow the applicant to pay for an outside
22 consultant to do some of the technical
23 modeling work on permits so as to relieve some
24 of the pressure on the Department and speed up
25 any permits that have highly technical

1 requirements?

2 ACTING SECRETARY HANGER: I think the
3 answer is so far we haven't pursued that kind
4 of specific alternative that you mentioned.
5 I'm not going to rule anything off the table.
6 We have hired 37 more people, and we believe
7 we have the staff necessary to in fact process
8 the permits in a manner that is timely and
9 also do the inspection work. That's very
10 important.

11 CHAIRMAN WHITE: What about the air
12 programs?

13 ACTING SECRETARY HANGER: In terms of
14 air, when I got to the Department, Senator,
15 one of the things I did was review the
16 backlogs, if there were any, on permits, and
17 the general answer is many of the backlogs
18 that may have existed in the past have been
19 reduced or eliminated. There is in some
20 regions a backlog on some air permits, and we
21 are working within the Department to in fact
22 eliminate those backlogs.

23 I've set a goal that when I leave this
24 position the next Secretary will begin work
25 without backlogs. I will confess that that

1 goal is a little more difficult now than when
2 it was set because of some of the state budget
3 problems. The specific issue of computers is
4 one that we've examined and are continuing to
5 look at.

6 CHAIRMAN WHITE: So I guess your answer
7 is you would not rule it out?

8 ACTING SECRETARY HANGER: I'm not ruling
9 anything out at this point, but we haven't
10 specifically considered it at this point
11 because we haven't needed to consider it in my
12 judgment at this point.

13 CHAIRMAN WHITE: Senator Dinniman.

14 SENATOR DINNIMAN: Yes. Mr. Hanger, good
15 morning.

16 ACTING SECRETARY HANGER: Good morning,
17 sir.

18 SENATOR DINNIMAN: And I look forward to
19 in the weeks ahead being able to call you
20 Mr. Secretary rather than Mr. Acting
21 Secretary.

22 ACTING SECRETARY HANGER: Thank you.

23 SENATOR DINNIMAN: And I want to thank
24 you for the good work you've done on behalf of
25 the citizens of my district. I do have a

1 question, and I really think this is wonderful
2 as you hear all these questions getting
3 discussed, and this is in relationship to
4 FERC. You know, FERC has been a very
5 frustrating experience for those of us in
6 Pennsylvania and a great disappointment in the
7 process, whether it be in Senator Stout's
8 district with the electrification lines,
9 whether it be in my district with the
10 pipelines, and I realize that the State only
11 has limited authority in dealing with FERC.

12 But the questions for us and the concern
13 for us is we all understand the need of
14 federal energy policy, but what way do you
15 think DEP can help us or the state government
16 can help us in balancing federal energy policy
17 with local land use authority? We have felt
18 that the way FERC operates, it's not serious
19 on the environmental impacts. They're using
20 maps sometimes 20, 25 years old, 30 years old,
21 and that what happens in our frustration is
22 that, you know, this is a Commonwealth with a
23 history of local land use policy. In the
24 southeast and many other areas of this
25 Commonwealth we have a strong environmental

1 ethic which is getting crushed by the FERC
2 bulldozer. And also, how do we balance our
3 federal energy policy with respect for private
4 property rights. Some of these easements are
5 now surrounding people's homes and diminishing
6 their property values. So my question is for
7 some of us who care about the environment,
8 when we started, for example, Chester County
9 our landscapes program, we thought the enemy
10 was the developers. It's now turning out for
11 many of us that the enemy is our own Federal
12 Government and the way it runs its energy
13 policy.

14 When I turned to DEP, what I found is
15 there was no expertise. This was before your
16 time when Kathy McGinty was there. There was
17 no expertise about FERC and its procedures
18 that we as local officials can gain assistance
19 and help from, and it was frustrating and we
20 were sent in circles when we tried to find
21 this out from the Federal Government.

22 So what do you aim to do as Secretary in
23 terms of helping us balance out the
24 environmental needs of the Commonwealth
25 vis-a-vis federal energy policy? Both are

1 important, and we have to get them in sync,
2 Mr. Secretary.

3 ACTING SECRETARY HANGER: Well, that's
4 one big difficult question. You stated it
5 very well. I won't be able to give you an
6 answer stated so well, but let me try to give
7 a couple thoughts. First, federal law was
8 changed I believe in -- I'm hoping I don't get
9 this date wrong, but 2005 or 2006 Energy
10 Policy Act changed federal law on this
11 question of siting, and I think a reasonable
12 reading of that statute leads one to the
13 conclusion that the statute expanded federal
14 power typically through the Federal Energy
15 Regulatory Commission but also through the
16 Department of Energy and reduced state and
17 local authority on the issue of siting the
18 power lines.

19 The concern that led to the Congress of
20 the United States and the President to sign
21 that act was I believe that inadequate
22 infrastructure and specifically transmission
23 lines were being built. Obviously at the
24 state level we have a different perspective
25 and for somebody at the local level where the

1 transmission line comes through or the
2 pipeline comes through, it's a very different
3 perspective, and when I served on the Public
4 Utility Commission in this building I thought
5 the single biggest power therefore should be
6 used most carefully, the power that I had as a
7 Commissioner, was to take somebody's property.

8 SENATOR DINNIMAN: Correct.

9 ACTING SECRETARY HANGER: The power if
10 eminent domain. That's a pretty awesome
11 power. In this country private property is
12 protected by the Constitution, though it can
13 be taken for public good as long as
14 compensation is paid. It's thorny. It's
15 difficult. And what I can do is first I'm
16 willing to talk and meet with anybody who has
17 concerns about this and provide my advice and
18 knowledge based upon my experience in the
19 energy area. I believe in certain situations
20 I have good advice to offer. It may not be
21 advice people want to hear. It may be bad
22 news at some level. The second thing is there
23 is residual authority at the Department. It's
24 limited.

25 SENATOR DINNIMAN: Absolutely.

1 ACTING SECRETARY HANGER: But there is
2 residual authority, and the Department will
3 use that residual authority to protect our
4 natural resources and to also make sure that
5 local issues are at least being considered as
6 these cases are decided.

7 SENATOR DINNIMAN: I think you've
8 answered that as best you can, and let me say
9 as a district who now has eminent domain by
10 FERC at the courtesy of Transco/Williams, our
11 citizens are responding to this power with
12 great distaste and displeasure, and it will
13 end up in the courts, but anything that your
14 Department could do in two areas,
15 Mr. Secretary.

16 One would be that there be some people in
17 the Department who have an expertise in the
18 FERC area so that when we as local officials
19 or individual citizens can attain that
20 information. And second, anything you can do
21 as a Secretary which will enable some of us
22 with concerns -- you know, the Senate on a
23 resolution I presented actually moralized
24 Congress to make some changes in the FERC law
25 so we can balance out power and deal with

1 these issues of local land use, private
2 property versus federal energy policy. We all
3 accept the need for federal energy policy, but
4 we just want it balanced out. It needs to be
5 in sync.

6 But if you can arrange compensations that
7 will allow us who have concerns to actually
8 talk to the FERC Commissioners, we would be
9 extremely grateful for that, and I just wanted
10 to add that to the list of other questions
11 that were here.

12 And, Mr. Secretary, I think what it will
13 come down to is this in my judgment. While
14 all these questions are important and we learn
15 a great deal from each other in asking it, in
16 any vote for a nominee of the Governor, there
17 is two questions. Is this the person the
18 Governor wants and feels is the best person to
19 further that person's program? Because we
20 need to respect the authority and ability of a
21 Governor to have the people he considers best
22 to be his associates in his endeavor or her
23 endeavor. And the second question is: Is
24 this the person who is best qualified and has
25 the qualifications to do the job? And in

1 terms of those two questions, the answer is
2 yes in terms of your own nomination, and so I
3 do look forward to hopefully soon voting yes
4 and concluding successfully this process.
5 Thank you.

6 ACTING SECRETARY HANGER: Thank you,
7 Senator Dinniman. I would also add that the
8 Office of Consumer Advocate in the Attorney
9 General's Office I believe has at least one
10 attorney, perhaps more, that do FERC practice,
11 and that's probably a resource that should be
12 considered by you and others and perhaps have
13 discussion with the Office of Consumer
14 Advocate about its ability to help consumers
15 who have concerns in proceedings would be a
16 good idea.

17 SENATOR DINNIMAN: It would be very, very
18 helpful, because we feel helpless, and our
19 citizens come to us, and they feel helpless
20 through the process and simply it's -- you
21 know, if you feel powerless, then you're
22 subject to eminent domain, and it just puts
23 additional salt into the wound, and in our
24 nation, we never want anyone to feel
25 powerless. We want everyone to know what

1 their rights are, and we want to help people
2 have the ability to protect their property and
3 officials to protect the beautiful land and
4 streams of this Commonwealth, so thank you.

5 ACTING SECRETARY HANGER: Thank you for
6 your comments and your support, Senator.

7 CHAIRMAN WHITE: Senator Yaw.

8 SENATOR YAW: Thank you, Madam Chairman.
9 Mr. Secretary, we were in attendance at a
10 hearing in Dallas, Pennsylvania, in November
11 2008 if you recall. At that hearing there was
12 evidence presented that DEP's drilling permit
13 was about 600 pages long and that's what it
14 entailed, and a comparison to that was a West
15 Virginia permit which was about 30 pages.

16 Now, Senator Baker asked you about the
17 possibility of on-line to streamline the
18 process. My question would be, have you
19 looked into the situation just to the sheer
20 volume of our permits, requirements here for
21 the DEP Marcellus drilling permits?

22 ACTING SECRETARY HANGER: Yes. And my
23 staff, Barbara Sexton and others, are deeply
24 involved in looking at the paper requirements
25 and trying to go through the paper

1 requirements to make sure that they serve a
2 real purpose. We've made some changes, and we
3 will make some more changes. We communicate
4 with those who have concerns about it, who are
5 applying and have concerns, and where the
6 comments make sense, we try to respond.

7 SENATOR YAW: Thank you, because my
8 initial comment or thought of it was does
9 anyone read the 600 pages and is everything
10 really required?

11 ACTING SECRETARY HANGER: Well, that's a
12 concern about whether everything is being
13 required that we share, and certainly we've
14 made a number of changes. What we're trying
15 to do is to get to a system that produces the
16 gas and protects the water, and I'm glad to
17 say in 2008 that we had a record number of
18 permits issued, nearly 8,000. We've permitted
19 now over 800 Marcellus wells, and more than
20 300 are being drilled. We have work to do
21 both on that side of the equation and
22 protecting the water, so that's why we're
23 moving forward with the rule on water
24 protection. We've made a lot of progress I
25 think in the last seven months on both fronts,

1 but there's more to do.

2 SENATOR YAW: Thank you.

3 CHAIRMAN WHITE: Senator Vogel.

4 SENATOR VOGEL: Thank you, Secretary, for
5 being here this morning. My question concerns
6 basically the permits and lack of timeliness
7 between the conservation districts and DEP.
8 It seems like we get backlogs in permits, then
9 DEP comes along and just does a permit by
10 rule, and I was wondering without doing any
11 technical reviews or anything, is this really
12 the best and safest way to be doing things?

13 I realize with the shorthandedness and
14 everything, but still, a permit by rule when
15 you don't have any idea what the technical
16 results or anything are of a situation is,
17 could this be done better or something?

18 ACTING SECRETARY HANGER: Well, let me
19 walk you through some of the changes that
20 we're proposing, and this is going to be in
21 the proposed rule, and it deals with the ENS
22 regulation, and in my experience, the way we
23 go about ENS permitting neither provides a
24 timely, reasonable process for those applying,
25 nor does a good job at the end of it of

1 protecting water. I think we can do a much
2 better job on both. So what we have come
3 forward with is a proposal. Our ears are
4 still open and our minds are still open.
5 This is not a final matter, but a proposal
6 that would do the following.

7 First, it would identify those sites that
8 are high risk for problems, environmental
9 problems. Sites that have, for example, soil
10 conditions that are susceptible to landslides,
11 sites that are very steep, with steep slopes,
12 and those sites would remain in the existing
13 system. It will go through pretty intensive
14 individualized review.

15 A second category of sites are low risk,
16 and we are proposing an alternative system for
17 sites that are low risk that an applicant
18 could choose to go through. The low risk
19 sites, the application would include the
20 filing of a plan with the conservation
21 district that would require the applicant to
22 have a state licensed engineer and geologist
23 who seals the plan, and the seal would signify
24 that the plan meets the best management
25 practices in the State's Storm Water Manual.

1 It would require notice to the municipalities.
2 It would require then that the project be in
3 fact sealed by the state licensed engineer and
4 geologist that the project was actually built
5 to the plan. So it would have to be sealed
6 twice.

7 In addition, in order to be in this
8 permit by rule process, the applicant would
9 have to have a 100-foot buffer. In return for
10 doing that, they could get their permit in
11 less than 30 days as opposed to perhaps a much
12 longer period of time. We believe that the
13 combination of the buffer and the sealing and
14 then the inspections will in fact create more
15 protection for water than the current system
16 does and at the same time have permits issued
17 in a prompt manner.

18 We think that's just smart government.
19 We believe that Pennsylvanians want business
20 to be able to operate here, and they want
21 their water to be protected. We believe we
22 found a sensible way to do that. Now, it's a
23 proposal, so we are eager to get further
24 comment, and we will certainly make
25 adjustments where comments warrant them.

1 SENATOR VOGEL: Thank you. I'm glad to
2 hear that you're definitely for keeping jobs
3 and creating jobs and saving the water. Those
4 are both very important things to conservation
5 districts, as well as myself, and I want to
6 thank you for being here this morning. Thank
7 you.

8 ACTING SECRETARY HANGER: Thank you,
9 Senator.

10 CHAIRMAN WHITE: If you're looking for
11 comments, I have one right now.

12 ACTING SECRETARY HANGER: Sure.

13 CHAIRMAN WHITE: I believe there is a
14 Federal exemption for oil and gas operations
15 from erosion and sedimentation control plans.
16 I certainly don't disagree with your idea you
17 identify high risk areas and require plans in
18 those cases, but what you're describing for
19 the low risk situations in terms of two
20 sealings by Professional Engineers and the
21 rest of this sounds to me like overkill. It
22 seems to me we could develop best management
23 practices, have those promulgated and have
24 inspectors when they're going out to inspect
25 the wells generally assure that those best

1 management practices are being followed.
2 That's my observation. We're the only state
3 in the country as far as I know that requires
4 ENS plans for oil and gas operations.

5 ACTING SECRETARY HANGER: I appreciate
6 your comment.

7 CHAIRMAN WHITE: Senator Williams.

8 SENATOR WILLIAMS: Thank you, Madam
9 Chairperson. I, too, share the sentiments of
10 Senator Dinniman Dinniman. Welcome.

11 ACTING SECRETARY HANGER: Thank you.

12 SENATOR WILLIAMS: I'm excited about your
13 prospective appointment and looking to work
14 with you in that regard. A couple things that
15 come -- I'm not going to ask technical
16 questions. I think we've done enough of that
17 today. This really relates to how you
18 transition from being an advocate to an
19 administrator.

20 ACTING SECRETARY HANGER: Sure.

21 SENATOR WILLIAMS: And I think there is a
22 lot of energy from the other members that I've
23 talked to about that. So I would like to hear
24 your perspective on that.

25 ACTING SECRETARY HANGER: Well, this is

1 the second time that I come from the private
2 sector to public office. I fully understand
3 the difference between being an advocate or a
4 lawyer for a client in private life and
5 holding a public office. They are very
6 different responsibilities. In the case of an
7 advocate or attorney with a client, all that
8 matters is the interests of the client and the
9 organization and it's your job to move those
10 viewpoints forward.

11 As a public official, it's a heavy
12 responsibility to actually, in my view at
13 least, listen to everyone, and this is just me
14 personally, approach problems first and
15 foremost from the facts. Obviously the law
16 matters, and the law provides a significant
17 amount of guidance, though there's disputes
18 about what the law means in any particular
19 case often.

20 But I start with the facts, and I try to
21 be pragmatic about solving the problem, and
22 again, commit to listening to folks all around
23 the table. Senator, when I was on the Public
24 Utility Commission I had the experience of
25 very frankly being strongly criticized by

1 people from all directions, consumers, as well
2 as some utilities, and I often felt my best
3 decisions were ones where pretty much
4 everybody in the room didn't like something
5 about it, and I often got a little concerned
6 about decisions where one side or the other
7 was sort of high-fiving it, and I think very
8 frankly the discussions we've today on
9 Marcellus, on the buffers, on all of these
10 issues indicate that I'm proceeding in the way
11 I proceeded at the Public Utility Commission.

12 I've got folks who've got concerns from
13 all directions about some of these policies
14 because we're trying to navigate in a way
15 that's sensible and pragmatic. We're trying
16 to listen to everybody. Typically folks from
17 a variety of different perspectives bring
18 important things to the table, and we've made
19 adjustments both to reflect concerns that the
20 business community's made and as well as
21 environmental organizations have made. We
22 will continue to try to do that.

23 SENATOR WILLIAMS: And I guess we're in
24 the closing minutes. As I listened to your
25 testimony, one part that I noted was Governor

1 Casey's advice to you about tooting your own
2 horn. I'm not in a position necessarily to
3 give you advice, but all I can do is share
4 with you the advice that was given to me from
5 my father, who served here for a period of
6 time. I was new and I couldn't wait to get to
7 a press conference to talk about my great
8 perspectives. He told me, "Don't have a press
9 conference. Sit down and shut down and listen
10 for a while."

11 And most of us -- and I'm guilty of it as
12 anybody. You know, I heard you comment a
13 couple times you're listening, but I guess
14 most of what you're hearing here is that the
15 concerns you have are about people wanting to
16 make their points and have everyone listen.
17 Most of us don't listen. We're quiet enough
18 long enough to have the other person say what
19 they got to say and then we move on to our
20 perspective.

21 My hope is that when my good friend
22 Senator White talked about comments you made
23 about 20 years ago, you know, it's sort of a
24 moment that we all have to pause and say, "Did
25 I actually say that?" Because we mature, we

1 grow, we evolve, and that's appropriate.
2 Hopefully all of us will be wise enough to do
3 that. With that said, you have 18 months to
4 get a lot of stuff done, and to do anything in
5 18 months never happens by a sledgehammer. It
6 happens because people respect the other
7 people's opinion even when they differ.
8 That's what it's going to require. And
9 frankly, I think you're going to be challenged
10 by that. Your personality is one of
11 intellect. Like you said, you're guided by
12 the facts, but this is an environment of
13 people. There's a lot of gray area I've
14 learned in the area of people. There's
15 usually not right and wrong, it's just how do
16 we get something done in the way that doesn't
17 hurt anybody and can advance an agenda.

18 To do what you have to do is going to
19 require a lot of gray area and interaction,
20 and frankly, I think it's going to require a
21 lot of this Committee. The Chairperson and
22 others on this Committee have expressed their
23 concerns to you directly about either personal
24 commentary or public commentary or general
25 commentary. That said, I think that you will

1 be well served with your knowledge, because
2 you are smart, and I think you're very
3 confident in your commentary. You're not
4 always right. When you commented on Exelon
5 today, you said rates are going to decline.
6 In fact, they're not. Even out of Exelon's
7 own mouth, that they are saying that rates may
8 not go up as dramatically as other parts of
9 the Commonwealth, but they're going to go up,
10 and in fact, in Philadelphia County and the
11 surrounding area, the rates are already high,
12 so they can go up as dramatically as
13 everyplace else.

14 So that said, I think you're confident in
15 what you said, and I think you're truthful in
16 what you said, but I think you have to broaden
17 your ability to really truly engage and listen
18 to what others are going to say and then take
19 their information, and even though it's not
20 yours, you need to shape it in a way that one
21 is winnable. I don't revel in those moments
22 when people give advice or are throwing
23 spitballs at me and I've come to a conclusion,
24 and I don't revel in those moments everybody's
25 high-fiving. What I revel is that people

1 come to me, my greatest moments are when
2 people come to me and say, you know, on school
3 reform in Philadelphia County, it was very
4 controversial, but when people came to me
5 afterwards and said, "I understood your
6 arguments. I don't necessarily agree, but I
7 can understand your position," I think that's
8 the most important thing and most real thing
9 we can do to our constituents today, and I
10 hope that your greatest asset in 18 months
11 will be the people that say, you know what, I
12 was concerned about his arrival. He was an
13 effective -- he was very bright and
14 intelligent in his positions, but he also took
15 into consideration my perspective, and I
16 really felt that he engaged me on whatever
17 level. He either sold me on what he was
18 trying to get done or he engaged me on my
19 perspective. And with that, I'll close.
20 Thank you.

21 ACTING SECRETARY HANGER: I appreciate
22 that, and that's exactly what I intend to do.
23 I believe I've done it for the last seven
24 months, Senator.

25 SENATOR WILLIAMS: Thank you.

1 CHAIRMAN WHITE: Mr. Hanger, I'm always
2 intrigued by your distinction between a role
3 as an advocate and a role as a public
4 official. I have the sense that perhaps as an
5 advocate you think the person has a little bit
6 of leeway to perhaps not tell the truth.

7 On August 15, 2005, you issued a press
8 release on the Environmental Quality Board's
9 preliminary approval of the mercury
10 regulation, and you stated that I, along with
11 Senator Musto and Representative Adolph, sent
12 a letter on July 27, 2005, urging that DEP
13 take no action to protect the health of
14 Pennsylvanians from toxic mercury.

15 Now, you knew -- this was not an
16 off-the-cuff comment. This was a press
17 release. But that was patently false.
18 Senator Musto and I held numerous hearings on
19 mercury regulations and in fact were in the
20 process of developing a Bill so that we would
21 do the Mercury Bill by statute and not by
22 regulation.

23 You accused Senate members who opposed
24 the Rendell mercury plan with a 40 to 10 vote,
25 Senator Musto's Bill and mine passed the

1 Senate 40 to 10, broad bipartisan support, and
2 it proposed mercury regulation on a different
3 timetable than the one that was being proposed
4 by regulation.

5 You said that we were, "Rolling out the
6 welcome mat for polluters that pump toxic
7 dollars into the coffers of politicians." You
8 also stated, "The utilities and PA Chamber
9 fertilized the political ground with at least
10 \$804,000 in contribution, and they are now
11 reaping the harvest of that generosity."

12 Are you suggesting -- I mean, you were
13 suggesting. Do you believe that members of
14 this Committee, and specifically Senator Musto
15 and I and others who voted for the State
16 legislation on mercury reduction, cast votes
17 for environmental legislation in exchange for
18 campaign contributions?

19 ACTING SECRETARY HANGER: No.

20 CHAIRMAN WHITE: Do you have any evidence
21 to support those statements whatsoever?

22 ACTING SECRETARY HANGER: First, the
23 second statement, I don't know if that was
24 PennFuture's statement or a quote from me.
25 That has not been shared with me. Regardless

1 of whether it was one or the other, I don't
2 agree, and I want to take this opportunity to
3 say I don't agree with that perception.

4 I do believe that money in politics is
5 unfortunate, and I think the less of it the
6 better, but, Senator, to the extent that you
7 were offended by that, and I can understand
8 why you would be offended by it, I regret it
9 and do apologize for that offense. I have
10 known you for a long time, Senator, and one
11 thing that I have known about you is that you
12 are committed to your views and you work hard
13 and you represent your district very well, and
14 indeed you bring honor to the position.

15 CHAIRMAN WHITE: Well, certainly your
16 apology is welcome, but unnecessary, because
17 it's not really about me. It's about your
18 characterization of the process and people who
19 disagree with you. This is a follow-up on
20 Senator Williams' question, and this is where
21 I question not your ability but your
22 temperament for this job, because people could
23 have reasonable differences on environmental
24 issues, and sometimes they can get emotional
25 over them, particularly when the issues are

1 distorted, and I think that is absolutely what
2 happened on the mercury rule. And, in fact,
3 had you -- had the Department, not you,
4 because you weren't there then, but obviously
5 you were part of the process. Had we
6 proceeded with the state law as opposed to the
7 regulatory process, we would have a mercury
8 rule in place today, because the Commonwealth
9 Court in throwing out the regulation threw out
10 DEP's mercury rule. This is the second Court
11 that's ruled on it. They ruled on the grounds
12 that since the Federal delisting never legally
13 existed, DEP had no authority under State law
14 to regulate a hazardous air pollutant. In
15 fact, our Bill, which Senator Musto and I
16 sponsored and which came out of the Senate 40
17 to 10, broad bipartisan support, would have
18 provided that underpinning for a mercury
19 regulation.

20 So to portray us as against mercury
21 regulation -- and I believe there was another
22 one we were called baby-killers as a matter of
23 fact. We were indifferent to the health of
24 Pennsylvania's infants -- is just an
25 outrageous statement to make, and I have no

1 problem with your disagreeing with me. You
2 can say that this entire Committee is as dumb
3 as a box of rocks, and that doesn't bother me
4 at all. But when you say we are corrupt or
5 imply that we are corrupt and you say that
6 that's mere advocacy, I can't buy that.

7 ACTING SECRETARY HANGER: Well, Senator,
8 let me say a couple things. The fight around
9 the mercury rule was very tough. There were a
10 lot of things said in a lot of directions.
11 Certainly over 30 years I have said some
12 things that I regret, and I would also say
13 that some those quotes may in fact be not from
14 my mouth but from my organization, and I will
15 take responsibility for my organization.

16 CHAIRMAN WHITE: Because I think you said
17 here that communications, the responsibility
18 would be yours. I think there likewise.

19 ACTING SECRETARY HANGER: I will take
20 responsibility, but I do think there's a
21 little bit of a difference between something I
22 say and something that might have been in an
23 e-mail or an electronic publication or even in
24 a press release. Believe it or not, I didn't
25 read everything that went out, and I didn't

1 write most of it.

2 But having said that, I understand your
3 point. I will also say when I was at
4 PennFuture I said very complimentary things
5 about you in print a number of occasions and
6 members of the Committee, and I think if one
7 is going to look at one's career over
8 30 years, it's important to have the whole
9 context, and I have eleven or twelve comments
10 that I've made about you that were very, very
11 complimentary.

12 So, Senator, I hope we can move forward.
13 I accept your point, and I think that at this
14 juncture I fully am committed to working with
15 you. We are not going to agree on everything,
16 but we're going to agree and have agreed in
17 the past on a number of things and do agree
18 now on a number of things, so I look forward
19 to working with you.

20 CHAIRMAN WHITE: Since taking office and
21 particularly in the last budget proposal,
22 Governor Rendell on the energy and environment
23 side proposed a \$150 million annual increase
24 in the landfill tipping fee, a \$50 million
25 annual new tax based on the Toxic Release

1 Inventory, \$700 million in annual new taxes on
2 oil company gross profits, a \$70 million
3 annual new tax on consumer electric bills, and
4 a new tax of fluctuating amounts on homeowner
5 insurance policies. Did you oppose or do you
6 oppose any of those tax increases?

7 ACTING SECRETARY HANGER: That was a
8 pretty long list, as I think was part of the
9 reason for stating them, so I'm not sure I got
10 all of them, but what I can tell you right now
11 today, I support the Governor's positions on
12 the tax increases that he has in place in this
13 project, and he has to my knowledge I think
14 two or three. One is a severance tax on
15 natural gas. He has I believe proposed a tax
16 on smokeless tobacco, and I think he may be
17 proposing an increase to the tax on
18 cigarettes. Obviously my role in the Rendell
19 Administration has very little to do with
20 budget policy or taxation policy, but I am
21 working with the Governor, and I'm proud to do
22 so.

23 CHAIRMAN WHITE: You must be a loyal
24 soldier. I think that's a good answer.

25 SENATOR WILLIAMS: Madam Chair?

1 CHAIRMAN WHITE: Yes.

2 SENATOR WILLIAMS: I have a follow-up
3 when you're finished.

4 CHAIRMAN WHITE: Yes, go ahead.

5 SENATOR WILLIAMS: On the point that
6 was -- well, a couple things. One, on the
7 budget, I obviously think there is a time and
8 a place for that. I don't think this is the
9 moment, because you don't know, as do not most
10 Secretaries know what will be proposed in that
11 regard, so I wouldn't expect you to quite yet,
12 nor, frankly, to take a position, because you
13 won't stay Secretary too long if you do. That
14 said on the issue of what was needed to be
15 said, one, I said my comments obviously to the
16 Committee that I share with not Democrats and
17 Republicans but members of a Committee that
18 take their responsibilities quite seriously,
19 so I'm glad the Chairperson said that. That
20 said, I think your response is certainly
21 accepted by me.

22 For people who don't know this, I was one
23 of those who voted the other way with the 40
24 for even though I have a very strong
25 commitment to the environment, because I

1 thought that arguments made about mercury were
2 frankly not substantive enough in nature for
3 me to be compelled to vote a different way.
4 There were ads run on the radio about me and
5 others in Philadelphia. PennFuture certainly
6 made comments about me.

7 That said, you know, I see in the Capitol
8 where there was a big piggybank out front.
9 That's what advocates do. I think the issue
10 of money is the one that causes people the
11 most concern, because we sit in a time where
12 transparency is very important and people --
13 quid pro quo not only is a violation of
14 morales and ethics, it's a violation of law,
15 and so there's a great heightened sensitivity,
16 but I think frankly you understand that.

17 I look forward to the days when you're no
18 longer constrained by the 18 months of service
19 for the Governor and you'll go back to telling
20 us we don't know what the heck we're doing,
21 and so as long as we understand there are
22 boundaries to what we should be saying about
23 you and there's boundaries to what you should
24 be saying about us, I fully am prepared to
25 engage in the differences that we have. The

1 fact that you were person enough to say some
2 of your comments weren't taken out of context
3 but in fact they were inappropriate and you're
4 sorry for that, I accept that, and I certainly
5 do believe not only are we going to move
6 forward, but we're going to move forward in a
7 way that's going to probably surprise you,
8 because there are members of this Committee
9 who are Republican who agree with a lot of
10 what you're talking about and want to help.
11 They don't agree with every detail of it,
12 their methodology may apply a little bit
13 differently, but the end result they're going
14 to be supportive of, so I'm glad that you did
15 come and speak openly about that, and I don't
16 want you to feel constrained at any point in
17 time in your service that you can't make
18 comments that are different with us. I think
19 it's the substance of those comments that are
20 a point of difference.

21 ACTING SECRETARY HANGER: I appreciate
22 that, Senator, and I certainly want to make it
23 clear, I have a huge amount of respect for
24 people in public office. I have a particular
25 respect for those who put their name on a

1 ballot. It's a really, really difficult thing
2 to do. It's very easy to frankly attack. I
3 probably have -- I have done it at times over
4 a long career. I also said many times how
5 much I respect people in office. I've been
6 attacked, too, and you've got to have a thick
7 skin in this game, but at any rate, I
8 appreciate what you said.

9 CHAIRMAN WHITE: I had one question
10 before we go to round two, and it relates to
11 your service on the Public Utility Commission,
12 which I happen to think was exemplary, but we
13 have a Public Utility Commission and we have a
14 Department of Environmental Protection, and
15 while there are some issues of common concern,
16 I don't have to tell you that the Public
17 Utility Commission is not a part of the
18 Governor's cabinet, it is an independent
19 regulatory agency that operates with its own
20 rules and its own sphere of influence, so with
21 that in mind, have you participated in or are
22 you aware of any communications or discussions
23 between the Administration and members of the
24 Public Utility Commission in which PUC members
25 were directed to take or to not take action on

1 matters pending before that Commission?

2 ACTING SECRETARY HANGER: No, Senator,
3 I'm not. I fully respect the independence of
4 the Public Utility Commission. The Governor
5 did ask me when I took this position to
6 develop a better relationship with the Public
7 Utility Commission. I've been working hard
8 with every member of the Public Utility
9 Commission to do that. We talk informally.
10 We share information. It's really been a
11 professional pleasure to work with all five
12 members of the Public Utility Commission, and
13 it starts from the basis of mutual respect I
14 believe. I certainly respect them, and they
15 have very important work to do, and I hope
16 that what I can do is help them do their work.

17 I do think it's important that the Public
18 Utility Commission and the Department of
19 Environmental Protection have a conversation
20 and have a dialogue and participate in each
21 other's functions, because there is such an
22 interconnection between energy and the
23 environment.

24 CHAIRMAN WHITE: I have a great concern
25 for the independence of the Public Utility

1 Commission, and I would hope that in the
2 Administration you would be an advocate for
3 the independence.

4 ACTING SECRETARY HANGER: I am, and I
5 shared that when I sat on the Public Utility
6 Commission, and I can assure you that
7 everything that I will do will fully respect
8 the independence of the Public Utility
9 Commission.

10 CHAIRMAN WHITE: Thank you. Second
11 round. Senator Musto is indicating he has no
12 questions. Senator Stout?

13 SENATOR STOUT: No.

14 CHAIRMAN WHITE: No questions. Senator
15 Don White?

16 SENATOR D. WHITE: Yes. Thank you, Madam
17 Chairman. I'll try to make this quick, but
18 one area we haven't touched on that you and I
19 discussed in our meeting the other day,
20 Mr. Secretary, was the -- and you mentioned
21 the figure in your opening statement of
22 \$219 million is coming in for water and sewer
23 improvements from the stimulus package. You
24 serve on the PENNVEST Board with me and
25 Senator Musto, and in that meeting you were

1 unaware, as I was also unaware, that there is
2 a meeting coming up April 20th, and the
3 criteria's been changed for this next round of
4 grants and low interest loans, and it concerns
5 me a little bit that you weren't aware of it,
6 although you have a lot of hats to wear, and
7 that's just one of them, but I hope you would
8 agree that we need to maybe slow down that
9 process a little bit, and there's a lot of
10 applications sitting there that all have their
11 merits, but at the same time I don't think
12 we're all aware of this new criteria and
13 exactly how it applies and how it changes the
14 priorities, and I just want to make sure that
15 we don't rush through this process, and I
16 think the money driven to these projects is
17 good, and I know the Federal Government at the
18 end will be scrutinizing those projects, so I
19 think it's in our best interest to get this
20 right, and I hope you'll go work with me to
21 ensure that this process shows more
22 deliberation with PENNVEST.

23 ACTING SECRETARY HANGER: I've asked for
24 a full briefing on what is occurring there,
25 and I will commit to you that I'll get back to

1 you before the 20th before that PENNVEST
2 meeting and have a further discussion about
3 this.

4 SENATOR D. WHITE: Thank you very much.

5 SENATOR WILLIAMS: Madam Chair?

6 CHAIRMAN WHITE: Are we going in order?

7 I think, Senator Erickson, do you have
8 questions?

9 SENATOR ERICKSON: No questions.

10 CHAIRMAN WHITE: Senator Baker is gone.
11 Senator Dinniman, he's gone. I can't see down
12 the row there. Senator Yaw, any follow-up?

13 SENATOR YAW: No questions.

14 CHAIRMAN WHITE: Senator Vogel?

15 SENATOR VOGEL: No.

16 CHAIRMAN WHITE: Senator Williams. We
17 did get to you.

18 SENATOR WILLIAMS: Thank you. A follow-
19 up to that. I mean, I have projects I want to
20 get done, also, and I want to make sure that
21 we all understand this, even though the date
22 is relatively short. This is certainly not
23 the last bite at the apple. These are not the
24 last round of projects that will be
25 considered. This, frankly, is to make sure

1 people don't lose their homes and their cars
2 and their jobs and so we do frankly -- and I,
3 trust me, I have a bunch of apprehension about
4 the date, but that's offset by the reality of
5 everyday I get a phone call in my office about
6 somebody's who is in construction who is
7 losing their job, and I have been, I wouldn't
8 say comforted, but I have been persuaded that
9 we need to move quickly with this first round
10 and allow for those projects that are not
11 captured to be involved in other rounds that
12 will be coming before us, so not that I
13 necessarily would ever agree with my friend
14 Don White, but with that said, I want to make
15 sure there's balance in that understanding.

16 ACTING SECRETARY HANGER: I appreciate
17 that. You're right, there is two rounds, and
18 it's an important point to note.

19 CHAIRMAN WHITE: I have just one last
20 question here that relate to things that will
21 be going forward that are going to be very
22 sensitive, and that is grants to organizations
23 and particularly going forward to PennFuture.
24 You indicated to me that you had a process
25 whereby you were not going to have any

1 involvement in that, but in 2006 while you
2 were head of PennFuture DEP awarded you a
3 no-bid contract to study the benefits of a
4 renewable fuel standard. In December that
5 contract was amended to include a totally
6 different subject, to study the benefits of
7 energy efficiency and demand side management.

8 Both reports, which I have, really look
9 to me like PR pieces essentially, but in 2008,
10 three weeks after you took office, the
11 contract was further amended, and the funding
12 was increased to a total of \$60,000. Now, I
13 received a letter from Deputy Secretary Powers
14 at your direction I believe. Did you see that
15 letter?

16 ACTING SECRETARY HANGER: I have seen it.

17 CHAIRMAN WHITE: Well, he maintains that
18 PennFuture received these no-bid contracts
19 because in each case, quote, its previous work
20 in this field made it uniquely positioned to
21 undertake the project.

22 And yet when I got the reports and read
23 them, PennFuture didn't write either one of
24 them. They contracted apparently both of them
25 out to other individuals. Now, how would you

1 explain that an organization is uniquely
2 qualified to do that work when in fact they
3 didn't do the work?

4 ACTING SECRETARY HANGER: Well, Senator,
5 a couple things. My understanding is that
6 that work was done by experts that PennFuture
7 retained to work with the PennFuture staff to
8 make sure that the information was as good as
9 possible.

10 PennFuture did a fair amount of that
11 work. It may not have developed some of the
12 data, but they certainly worked with the
13 experts on the data, did a lot of the writing,
14 a lot of the other work associated with the
15 report, and I believe that organization, which
16 I did lead, as you pointed out, and I'm proud
17 of my time there. It was not perfect.
18 Obviously we all make mistakes over a ten-year
19 period, but the PennFuture Center for Energy,
20 Enterprise and the Environment is led by
21 Dr. Tom Tuffey. He's got a Ph.D. He's been
22 the number two person at Westin, which was a
23 3,000 person environmental and engineering
24 firm. There is considerable expertise --

25 CHAIRMAN WHITE: Let's make it clear.

1 I'm not necessarily attacking PennFuture here.
2 I'm looking at the process by which these
3 things are handled.

4 ACTING SECRETARY HANGER: Sure.

5 CHAIRMAN WHITE: And probably looking for
6 assurances from you that -- you know, I don't
7 know how much money's PennFuture kept out of
8 that and how much they paid to the
9 subcontractor, but the whole thing doesn't
10 look right, and I would urge you to,
11 particularly given the sensitivity of your
12 prior relationship, to make sure that the
13 persons you put in charge of these review
14 processes are sensitized to this fact.

15 I think it's still questionable to me.
16 Obviously you say you have removed yourself
17 from the approval process of these grants, but
18 nevertheless, the person doing the review
19 reports to you, so there is always the
20 possibility of influences that aren't even
21 necessarily being done by you but by the
22 desire of someone to please their supervisor.

23 ACTING SECRETARY HANGER: Well, Senator,
24 a couple points. I again, I'm repeating this,
25 the very first thing I did on the first day of

1 the job is to say I'm recused from cases that
2 started when I was at PennFuture that involved
3 the Department and grants that started when I
4 was at PennFuture.

5 I have taken every possible step to do
6 that. I've followed every single requirement
7 of the law and where needed have gone perhaps
8 beyond the requirements of the law, and so I
9 commit to you to following the requirements of
10 the law fully and completely, and indeed in my
11 case, often I have gone beyond them, and I
12 would also say, and I served on a
13 quasi-judicial body, it is not unusual for
14 members of the Public Utility Commission, for
15 example, to come from industry and then recuse
16 themselves from cases when being involved --
17 when a case involves a matter that they
18 participated in at the time they got here.
19 There are processes --

20 CHAIRMAN WHITE: But the other persons
21 voting on that are equals, not employees of
22 the person recusing themselves.

23 ACTING SECRETARY HANGER: In this
24 situation there is a standard policy that is
25 being pursued, and I follow it. And I have

1 total confidence, very frankly, Senator, that
2 the staff of the Department of Environmental
3 Protection is administering the grant programs
4 in a way that focuses on merits. It doesn't
5 focus on politics. It doesn't focus on
6 somebody likes this group or doesn't like this
7 group. It's focusing on the merits of the
8 projects.

9 So I have reviewed that, and I have total
10 confidence in it. When I need to recuse
11 myself I will recuse myself, as do other
12 members of the Administration, and in an
13 executive branch, you're right, in the
14 circumstance that the recusal leads to
15 somebody else, often a subordinate taking that
16 responsibility, but I have total confidence in
17 that process.

18 CHAIRMAN WHITE: Well, I have one other
19 question that does also make me question the
20 process somewhat. DEP awarded a \$500,000
21 contract to PennFuture to construct a wind
22 turbine at the Hazleton Water Authority. In
23 the letter I received from Mr. Powers, he
24 indicated that because the guidelines of DEP
25 prohibited grants from going to private

1 businesses, they found a nonprofit
2 organization, in this case PennFuture, to
3 actually submit the application, but at the
4 end of the day the private company ended up
5 owning the wind turbine, so in effect a
6 nonprofit was used to funnel money through to
7 a for-profit on a project, and this gives me
8 some heartburn.

9 And I'm not even saying this is unique to
10 PennFuture. I'm simply saying do you think
11 this is an appropriate way to sidestep DEP's
12 guidelines by having essentially a nonprofit
13 come in and front the grant that isn't the
14 ultimate recipient or the owner of the
15 facility when it's finally built?

16 ACTING SECRETARY HANGER: Well, I'll be
17 glad to take a look at that. Obviously I
18 personally believe in public-private
19 relationships. I believe in having
20 organizations work together. In the case of
21 the Hazleton wind site, it involves the
22 Hazleton Municipal Water Authority. I know
23 Senator Musto has been supportive of that
24 project, as have other members of the
25 delegation there. I believe in that case it

1 is a remarkable project. It's a community
2 wind project. It would be the very first one
3 established in Pennsylvania. It would provide
4 significant benefits to the Hazleton Municipal
5 Water Authority, and I understand your point,
6 and we'll go back and take a look at it, but
7 that project is an example of I think a good
8 project, and as you pointed out, the practice
9 that is involved in that project I believe is
10 used in other circumstances.

11 CHAIRMAN WHITE: Well, I think if we're
12 going to have a policy or a guideline that
13 says that for-profit companies cannot receive
14 these funds, then having a process that
15 permits them to simply be funneled through a
16 nonprofit where the owner at the end of the
17 day is a for-profit company, we either need to
18 revise our policy and guidelines or take a
19 very close look at this kind of situation.

20 ACTING SECRETARY HANGER: We'd be glad to
21 look at it, Senator.

22 CHAIRMAN WHITE: Thank you. Any other
23 questions from the Committee? Senator Musto
24 for a motion?

25 SENATOR MUSTO: Thank you, Madam Chair.

1 I move to report the nomination of John Hanger
2 to the Rules Committee with information that a
3 public hearing has been held on his
4 nomination.

5 SENATOR ERICKSON: I second.

6 CHAIRMAN WHITE: There's a second by
7 Senator Erickson. Patrick, would you call the
8 roll?

9 (Thereupon, Patrick D. Henderson,
10 Executive Director, commenced roll call
11 voting:)

12 MR. HENDERSON: Senator Baker?

13 CHAIRMAN WHITE: Aye; proxy.

14 MR. HENDERSON: Senator Dinniman?

15 SENATOR DINNIMAN: Aye.

16 MR. HENDERSON: Senator Erickson?

17 SENATOR ERICKSON: Aye.

18 MR. HENDERSON: Senator Musto?

19 SENATOR MUSTO: Aye.

20 MR. HENDERSON: Senator Stout?

21 SENATOR STOUT: Aye.

22 MR. HENDERSON: Senator Vogel?

23 SENATOR VOGEL: Aye.

24 MR. HENDERSON: Senator Don White?

25 SENATOR D. WHITE: Aye.

1 MR. HENDERSON: Senator Anthony Williams?

2 SENATOR WILLIAMS: Aye.

3 MR. HENDERSON: Senator Yaw?

4 SENATOR YAW: Aye.

5 MR. HENDERSON: Senator Scarnati?

6 CHAIRMAN WHITE: Aye; proxy.

7 MR. HENDERSON: Senator Mary Jo White?

8 CHAIRMAN WHITE: Aye.

9 MR. HENDERSON: Eleven votes.

10 CHAIRMAN WHITE: The nomination will be
11 reported out with eleven affirmative votes.

12 Thank you.

13 ACTING SECRETARY HANGER: Thank you,
14 Senator.

15 (Whereupon, the proceedings were
16 concluded at 10:55 a.m.)

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CERTIFICATE

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

April 6, 2009
Date

Cindy L. Reilly, Notary Public
Registered Diplomate Reporter

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