

In The Matter Of:
Delaware Department of Natural Resources
Division of Air Quality

VW and Audi Mitigation Plan
March 23, 2017

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DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENTAL CONTROL
OF THE STATE OF DELAWARE

..

RE: Public Meeting to Request Public)
Comment Regarding The Volkswagen and)
Audi Environmental Mitigation Plan)

..

DNREC
State Street Commons
100 Water Street
Dover, Delaware 19901

Thursday, March 23, 2017
6:00 p.m.

..

BEFORE: Valerie Gray and Deanna Morozowich

-- Transcript of Proceedings --

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1 MS. MOROZOWICH: Good evening. I
2 would like to thank everyone for coming tonight to
3 discuss Volkswagen Environmental Mitigation Plan.
4 Here is our agenda for the evening. I'm Deanna
5 Morozowich representing the Department.

6 Here with me this evening we have a
7 court reporter recording all of the discussion this
8 evening, so if any comments are made, please state
9 your name for the record so that we can get it well
10 documented.

11 For our agenda, we are going to be
12 discussing the settlement, the EPA -- or the
13 Volkswagen settlement.

14 Some requirements of the settlement:
15 Some mobile NOx emission sources, some qualified
16 mitigation actions under the plan, Delaware's
17 timeline, next steps, and then we will open the
18 floor up for comments and questions.

19 But if you have any comments or
20 questions throughout the discussion, please feel
21 free to ask.

22 So Volkswagen violated the Clean Air
23 Act for 580,000 vehicles between model year 2009 to
24 2016. The emission control systems performed



1 differently during normal operation and use than
2 during emission testing.

3 The vehicles emit levels of nitrogen
4 oxides, typically known as NOx, significantly in
5 excess of EPA's compliance levels.

6 So Volkswagen has agreed to suspend
7 \$14.7 billion to settle the allegations of the
8 cheating devices that they installed on these
9 vehicles. The settlement funds will be used to buy
10 back and/or modify vehicles, and they will support
11 national and state-level projects to reduce NOx
12 emissions.

13 So, for the national settlement,
14 there is \$10 million set aside for vehicle buyback
15 and modification, \$2 billion set aside for
16 zero-emission vehicles, and \$2.7 billion set aside
17 for the environmental mitigation trust.

18 And of that money, we are worried
19 about the blue piece of the pie here, the
20 \$2.7 billion. And Delaware is entitled to apply for
21 \$9 million of that environmental mitigation trust.

22 So the requirements of the plan: It
23 has to include an overall goal use of the funds,
24 categories of eligible mitigation actions,



1 consideration to disproportionately impacted
2 populations where NOx is the primary emission of
3 concern, and a description of the emission benefits
4 that would result from the implementation of the
5 plan.

6 So we looked at the EPA NEI, the
7 National Emission Inventory for the State of
8 Delaware, and we grouped it into categories for the
9 NOx emissions.

10 And if you had access to our plan on
11 the website, the categories of the plan correspond
12 to the categories on the pie chart. So we are
13 looking at on-road diesel, heavy-duty vehicles,
14 non-road equipment, locomotives, commercial marine
15 vessels, and on-road light-duty vehicles. And then
16 the 9.7 shown here within the graph, they are not
17 eligible to apply.

18 So these are the qualified mitigation
19 actions under the plan. And this chart basically
20 tells you which vehicles can be replaced or
21 repowered, the model year of the vehicle or the
22 engine that you are looking at, the funding that has
23 been set aside for those actions, whether it's for
24 government or non-government, and if scrappage is



1 required under the plan.

2 So Delaware's timeline: In the fall
3 of 2016, the court approved the partial settlement,
4 and they were supposed to approve a trustee. But
5 the court has not approved the trustee yet. Right
6 now they are considering Wilmington Trust, but all
7 that has not been finalized.

8 But we are looking to file a
9 beneficiary certification sometime this spring once
10 the beneficiary is -- the trustee is named. And
11 then we are hoping to become certified as a
12 beneficiary also this spring.

13 And we are accepting public comment
14 on the proposed draft. And then we are looking to
15 submit our environmental mitigation plan, hopefully
16 by this summer, and look for projects by the fall of
17 this year.

18 So the next steps include applying to
19 be a beneficiary, seeking public comment from people
20 here in this room on the plan, and then we are going
21 to be looking for projects.

22 So that concludes the presentation.
23 This is the way you can comment to us. You can use
24 our resource mailbox, join our Listserv, e-mail me,



1 call me. Yes?

2 MR. BARCHAK: I have got a really
3 small technical question. But on the eligible
4 vehicles for mitigation, the slide refers to school
5 buses --

6 MS. MOROZOWICH: Yes.

7 MR. BARCHAK: -- 2006 and older. And
8 that doesn't seem to agree with the appendix
9 document, which is 2009 and older school buses.

10 THE REPORTER: Can you get his name?

11 MR. BARCHAK: It is a small point,
12 but I was just --

13 MS. MOROZOWICH: You are correct. It
14 goes back to 1992 to 2009. And may I get your name
15 for the record?

16 MR. BARCHAK: Tim Barchak.

17 MS. MOROZOWICH: Oh, wait. That was
18 drainage trust. I'm sorry. I will concur that the
19 year is wrong, but I will have to get the correct
20 year for you.

21 MR. BARCHAK: Okay. Thanks.

22 MS. MOROZOWICH: Yes?

23 MS. VALENTINO: My name is Ellen
24 Valentino. I represent Mid-Atlantic Propane Gas



1 Association.

2 I just want a better understanding.
3 This is sort of barebones. I thought there would be
4 a little more deliberation on when you say "apply
5 for projects," you know, we want to make sure that
6 at least propane is considered, whether it be on
7 school bus fleets or some of these other fleets,
8 because it's just as clean and does qualify under
9 your programs.

10 So what do you mean projects? Like
11 is it just like, hey, bring us a project, and we
12 will think about it, or -- where is sort of the meat
13 of you are going to get the money, you are going to
14 be -- there is going to be a trustee, you are going
15 to be the people that sort of have the money. And
16 then what?

17 MS. MOROZOWICH: We are looking for
18 help in crafting the plan. We want to know what you
19 want projects -- the money, the funds to be spent
20 on. Where do you believe that the funds should be
21 spent, how do you believe they should be spent. We
22 are looking for ideas for the plan.

23 MS. VALENTINO: And then you will
24 have another public comment on the funds, or the



1 project, or you will just put a self determined --
2 how does it work from there? That's just sort of
3 not there yet or --

4 MS. MOROZOWICH: It has not been
5 determined yet.

6 MS. VALENTINO: Okay.

7 MS. MOROZOWICH: I don't think I will
8 be making the plans. I wish I could. (Laughter)
9 No. We are looking for input on how you believe the
10 funds should be spent, what project categories --

11 MS. VALENTINO: So I'll just say for
12 the record, and I'll even note that once you all
13 officially go out there, I guess this might be
14 official, and bring us projects, then you will
15 somehow have some kind of transparent public look at
16 what those projects are and give a rationale for how
17 you picked projects and how the money is spent? I'm
18 just trying to figure the oversight little bit.

19 MS. GRAY: Sure. That's a great
20 question.

21 MS. VALENTINO: Yeah.

22 MS. GRAY: I'm Valerie Gray with
23 DNREC. I'm Deanna's supervisor. And we actually
24 will be letting a public request for proposal.



1 And that's the competitive process
2 that's stipulated in the settlement agreement that
3 all states go through a public process on how they
4 garner these projects.

5 What we are doing tonight is trying
6 to get a sense from our community and our public as
7 to how best to apportion the \$9 million over ten
8 years, what makes sense for Delaware.

9 And that's what we are seeking
10 comment on tonight. This is a proposed draft plan.
11 The trustee has been named by the court. It's
12 Wilmington Trust. And we are waiting on the court
13 to approve the trust agreement.

14 Once that trust agreement is done,
15 then a clock is started, and that's when states will
16 actively be submitting their beneficiary
17 certifications.

18 Once those beneficiary certifications
19 are approved by the trustee, then we will be
20 submitting these proposed plans to the trustee for
21 approval.

22 So we can amend those plans at
23 anytime with the trustee. But once we have done
24 that, if say like we say we are going to spend



1 100 percent of our funding on your propane on the
2 school bus fleets, then we would amend the plan to
3 suggest that that's how we are going to actually
4 submit our request to the trustee for utilizing
5 those funds.

6 MS. VALENTINO: That would be a great
7 idea! But I'm teasing. Just going back --

8 (Laughter)

9 MS. GRAY: (Inaudible) (Laughter)

10 MS. VALENTINO: I know. I know. I
11 know. I just want to go back because I'm just
12 very -- I want to make sure that I do this.

13 So I leave here tonight. I represent
14 local propane companies here. I leave here tonight
15 and I say, okay, this is how this works: Dear
16 DNREC, I know you have this money coming. I think
17 five percent ought to be spent in giving tax credits
18 or rebates, however you are going to do it, for
19 propane fleet vehicle truck stations. I hope you
20 consider this. Get back to me. Ellen.

21 Is that sort of how this works? I'm
22 just --

23 MS. GRAY: It will be sent through a
24 public process. We will do a response to comment,



1 which we do whenever we receive public comment.

2 What we have to do is we have to be
3 within the construct and the boundaries --

4 MS. VALENTINO: Sure. Yeah.

5 MS. GRAY: -- of what the settlement
6 agreement tells us we have to do. So you can't ask
7 for a pie in the sky --

8 MS. VALENTINO: No.

9 MS. GRAY: -- and the world, but it
10 would be nice --

11 MS. VALENTINO: Okay.

12 MS. GRAY: -- because that's not
13 publicly how a court will review it.

14 And the trustee agreement is supposed
15 to stipulate a lot of all the bells and whistles
16 that we have to follow in terms of the states, and
17 that has not been agreed upon yet, so we have to
18 wait for that, kind of the rest of the story.

19 But what they have asked to us do as
20 states is to present our hypothetical proposed
21 plans, how might -- they suggested that we focus on
22 NOx emission reductions, which is what the VW fleet
23 violated, was NOx emissions.

24 So what I would be looking from you



1 would be you telling me why I should put my money in
2 this bin versus this other bin, why the benefits for
3 this particular category outweigh any other bin.

4 And that will help us formulate how
5 we might spend the \$9 million over the ten years.
6 And that's kind of what we are looking for tonight.

7 MS. VALENTINO: And that process is
8 now?

9 MS. GRAY: That's now?

10 MS. VALENTINO: Then we should
11 correspond with you in an official form now?

12 MS. GRAY: And if you will go back to
13 the last slide, I think it tells you -- (Vacuum
14 cleaner starts running outside the open door to the
15 conference room. Ms. Gray continues to speak) -- it
16 tells you how to submit it through there so that
17 it's in the official document, and --

18 THE REPORTER: Can we shut that door?

19 MS. GRAY: That will be very, very
20 helpful to us, if that makes sense.

21 MS. VALENTINO: Yes.

22 (Someone shuts the door.)

23 MS. GRAY: Because we can spend it
24 any number of ways, submit categories, how do I cut



1 this pie.

2 (Someone is raising hand)

3 MS. MOROZOWICH: Yes, ma'am?

4 MS. DRYDEN: I have a question.

5 MS. MOROZOWICH: Your name, please?

6 MS. DRYDEN: Yeah, I was just --

7 MS. MOROZOWICH: Your name, please?

8 MS. DRYDEN: Oh, Penny Dryden

9 representing the Delaware Concerned Residents for
10 Environmental Justice.

11 And my question would be, I hear you
12 saying that tonight you can put forth some general
13 comments. But if you go through to one of these
14 sites, that's the official way of doing it? That's
15 where the documents?

16 MS. GRAY: No, this is one way --

17 MS. DRYDEN: Okay.

18 MS. GRAY: -- for many of you. So
19 that's why we asked for a court reporter to be
20 here --

21 MS. DRYDEN: Okay.

22 MS. GRAY: -- so that we could take
23 in all that information, and she can record it for
24 the record for us tonight, if you chose not to



1 present written comments, but orally would be more
2 comfortable for you.

3 MS. DRYDEN: And then the other part
4 of that is who would be eligible? I represent
5 non-profit. So are we, you know, can we assure that
6 a portion of these funds can be solicited by
7 non-profit organizations from environmental justice
8 communities?

9 MS. MOROZOWICH: These are eligible
10 sources. You have got your school buses, shuttle
11 buses, transit buses, and the like, your heavier --
12 the medium-duty class four to seven trucks, the
13 local freight trucks, class eight, freight and
14 switchers, tugs and ferries --

15 MS. DRYDEN: Uh-huh.

16 MS. MOROZOWICH: Ocean-going vessels,
17 airport ground and other service equipment,
18 forklifts, and light-duty bin.

19 We also have a DERA category. So if
20 you're -- we can use this -- the funds can also be
21 used for -- to match the DERA grant, if you are
22 familiar with projects being submitted through the
23 DERA process.

24 MS. DRYDEN: But I think my question



1 is eligibility.

2 MS. GRAY: You would be eligible,
3 because you would be a non-government entity.

4 MS. DRYDEN: Okay.

5 MS. GRAY: And what changes within
6 the settlement agreement -- and if you look at
7 Appendix D by going to the website, you can see the
8 appendix. It's a real long appendix. They actually
9 have the whole settlement agreement in it.

10 In Appendix D it stipulates how I
11 have to cost share projects with a non-government
12 entity, which are what the percentages are there,
13 what I can and can't spend money on.

14 And it's right after the Diesel
15 Emission Reduction Act --

16 MS. DRYDEN: Uh-huh.

17 MS. GRAY: -- with comments that we
18 gave when they set this up within the settlement.

19 So let's say your community owned a
20 diesel shuttle bus.

21 MS. DRYDEN: Uh-huh.

22 MS. GRAY: That would be eligible
23 because it's diesel. It has to be fueled by diesel.
24 And your organization would be eligible.



1 And when we ask for send us a
2 proposal, that would be the time that you would go
3 we have a project, we are looking at this, and it
4 fits these timeframes, we're looking at purchasing a
5 newer model year that fits the qualifications of the
6 agreement.

7 And that's what we are looking for
8 help with. And it's typically a 25 percent to
9 75 percent cost share. We would provide 25 percent
10 of the funds out of the VW settlement to your
11 organization. We would enter into a contract, and
12 all that legal rigaramore would go on.

13 And you would purchase your new
14 shuttle bus, brand new model year with all the bells
15 and whistles, all the newest controls for shuttle
16 buses, and your community would have a new bus.

17 MS. HERRON: Or you could get an
18 electric bus.

19 MS. GRAY: You could get an electric
20 bus. That is true.

21 UNIDENTIFIED SPEAKER: Or you could
22 buy a fuel cell.

23 MS. GRAY: Either that, or you can
24 buy a fuel cell. So there are a lot of options that



1 you can --

2 MR. DETRICK: Or a miniature gas bus
3 if you are all --

4 (Laughter)

5 MS. GRAY: We have to share the
6 wealth. But those are all the options that your
7 community would be eligible for. And we will be
8 letting a competitive RFP request for proposal
9 sometime late this fall. We have to wait on reports
10 so we know how they are. Yes, sir?

11 MR. PRASAD: So my name is Ajay
12 Prasad representing University of Delaware.

13 So I actually read online your
14 appendix. So it has ten different categories of
15 vehicles. And it looks like you have already laid
16 out all the cost share percentages for
17 non-government versus government organizations.

18 So with there is so much detail in
19 here, it seems like you have a lot of specificity.
20 So I'm wondering, you know, what are you -- what do
21 you need from us today in addition to what you have
22 already laid out in over here?

23 MS. GRAY: A lot of what's laid out
24 that Deanna has put into the mitigation work plan --



1 and I'm probably speaking for her. And I apologize.
2 I do that. So excuse me.

3 But the plan has to follow certain
4 requirements of the settlement agreement. We don't
5 have a lot of flexibility on what categories we
6 select --

7 MR. PRASAD: Uh-huh.

8 MS. GRAY: -- or what the cost shares
9 are.

10 MR. PRASAD: Uh-huh.

11 MS. GRAY: But we are seeking comment
12 on that. And we will, if, for instance, we want to
13 do more or less, we would have to put that into the
14 plan to get approvals.

15 But the categories, it's the
16 apportionment of how do I slice this pie? Do I put
17 50 percent into school buses? Do I put another
18 50 percent into ferries and tugs? How should I
19 apportion that?

20 And what she has tried to spell out
21 in the work plan is this is what our missions
22 profile looks like today.

23 MR. PRASAD: Uh-huh.

24 MS. GRAY: And because the settlement



1 is saying you need to focus on NOx emissions, the
2 best bang for the buck would be those that have the
3 highest NOx emissions based upon our emissions
4 profile.

5 MR. PRASAD: Or another way to think
6 about it would be to ask, for every dollar that is
7 spent out of this fund, what is the maximum return
8 you are getting in terms of NOx reduction?

9 MS. GRAY: That would be another way
10 to look at it, as well.

11 MR. PRASAD: And if I could continue
12 with that theme, where are those NOx reductions
13 happening?

14 I mean, if you do it out in the open
15 water as opposed to a densely-populated urban
16 environment, the same NOx reduction out in open
17 water may be less harmful to people than if you do
18 it in an urban environment.

19 MS. GRAY: That would be another
20 consideration.

21 MR. PRASAD: Yeah.

22 MS. GRAY: And the settlement
23 agreement also asks us, as states, to take that into
24 consideration.



1 We are soliciting our environmental
2 justice communities where they are
3 disproportionately affected --

4 MR. PRASAD: Yes.

5 MS. GRAY: -- by our pollution at
6 large. So we would be seeking to work with groups
7 that are --

8 MR. PRASAD: Yes.

9 MS. GRAY: -- actually in
10 disproportionately-affected communities.

11 MS. MOROZOWICH: You had a comment?

12 MR. DRYDEN: Ken Dryden with the
13 NAACP and with the Delaware Concerned Residents for
14 Environmental Justice.

15 In the requirements there at page two
16 you see, what is DNREC defining as the
17 disproportionate-impacted population? What
18 population are you referring to? The EJ?

19 MS. GRAY: EJ, yes.

20 MR. DRYDEN: Okay. The EJ on that.
21 So now let me ask -- here is my second part: So
22 would that -- with that said, can these dollars,
23 outside of what you have put forth, the programs you
24 have there, go to some sort of indoor, um --



1 MS. MOROZOWICH: No. I don't believe
2 so. I believe that they have to be used the way
3 that the mitigation plan intended.

4 MS. GRAY: The settlement agreement
5 stipulates the categories. And they are looking for
6 vehicles, mobile source emissions. Because that's
7 what Volkswagen was. They were a car manufacturer,
8 and they violated our tailpipe emissions standards.
9 So we are looking to try to focus it on tailpipe
10 emissions. So indoor air quality wouldn't
11 necessarily be one that would qualify for this.

12 MR. DRYDEN: But if you say you're
13 going into the EJ communities, and those communities
14 may have been impacted their health-wise from the
15 emissions, can that be crafted in a way or can
16 DNREC -- I know you say that there is the courts
17 have laid out what the money can be spent on.

18 But is the plan that you are saying
19 here, is it what -- how DNREC wants to spends the
20 money in the state, or are we saying that in those
21 EJ communities the emissions have also affected
22 folks' health?

23 So I'm getting back to my question
24 that says how do we fit that into the EJ communities



1 who were impacted by the emissions that way?

2 MS. DRYDEN: If I could just add --

3 THE REPORTER: Can you say your name
4 every time you speak?

5 MS. DRYDEN: Yes. Penny Dryden. I
6 think what we are trying to get at is, if this is
7 all about vehicles that are traveling heavily
8 through communities, EJ communities --

9 MS. GRAY: Uh-huh.

10 MS. DRYDEN: -- and they are setting
11 off these emissions, then it has to impact the
12 indoor quality of air, of these homes. So do you
13 see what I'm saying?

14 MS. GRAY: Uh-huh.

15 MS. DRYDEN: Air goes where it goes.
16 So we want to be able to, I guess, test that to see
17 if there is some real impact with this -- what's it?
18 NO? NOx.

19 MS. MOROZOWICH: NOx.

20 MS. DRYDEN: If we can determine if
21 that is a problem in these people's homes along
22 these communities where these heavily-traveled
23 vehicles go.

24 MS. GRAY: It's an interesting



1 concept, and I think that's something that's
2 probably outside this particular set of funding that
3 we have available.

4 But I think it's a very interesting
5 program that we might want to partner with other
6 help on.

7 MS. DRYDEN: Okay.

8 MS. GRAY: And perhaps pursue it a
9 little bit further and try to get some data.

10 MR. DRYDEN: Or maybe something that
11 you want to partner with with one of the -- where we
12 are talking about someone in the EJ community.

13 MS. GRAY: Absolutely.

14 MR. DRYDEN: And bring that forward.

15 MS. DRYDEN: Are you ruling that out,
16 or is this money that we can --

17 MS. GRAY: It's not something that
18 qualifies for this bin of money.

19 MS. DRYDEN: Okay.

20 MS. GRAY: For this bucket of money,
21 I cannot use it for something indoor air quality
22 study. Though I am very interested in probably
23 looking at something like that for the future, and I
24 think it would have some really interesting benefits



1 to evolve.

2 MS. MOROZOWICH: Yes. Your name?

3 MR. MELVIN: Caleb Melvin. So, you
4 know, with Delaware being such a small state, a lot
5 of these businesses don't do business just in
6 Delaware.

7 Is there any like weighted system
8 that gives priority to businesses that only do
9 business in Delaware?

10 Because I'm thinking that if this
11 \$9 million is allocated to businesses that are in
12 Delaware but do most of their business in Maryland,
13 we are kind of throwing that money into the other
14 state rather than using it specifically here.

15 Is there any weighted system to
16 ensure that it's more focused here?

17 MS. MOROZOWICH: That is not part of
18 it. And it's very intriguing. I'm very interested
19 in that. And we are glad to take your comments on
20 that, and we will look into it. Because they are
21 very valid points that we should definitely
22 consider.

23 MR. MELVIN: Right. And I think that
24 if it can't be like focused beyond that, a comment



1 from me would be to more centralize that on
2 something we could handle, like governmental type of
3 changes that can be established to offset NOxes, you
4 know, just as a comment.

5 MS. MOROZOWICH: Thank you.

6 MS. HERRON: So like you are focusing
7 on --

8 MS. MOROZOWICH: Your name, please?

9 MS. HERRON: I'll give it at the end.

10 MS. GRAY: Stephanie Herron.

11 MS. HERRON: Can I say it at the end?

12 MS. GRAY: Yes.

13 MS. HERRON: Okay -- on vehicles that
14 are doing the majority of their traveling in
15 Delaware. So, by nature, these are moving vehicles
16 that we have to focus on. We would maybe want to
17 somehow incent specifically vehicles that we know
18 will do a majority of their traveling in Delaware
19 or, if possible, we can get even more specific and
20 focus on vehicles that are traveling through,
21 especially impacted communities, like say buses that
22 we know are going through certain neighborhoods.
23 Right? Is that what we --

24 MR. MELVIN: Right. And basically,



1 to expand on that -- Caleb Melvin is my name.

2 MS. HERRON: Stephanie Herron.

3 MR. MELVIN: So what if there was a
4 company that was in Maryland, you know, and they do
5 business in Maryland but also do a lot of business
6 in Delaware, would they be eligible for this, or
7 would it just be like a Delaware business?

8 MS. GRAY: We would only be able to
9 give for vehicles registered and owned in Delaware.

10 Where they operate, I'm not quite
11 sure I can be that restrictive in telling you you
12 can only operate your vehicle in Delaware. That
13 might be a little overstretch.

14 But it's a very intriguing idea. And
15 I think what you are trying to get at is the
16 priority should be for Delaware-owned and operated
17 vehicles that primarily are here.

18 MR. MELVIN: Yes.

19 MR. PRASAD: Because Maryland
20 presumably is getting its own share of the pie.

21 MS. GRAY: They are getting a very
22 large share.

23 MR. PRASAD: Exactly.

24 MS. GRAY: And it's based on



1 vehicles, the number of vehicles that we have
2 registered Delaware for this time period.

3 So it's based on those violating
4 vehicles. And I believe it's 2009 to 2014. It's
5 that population of vehicles. And that's how this
6 court apportions the \$2.9 billion amongst the
7 states. So our share is \$9 million, because we
8 don't have that many registered Volkswagen vehicles.

9 MS. MOROZOWICH: You had your hand up
10 first. Your name?

11 MR. BARCHAK: Tim Barchak. And when
12 I commented previously, I didn't say I'm with the
13 National Education Association, as well as being a
14 Delaware resident.

15 So, I mean, in terms of sharing
16 vehicles that are going to be operating totally
17 within the boundary of your state, that means school
18 district fleet buses are going to fit that bill for
19 sure.

20 And school districts are generally
21 starved of money, but their transportation funds are
22 always stretched.

23 And then my last question, and then I
24 will shut up: Is there a stakeholders' group, or



1 will there be a stakeholders' group?

2 MS. MOROZOWICH: We haven't gotten
3 that far. But would you like one? Do you think one
4 is necessary?

5 MR. BARCHAK: I'm not sure. You know
6 the business of distributing this kind of money
7 better than I.

8 I mean, truthfully, 9 million is not
9 a whole lot of money. But it seems like, in some
10 ways, by the time we got a stakeholders' group up
11 and going, that money would be out the door, but --

12 MS. GRAY: That's not the intent. We
13 do have a Listserv, and that's how we hope to push
14 information out to our stakeholders that are
15 interested in what we are doing with the Volkswagen
16 settlement.

17 We also have another organization
18 that's called the Clean Cities Coalition. And their
19 purpose is to look at alternative fueled vehicles.
20 And you may have picked up some materials when you
21 came in.

22 And that's another mechanism for
23 working on alternative fueled vehicles in reducing
24 that whole carbon footprint of our fleet.



1 We also are working very closely with
2 our Department of Education on moving propane school
3 buses into our fleet. We have done a number of
4 vehicles through DERA, the Diesel Emission Reduction
5 Act branch, for the past couple of years.

6 We have a couple of folks in the room
7 who are very attuned with that kind of work that we
8 have been doing. And it's unfortunate that a
9 representative from DOE could not be here tonight.
10 So they did send their apologies to us.

11 MS. MOROZOWICH: Who was next to
12 comment?

13 MR. MACLEOD: I'm Bill Macleod with
14 the Fuel Cell and Hydrogen Energy Association. And
15 I have a statement I would like to read, if you bear
16 with me.

17 As background, the association is the
18 trade association that's dedicated to
19 commercialization of fuel cells and hydrogen energy
20 technologies.

21 Members include the full supply chain
22 of hydrogen and fuel cell companies, including
23 automakers; material, component, fuel cell stack and
24 system manufacturers; hydrogen producers and energy



1 companies; utilities; and end users.

2 Prominent among these members are two
3 innovative companies operating here in Delaware.
4 Air Liquide operates a research and development
5 center in Newark. And W. L. Gore, also in Newark,
6 produces membrane electrode assemblies and membranes
7 for the proton exchange membrane fuel cells.

8 I'm here with Laura Geiman, who is a
9 representative of W. L. Gore.

10 As background, fuel cell
11 installations and deployments are increasing every
12 year, in number and in megawatts. There are more
13 than 235 megawatts of large stationary fuel cells
14 currently operating in 43 states.

15 Electric utilities use fuel cells to
16 provide megawatts of power to local users.

17 Cities are adopting fuel cells to
18 power central services when the grid goes down.

19 Rail and telecom companies use fuel
20 cells to power communication towers and signaling
21 infrastructure.

22 Further, major corporations are
23 installing hundreds of fuel cell systems to power
24 retail sites, data centers, and other facilities.



1 Companies are deploying fuel cell forklifts as an
2 example to work in their warehouses and distribution
3 centers across the country.

4 Fuel cell vehicles are available for
5 purchase and lease in California, getting into
6 personal transport, and soon will be available in
7 several northeastern states.

8 Finally, fuel cell buses are in
9 operation in several states, including here in
10 Delaware.

11 These examples display the industry's
12 capacity and capability to successfully deliver the
13 kind of projects that the draft mitigation plan
14 envisions funding.

15 FCHEA endorses the plans and goal of
16 improving ambient air quality by seeking significant
17 and sustained cost-effective reductions in nitrogen
18 oxide emissions and expediting deployment and
19 adoption of zero-emission vehicles and near-ZEV
20 vehicles and engines.

21 A couple suggestions: So, first, to
22 enhance the fulfillment of the plan, FCHEA
23 recommends an economic impact factor be added to the
24 plan's anticipated project selection criteria.



1 Doing so will help further promote the growth of
2 Delaware's fuel cell industry.

3 Next, FCHEA also supports ZEV
4 vehicles, zero-emission vehicles, as a key pathway
5 to advancing energy independence and reducing the
6 carbon intensity of transportation fuels. Because
7 fuel cell vehicles combine the emissions-free
8 driving of battery electric vehicles with the range
9 and convenience of gasoline-powered vehicles, FCHEA
10 supports building refueling infrastructure that
11 support bringing these vehicles to market.

12 To expedite the deployment of the ZEV
13 as called for by the plan, FCHEA recommends
14 available ZEV supply equipment-related funds, which
15 we understand are capped at 15 percent of the total,
16 be allocated in coordination with
17 private-sector-funded hydrogen refueling networks.

18 Hydrogen providers and automakers are
19 exploring the development of such a network in the
20 I-95 corridor here in the northeast region.

21 Last, FCHEA recommends that a "zero
22 emissions miles dispensed" factor be added to the
23 plan's anticipated project selection criteria.

24 By giving added preference to those



1 projects capable of dispensing greater zero-emission
2 driving miles, NOx reduction benefits can be
3 maximized.

4 That is my statement. I appreciate
5 your bearing with me. I'll be happy to answer any
6 questions you all have about fuel cell and hydrogen
7 technology.

8 THE REPORTER: Do you have an extra
9 copy?

10 MR. MACLEOD: Yes. I will give you a
11 copy. Thank you very much.

12 MS. MOROZOWICH: Thank you.

13 MR. JONES: My name is Carl Jones.
14 I'm with Cummins Engine Company. Very similar, I
15 have some information based on trying to help with
16 the proposal.

17 First, I want to thank you for the
18 opportunity to speak. So with Cummins I represent
19 the automotive -- the automotive side highway
20 business for our dealers Delaware, Maryland, and
21 northern Virginia.

22 In reference to the VW settlement
23 goals, the state should get the most NOx reduction
24 possible by the funds being provided. The



1 settlement requires the states to measure their NOx
2 reductions in achieving their mitigation plans.

3 Delaware can do this by reducing or
4 replacing their older heavy-duty vehicles with the
5 latest and most cost-effective technology available.
6 Cummins offers a clean diesel and natural gas
7 technology.

8 The latest clean diesel and natural
9 gas technologies meet or exceed the most stringent
10 emission requirements established by the US EPA.

11 For example, a 2010 newer diesel
12 truck running in a non-attainment area will emit
13 cleaner air through the tailpipe than it takes in
14 from the environment.

15 Another example is 60 clean diesel
16 trucks emit the same NOx level as a truck
17 manufactured back in 1988.

18 Cost-effective solutions to make this
19 happen: Replacing your older diesel engines with
20 new diesel and natural gas engines is the most
21 cost-effective way to reduce emissions.

22 According to the U.S. Department of
23 Transportation, one ton of NOx emissions can be
24 eliminated by investing \$20,000 in clean diesel



1 technology versus \$1 million in electrical
2 infrastructure. \$5 million spent towards
3 natural-gas-powered vehicles can reduce 3,800 tons
4 of smog-forming emissions compared to 1,200 tons
5 from electrical -- electric-powered vehicles by the
6 grid.

7 Clean diesel and natural gas are
8 technologies that are available for immediate
9 availability to the State of Delaware for reducing
10 their emissions footprint.

11 Cummins is a global power leader in
12 designing, manufacturing, selling, and servicing
13 diesel engines, natural gas engines, power
14 generation, and related products and technologies.

15 Our clean diesel and natural gas
16 products are available in a wide range of heavy-duty
17 on-highway, off-highway, locomotive, and marine
18 applications to exceed the most stringent emission
19 requirements established by the EPA.

20 Cummins has for years had experience
21 working with the DERA program, the Diesel Emissions
22 Reduction Act. And we continue to provide
23 alternatives for replacing or repowering of
24 equipment.



1 In conclusion, clean diesel and
2 natural gas provides the fastest and most
3 cost-effective solution for addressing NOx emissions
4 in the state. And we support the State's decision
5 to keep the proposed mitigation plan open to all
6 technologies and all project types.

7 And I thank you. And if you have any
8 questions, please let me know.

9 (The reporter asked for a copy of the
10 statement read into the record by Mr. Jones.)

11 MR. PRASAD: My question has to do
12 with I have heard ten years as the timeframe that
13 was mentioned.

14 So it's \$9 million over ten years.
15 Is it an annual RFP that's going to come out, or is
16 it a one-time RFP that's going to disperse the
17 entire \$9 million in one shot?

18 Can you give some -- shed some light
19 on that?

20 MS. MOROZOWICH: We have not
21 developed that plan, either.

22 MR. PRASAD: Okay.

23 MS. MOROZOWICH: Our hope was to have
24 large projects and disperse the larger funds over a



1 shorter time period. But we can certainly go with
2 smaller projects and disperse them over a longer
3 time period, as well.

4 MR. PRASAD: So my question is what
5 does a ten-year exactly refer to, then?

6 MS. GRAY: It's a 30-month settlement
7 cycle. I can go to the trustee, and I can request
8 funding every 30 months.

9 So where we would probably be in
10 terms of constructing an RFP could be one RFP that
11 would cover projects over a longer time horizon or
12 three smaller RFPs covering a one-year time frame
13 following a similar program that DERA follows, which
14 is a one-year time horizon.

15 We take comment on what your
16 preference might be in terms of constructing that
17 RFP -- should it be a shorter time frame, a longer
18 time frame -- what makes the best sense for
19 Delaware?

20 MS. DRYDEN: I will take one more
21 stab at this. Do we know the percentage of EJ
22 communities that were impacted by this violation and
23 resulting into these funds? Do we have any idea the
24 percentage?



1 MS. MOROZOWICH: No.

2 MS. DRYDEN: No idea at all?

3 MS. GRAY: No.

4 MS. DRYDEN: But we know that it's
5 high.

6 MS. GRAY: It's probably higher than
7 a rural community with fewer people.

8 MS. HERRON: Like closer near a
9 highway.

10 MS. DRYDEN: Yes, along Route 9 for
11 example, with the trucks. Okay. And so we said
12 that zero percent of these funds should do any
13 indoor? We got all that.

14 MS. GRAY: Unfortunately, that's what
15 the boundaries are.

16 MS. DRYDEN: Okay. So, based on that
17 information, if -- for the record, this is Penny
18 Dryden again -- I'm sorry -- if we could at least
19 put it on the record that there is a strong request
20 that there be some portion.

21 I don't know who could modify, who
22 could help us out here, but at least that go into
23 the record that there was a strong request for that,
24 that that at least happen.



1 MS. GRAY: Just to clarify: You are
2 asking for modification of the settlement
3 categories, or that you are requesting that we
4 construct our categories so that when we receive
5 projects, that if they come from communities that
6 are in these areas, that we would give them a
7 greater consideration than another project?

8 Is that what you are asking?

9 MS. DRYDEN: Well, yeah, that, too.
10 But they want to know how this whole -- this
11 violation has impacted them. And there is no way to
12 know if I -- if this NOx is in my home because of
13 that violation. There is no way for them to know
14 unless they do some sort of indoor air quality test.

15 MS. GRAY: That's correct.

16 MS. DRYDEN: And so, you know, that
17 kind of leaves out. And how is that tied into their
18 health issues that they are having? Because if that
19 NOx shows up when they do this test, then we know
20 exactly that this is a direct correlation with this
21 violation.

22 MS. GRAY: Well, we do have monitors
23 throughout the state. I think Ron Amirikian can
24 speak a little bit better to where the monitors are



1 and the data that we receive.

2 And you can even go on our DNREC
3 website, and you can see live data of what the
4 monitorings are actually collecting, the ambient air
5 quality what we breathe outside. And you can see
6 what they are collecting.

7 And I don't believe we have had any
8 NOx emission violations in the ambient air quality
9 in awhile. I don't think we had any last summer.

10 MR. AMIRIKIAN: I'm Ron Amirikian.

11 I --

12 MS. DRYDEN: Well, if it's in the air
13 anywhere, it's in somebody's home, so.

14 MR. AMIRIKIAN: Maybe just a little
15 bit of background, maybe: We are talking NOX
16 emissions and nitrogen oxide emissions. And this is
17 something that basically every single vehicle that
18 burns gasoline emits. All cars emit NOx, all trucks
19 emit NOx, if they are burning fossil fuels.

20 What happened here is the Volkswagen
21 vehicles exceeded the standards for NOx. A vehicle
22 is only allowed to emit so much of it. And these
23 vehicles from VW were exceeding the federal
24 standards more than they were allowed.



1 So I'm not sure if a monitor, if it
2 picks up nitrogen oxides, that we could really tie
3 it to a certain Volkswagen vehicle, because
4 everything is emitting. Our power plants are
5 emitting NOx and burn fossil fuels.

6 So it's something that's in our
7 atmosphere. There are air quality standards for it,
8 as Valerie just mentioned. And Delaware has always
9 been in attainment for those standards and well
10 within attainment. None of them exceed nitrogen
11 oxide standards.

12 What our concern here is, we are in
13 non-attainment of ozone standards. And ozone isn't
14 directly emitted from sources. What happens is in
15 the atmosphere nitrogen oxides combine with other
16 pollutants, and they form ozone.

17 So that's why we are concerned with
18 the NOx emissions coming from the vehicles. We set
19 standards to reduce the NOx emissions to reduce the
20 concentration of ozone. And Volkswagen exceeded
21 those standards, so they interrupted the plans we
22 had, which is the issue. They did that across the
23 country.

24 I'm not sure if that helps or not.



1 MS. DRYDEN: It still doesn't tell me
2 how's the community is impacted. I don't know if it
3 can.

4 MS. GRAY: Without a broader study,
5 I'm not sure if that could be done. But it's
6 intriguing. It would be very interesting to work on
7 something like that.

8 Any other questions or comments? You
9 have an opportunity to submit comments to Deanna.

10 MR. DETRICK: Just at this stage --

11 MS. MOROZOWICH: Your name?

12 MR. DETRICK: Dave Detrick,
13 Chesapeake Utilities. So we are conceiving of a
14 number of options here for this that involve natural
15 gas, CNG for example, in helping communities get CNG
16 waste trucks, for example.

17 At this stage, is this the time to
18 submit concepts like that, or do you want more
19 broad, general comments on the 12 -- for example,
20 the 12 points here on the one handout? I mean
21 how -- at this point how --

22 MS. GRAY: We are not making a formal
23 proposal. We are not requesting proposals today.

24 MR. DETRICK: Right.



1 MS. GRAY: Probably we are looking
2 more for the broader questions that kind of the how
3 might we apportion this pie? How much should be
4 dedicated to CNG equipment over another category.

5 MR. DETRICK: Right.

6 MS. GRAY: And we would be looking
7 for how that meets the NOx emissions and the like.

8 MR. DETRICK: Okay.

9 MS. GRAY: But we are very interested
10 in receiving projects once we are allowed to ask for
11 them.

12 MR. DETRICK: A follow-up on that.
13 And this goes to who can submit comments? Can the
14 coalition submit comments?

15 MS. GRAY: I would ask Morgan and
16 Kathy in the back to answer, since they are our
17 coordinators.

18 MS. ELLIS: Morgan Ellis, DNREC,
19 Division of Energy and Climate. I would have to
20 check into that, Dave.

21 MR. DETRICK: Okay. Fair enough.

22 MS. GRAY: Do you have something
23 else?

24 MR. DRYDEN: I guess I came down



1 here, and I'm finding out that I may have not been
2 clear on maybe what the actual court order for the
3 settlement was.

4 And it appears that -- I'm looking at
5 mitigation, but it appears that this money is to be
6 spent on the vehicles, you are saying. And that's
7 what the court ordered, not DNREC?

8 MS. GRAY: That is correct.

9 MS. MOROZOWICH: Correct.

10 MR. DRYDEN: That's what the court
11 ordered, that this money just be on vehicles?

12 MS. GRAY: Right.

13 MR. DRYDEN: That is not DNREC's
14 plan?

15 MS. GRAY: That is correct. Our plan
16 is how might we spend the money that the court has
17 said you can spend it in these categories. Does
18 that make sense?

19 MR. DRYDEN: Say that again? Say it
20 again.

21 MS. GRAY: The court said the
22 violation was for Volkswagen diesel-powered
23 vehicles.

24 They want to offset that violation by



1 having a penalty and having states be able to offset
2 those emissions by spending it on cleaner diesel
3 technologies or vehicles that reduce NOx within the
4 categories that they spelled out.

5 Does that make sense? So the court
6 said, "You, the states, can do this, but you get to
7 decide how you do this. And we are going to give
8 Delaware \$9 million. How do you want to spend it?
9 But this is the box you have to work in."

10 Does that make sense? It is what it
11 is, unfortunately.

12 MR. DETRICK: Maybe I missed it. But
13 is there some estimate during the violation time
14 period of the amount of NOx emitted by registered
15 Volkswagen vehicles in this situation? Is there any
16 sort of swag on that? It seems to me that might be
17 a cure for someone deciding.

18 MS. GRAY: I don't believe -- I think
19 we would have to look into the court documents. I
20 don't know. I would have to get back to you on
21 that, on how they decide that.

22 MR. PRASAD: In terms of how to
23 apportion the money, I'm going to go back to the
24 point I made first, which is you keep an open mind



1 as to all the different items that come in, and you
2 make your decisions based on which projects is going
3 to get the best bang for your buck in terms of
4 reduction for those spent. And, you know, the
5 non-attainment areas preferably.

6 So, to me, that way you are not
7 putting artificial boundaries; you are getting all
8 sorts of projects coming in; you get a diversity of
9 projects; you are not putting -- I mean, if you are
10 talking \$9 million over ten years, that's \$0.9
11 million per year on average.

12 And a single electric bus could blow
13 the budget right there. One year's budget is gone
14 in a single acquisition, which, you know, seems it's
15 like putting all your eggs in one basket.

16 So I think a mix of small and large
17 projects and diversity of projects affecting as many
18 population areas as possible, I think those are all
19 good metrics to look for by looking at proposals.

20 MS. GRAY: Thank you. That's
21 helpful. Any other comments, questions,
22 considerations we should look at?

23 MS. MOROZOWICH: Hearing none, thank
24 everyone for coming tonight.



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(Concluded at 6:54 p.m.)

CERTIFICATE

I, Lorena J. Hartnett, a Notary Public and

1 Registered Professional Reporter, do hereby certify that
 2 the foregoing is an accurate and complete transcription
 3 of the proceeding held at the time and place stated
 4 herein, and that the said proceeding was recorded by me
 5 and then reduced to typewriting under my direction, and
 6 constitutes a true record of the testimony given by said
 7 witnesses.

8 I further certify that I am not a relative,
 9 employee, or attorney of any of the parties or a
 10 relative or employee of either counsel, and that I am in
 11 no way interested directly or indirectly in this action.

12 IN WITNESS WHEREOF, I have hereunto set my
 13 hand and affixed my seal of office on this 23th day of
 14 March 2017.

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Lorena J. Hartnett
 Registered Professional Reporter

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