

JOINT LEGISLATIVE COMMISSION ON GOVERNMENTAL OPERATION
SUBCOMMITTEE ON THE ATLANTIC COAST PIPELINE

DATE:NOVEMBER 8, 2019

TIME: 10:00 a.m.

KEN EUDY Q & A - pages 1-23

JULIA WHITE Q & A – pages 24-27

1 CHAIRMAN: I'd like to call this November 8, 2019 meeting of the Atlantic Coast
2 Pipeline Subcommittee of Government SELOP Subcommittee.

3 I'd like to begin by thanking our House Sergeant-at-Arms, Warren Hawkins, Maliki
4 McCullough, Bill Moore and David Laten. Thank you always for being in assistance for us.
5 And then the Senate Sergeant-at-Arms, Terry Barnhart, Dwight Green, Charles Masalas and
6 Chris Moore, so thank you very much for being here.

7 Members, at this time, also you should have a couple house-keeping matters. Your travel
8 reimbursements and per diem. If you would please fill those out and turn those into the
9 Sergeant-at-Arms.

10 As we go through...whispering...that gentleman right there...

11 As we get started, I'd like to thank you all for being here. The Subcommittee on the
12 Atlantic Post Pipeline is meeting today to allow representatives of the Governor to answer
13 questions about the Atlantic Coast Pipeline permitting process. As you know we had difficulty
14 in obtaining information from the Governor's Office from year to year following the Atlantic
15 Coast Pipeline Permit issuance. During that time, the subject of this investigation launched
16 politic attacks on this inquiry. Therefore, earlier this year, a bi-partisan interview process,
17 through that bi-partisan interview process, we hired three decorated former Federal Agents to
18 conduct a completely independent investigation of the Atlantic Coast Pipeline matter. They have
19 a combined eighty-five (85) years of Federal Investigatory experience. They have investigated
20 money laundering, public corruption, organized crime and more. One of the Investigator's was
21 named FBI Special Agent of the Year in 2017. The independent investigator's set out to collect
22 additional information and interview witnesses associated with the permitting process. The
23 Investigators have informed us that, to date, every party involved except two have agreed to

1 speak to the independent Investigators. The two parties that refused to cooperate with
2 investigators are Strata Solar and Governor Cooper. This is disappointing considering Strata
3 Solar's CEO personally asked Governor Cooper to intervene in the dispute with Duke Energy
4 that's at the center of this inquiry.

5 After rejecting interview request from the independent Investigators, the Governor's
6 Office informed us that they would answer questions in a Public Hearing from this Committee,
7 so long as the Decorated Federal Career Agents did not ask the questions.

8 In an effort to complete the investigation and get some cooperation from the Governor's
9 Office, we accommodated this request because we believe that it is important to take reasonable
10 steps to hear from the subjects of an investigation.

11 To be clear, today's meeting is not a trial, a debate on the ACP process or time to make
12 decisions or take votes. This meeting is to take the last few interviews in the investigation and
13 nothing more.

14 The independent investigators will take the information gathered today and complete
15 their investigatory report before submitting it to the Subcommittee. The Subcommittee will then
16 refer the report to the full Joint Commission on Gov. Ops for a hearing on this matter, at which
17 time the independent Investigators will present their findings and answer questions from the
18 committee.

19 We appreciate the time that Mr. Ken Eudy and Julia White are giving us this morning.
20 We wish that Governor Cooper and his General Counsel, William McKinney, had not refused
21 our request to appear today. I expect Mr. Eudy and Ms. White will argue that the Cooper
22 administration has been transparent and forth coming. They will probably reference the DEQ
23 staff transcripts they released to the public earlier this week. It took this administration nearly a

1 year to produce a single document in response to this inquiry and making transcripts public from
2 low level bureaucrats while withholding access to key parties in this manner is not transparent
3 and is not forthcoming.

4 The investigation has taken two years because of obstructionism and obfuscation. The
5 hearing today will be fairly straightforward. The independent Investigators have provided us
6 with a list of questions that they would have liked to have asked Mr. Eudy and Ms. White, had
7 they not refused to speak with them. We will read those questions to Mr. Eudy and Ms. White.
8 Mr. Eudy and Ms. White will have all the time they wish to answer those questions. I also
9 understand from my staff that Mr. Eudy and Ms. White asked to read prepared statements after
10 their questions and we are happy to accommodate that.

11 This is a legislative oversight committee. This is not a trial. This is not cross-
12 examinations, but I certainly expect and believe that Mr. Eudy and Ms. White will answer the
13 questions fully and truthfully. This is the Governor's opportunity to present its side of the story.
14 If they omit information or provide deceiving answers, that's their choice. We are not here for a
15 gotcha back and forth. The purpose for today's meeting is to hear from the Governor's Office.
16 If the Legislators have questions about this process or the process, we will have an opportunity to
17 ask those questions when the investigators present their findings.

18 And with that, I will turn it over to Senator Brown, for the questions.

19 JIM PHILLIPS: Mr. Chairman, if I may.

20 CHAIRMAN: Yes.

21 JIM PHILLIPS: My name is Jim Phillips, I am here as counsel for the Office of the
22 Governor. You provided Mr. Eudy with a witness binder. Do you have another one of those?

1 CHAIRMAN: I do not at this time. We have packs of information that we provided to
2 the Committee members, but you could certainly share that one. Yup, Thank you.

3 And at this time, it is the Chairs understanding that Ms. White is not here, from
4 information provided to the Chair. She may come after Mr. Eudy's testimony or may not. We
5 don't know. So at this time, Senator Brown.

6 SENATOR BROWN: Thank you Mr. Chairman. Mr. Eudy, I appreciate you being here
7 today, I really do, and I think most of these are straightforward questions. I think a lot of them
8 are yes, no type questions and I will try to work through them and I will refer to the documents
9 that some of the questions come from as we get into them. First just a little background, I guess
10 information. What is your position with the Governor's Office?

11 KEN EUDY: Mr. Chairman you previewed much of my testimony in your opening
12 statement and suggested that I would request an opening statement. Is it okay if I give that
13 opening statement before I answer questions?

14 CHAIRMAN: You have the floor.

15 KEN EUDY: Thank you. Over the past twenty (20) months this legislature has tried to
16 cook up a controversy on the Atlantic Coast Pipeline. Our administration has released tens of
17 thousands of documents on the issue. Representatives of the North Carolina Department of
18 Environmental Quality have testified here. I have sat for hours in media interviews where no
19 question was off limits.

20 As we begin here today, I would like to take a moment to put this issue into context. The
21 ACP is a project of two Fortune 500 Companies seeking approval for a Natural Gas Pipeline that
22 would extend from Virginia to the South Carolina boarder through eight (8) North Carolina
23 Counties. ACP developers spent much of 2017 trying to win support in the pipeline corridor.

1 They promised jobs and prosperity. They bought television ads making the same promises.
2 Over time, some of the same people featured in those television ads began to question how the
3 ACP would keep its promise of more jobs. Governor Cooper shared those concerns because the
4 Pipeline has only three places that communities could connect. Someone has said, that's like
5 building Interstate 95 from Virginia to South Carolina with only three exits.

6 For the Pipeline to go forward in North Carolina, the ACP would have to receive a series
7 of permits from North Carolina DEQ. That Department, as well as the Governor's Office,
8 received many messages supporting and opposing the main water quality permit.

9 From the outset, Governor Cooper said the permit would be handled by experts at DEQ
10 and that it would be decided on the basis of science, technology and the law. That posture was a
11 start departure from Governor McCrory, who personally intervened in the regulatory affairs of
12 the Coal Ash issue. DEQ employees told your Investigators over and over again that there was
13 no outside interference in their review of the ACP Water Quality Permit. Despite repeated
14 questions from your Private Investigator's they said there were no unusual circumstances in their
15 review. And these employees were not bureaucrats; they were the DEQ employees who were
16 responsible for reviewing the Application.

17 I read efforts in the Governor's Office to make sure the ACP kept its promises about jobs
18 and economic development in Eastern North Carolina. As you know, a region of the State that
19 has not enjoyed the economic success that other parts of the State have enjoyed.

20 I also led efforts to bring Duke Energy and Solar Developer's together to find a
21 resolution of the impasse on House Bill 589. Governor Cooper's leadership in reducing our
22 carbon footprint is widely known. The Bi-partisan passage of House Bill 589 was supposed to
23 guide the orderly growth of solar energy on the electricity grid. But almost before the ink was

1 dry on House Bill 589, solar developers and Duke Energy tangled over how the legislation would
2 be implemented.

3 On the issue of permits, if the ACP were to receive the Water Quality Permit we wanted
4 to make sure that the Pipeline kept its promises to bring more jobs. After all, much of the land
5 and the Pipeline corridor had been taken under the threat of imminent domain. This was not a
6 project that many Eastern North Carolina farmers and land owners welcomed with open arms.

7 The ACP has said publicly that the reason they negotiated mitigation agreements with
8 West Virginia, Virginia and North Carolina was to meet their obligation to the Federal Energy
9 Regulatory Commission. In North Carolina, we ended up with a mitigation fund that could help
10 with economic development and renewable energy along the path of the Pipeline.

11 If DEQ decided to grant the Water Quality Permit, we hoped to announce this mitigation
12 fund and a resolution to House Bill 589 at the same time that DEQ announced the Pipeline
13 decision, if they had agreed to do that. We wanted to present a full picture of North Carolina's
14 energy future.

15 The legislature unfortunately raided that fund, leaving Eastern North Carolina and the
16 eight Pipeline Counties with all the risk and none of the reward of a Natural Gas Pipeline
17 running through their Counties.

18 Did we do things perfectly? No we did not. We didn't nail down in writing how the
19 Mitigation Fund would be set up and administered. That gave some of you the opportunity to
20 criticize our work and you have made the most of that opportunity.

21 Instead of giving back what you told everybody was an illegal fund, you redirected the
22 money, proving that your concern wasn't the existence of the fund, it was a concern over who

1 controlled it. Just more power mad legislative politics that will end up hurting the people of our
2 State.

3 Once again, Eastern North Carolina farmers and small business owners who have begged
4 for Natural Gas for fifty (50) years were left behind. This obsession with the Atlantic Coast
5 Pipeline lays bare the General Assembly's upside-down priorities. You spent twenty (20)
6 months on the ACP, but refuse to spend a minute negotiating with the Governor on teacher pay,
7 building safe schools and providing health care to working people.

8 Perhaps in this cynical age of politics it might come as a surprise that some people in
9 government are trying to do the right thing - To make the State better - To give people a better
10 chance to be all they can be.

11 Members of the Committee, we did what we did for one reason - To help the people of
12 Eastern North Carolina.

13 CHAIRMAN: Mr. Eudy, are you prepared to move forward now?

14 KEN EUDY: Yes Sir.

15 CHAIRMAN: OK. Thank you very much. This investigation has taken many years
16 because of obstructionism and obfuscation. I think it is ironic that we are being criticized
17 because of the delay actually caused by the Governor's Office. So thank you for appearing and
18 moving this step forward. Senator Brown?

19 SENATOR BROWN: Thank you Mr. Chairman. Again Mr. Eudy, I appreciate you
20 being here today and appreciate your comments. Again, I will start with background
21 information. Again, my first question was - what is your position with the Governor's Office?

22 KEN EUDY: I am Senior Advisor to the Governor.

23 SENATOR BROWN: And what are those duties in that position?

1 KEN EUDY: Sir, I engage in discussions with our Senior Staff and the Governor on
2 positions on policy. Positions on management in the administration and because of my
3 background in communications in the private sector, up until about three (3) years ago, I
4 sometimes advise on communications issues.

5 SENTOR BROWN: And how long have you been in that position?

6 KEN EUDY: Since January 1, 2017.

7 SENATOR BROWN: Who do you report to within the Governor's Office?

8 KEN EUDY: Governor Cooper.

9 SENATOR BROWN: OK. Next I would like to refer to Document 1, you should have
10 it, and I will call it the Fain Interview. Do you recall an interview you gave to WRAL reporter
11 Travis Fain in March, 2018?

12 KEN EUDY: Yes, Sir.

13 SENATOR BROWN: Were the statements you made to Fain in the interview accurate
14 and truthful?

15 KEN EUDY: Yes, Sir.

16 SENATOR BROWN: Is there anything in your statement to Fain that you would like to
17 clarify or correct?

18 KEN EUDY: Well, it, you know, it has been a year and a half ago, but I believe that
19 everything that I told him was true.

20 SENATOR BROWN: OK. Next I would like into the Mitigation Project Memorandum
21 of Understanding. When did the Governor's Office first begin discussing the Mitigation Fund?

22 KEN EUDY: In the Summer of 2017. DEQ and our Department of Commerce held
23 several listening sessions in Eastern North Carolina. We wanted to hear what people in that

1 Region of the State had to say pro and con about the Pipeline. There were, largely, there were
2 three or four concerns that we heard. I can distill them this way. There was concern about how
3 do we get jobs from this Pipeline? People were most interested in that. They also were
4 concerned about safety. You read about these Pipelines when there is a leak and an explosion
5 they are really bad. So they were concerned about that. They were concerned about the
6 environmental impact of adding more carbon fuel to the grid. So they were concerned about a
7 number of things. I began to hear from other folks in Eastern North Carolina about the jobs
8 promise. That was heightened, I think, when the ACP began to broadcast television ads talking
9 about the importance of the Pipeline. To bringing jobs to Eastern North Carolina and we began
10 to hear continually questions about how do these jobs happen. Also there was concern about,
11 that there were three places along the Pipeline that you could tap in and that it would be
12 impossible for just a single tap into the Pipeline. And so there were concerns about that. I asked
13 the Department of Commerce. Someone else in the Governor's Office asked the Department of
14 Environmental Quality how the Pipeline could benefit Eastern North Carolina in light of the
15 concerns that people had raised. I will tell you that, this is, I think the TV ads started in
16 September, Senator Brown. I was much more interested in asking whether the Companies that
17 were developers of the Pipeline, if they could, through their companies or their subsidiaries, was
18 there a way that they could extend Natural Gas distribution lines to communities. Particularly
19 business parks and industrial parks along the Pipeline corridor that had no access to Natural Gas
20 or perhaps limited pressure on the gas lines in order to attract businesses, but particularly
21 manufacturing jobs. So it was in the fall of 2017 when we started thinking about, not
22 specifically a mitigation fund, but ways the Pipeline could benefit Eastern North Carolina.

1 SENATOR BROWN: Would it be fair to say that the original purpose of the Mitigation
2 Fund was for economic development? Is that what you would say?

3 KEN EUDY: That was the original purpose of - that we contemplated. However, we
4 also knew that Virginia and West Virginia had had Mitigation Funds and that their funds were
5 also used for environmental mitigation.

6 SENATOR BROWN: Was the Governor's Office communicating with any business
7 leaders in Eastern North Carolina regarding the creation of a fund to promote economic
8 development? That is document 2 if you want to take a look as well.

9 KEN EUDY: We had conversations with business people in Eastern North Carolina
10 about the Pipeline. They had encouraged us to support the Pipeline - encouraged the Governor
11 to support the ACP. We had conversations about how and whether, the Pipeline would benefit
12 the communities that – through the Counties that it bisected.

13 SENATOR BROWN: Were you aware that Duke originally responded to these business
14 leaders that a fund was not necessary?

15 KEN EUDY: No, Sir.

16 SENATOR BROWN: Were you in communication with anyone at Duke about the
17 creation of a fund to promote economic development prior to the meeting on November 30, 2017
18 between the Governor and Lynn Good, the CEO of Duke Energy?

19 KEN EUDY: No, Sir.

20 SENATOR BROWN: Did anyone from Duke make you aware that a fund would not be
21 necessary to promote economic development.

22 KEN EUDY: Do you want to put a time frame on that Senator.

23 SENATOR BROWN: I would say within this two year time frame.

1 KEN EUDY: What I would say is that there was a point at which I had conversations
2 with Representatives from Duke Energy along those same lines. How can we extend Natural
3 Gas to Eastern North Carolina and there were several ideas about how to do that. One was to
4 expand the Ag gas fund - which nobody has used, I think, since it was established in 2015. It has
5 not been a popular program or a big success. There were also conversations about how to attract
6 economic development to Eastern North Carolina. So there were conversation, but I did not hear
7 specifically that a fund was not needed for economic development. No, Sir.

8 SENATOR BROWN: You assisted the Governor in preparing for his meeting with
9 Lynn Good on November 30, 2017. This would be document 3. Where you briefed about the
10 meeting after it took place?

11 KEN EUDY: Yes, Sir, directly thereafter.

12 SENATOR BROWN: Describe what you were told about the topics of discussion during
13 the meeting?

14 KEN EUDY: They discussed a number of issues that Duke Energy was involved in at
15 that time. I believe that there were two double digit rate increase cases before the utilities
16 commission. There was the solar impasse on 589. They discussed the economic development
17 issues in general where Duke Energy has a great partner with the State in assisting on economic
18 development. There was - the ACP came up. The need to provide a permanent supply of
19 drinking water to families living in proximity to coal ash basins. I think there were discussions
20 about utilities commission nominees and let's see. I think there was discussion, the Governor
21 said, about grid modernization.

22 SENATOR BROWN: Did the Governor, during that meeting, request Duke to create an
23 Economic Development Fund to provide access to gas from the ACP.

1 KEN EUDY: No, Sir.

2 SENATOR BROWN: From the documents released by the Governor's Office, Duke's
3 position was that a fund was not necessary for economic development prior to November 30,
4 2017. Why did that position change after the meeting with Lynn Good and the Governor?

5 KEN EUDY: I do not – that's a question – I guess you are asking why Duke changed its
6 position and I guess you would have to ask them. I tell you that they have stated that they had an
7 obligation to provide a Mitigation fund under FERC guidance. They also (Sirens) That's not a
8 fire alarm is it?

9 SENATOR BROWN: No. Not yet.

10 KEN EUDY: They had an obligation under FERC guidance. They had also provided
11 Mitigation Funds in Virginia and West Virginia under that guidance. And I also hope that they
12 wanted to make good on their promise that the Pipeline would bring jobs to Eastern North
13 Carolina.

14 SENATOR BROWN: Did the Governor set a timeframe for resolving the issues
15 discussed during the meeting on November 30?

16 KEN EUDY: No, Sir.

17 SENATOR BROWN: Why did the original Memorandum of Agreement provided by
18 Duke have the money going to the Director of the North Carolina Wildlife Resources
19 Commission on behalf of the State for environmental mitigation? That would be Document 5.

20 KEN EUDY: That was because they were using a template of an agreement that they had
21 in, I'm not sure if it was Virginia or West Virginia, but a previously – previous Mitigation Fund.

22 SENATOR BROWN: Can you explain why there were multiple drafts of the
23 Memorandum of Understanding? That would be Document 5.

1 KEN EUDY: There were multiple drafts as we just discussed what would be the best use
2 of the funds.

3 SENATOR BROWN: How was the original amount of fifty-five million dollars
4 (\$55,000,000.00) included in the first draft of the Memorandum of Agreement determined?

5 KEN EUDY: It was suggested by Duke Energy.

6 SENATOR BROWN: Can you explain the text between you and William McKinney on
7 December 20, 2017, discussing the fund amount of eighty million dollars (\$80,000,000.00)?
8 That would be Document 6.

9 KEN EUDY: That was when we heard that the State of Virginia was also negotiating an
10 eighty million dollar (\$80,000,000.00) mitigation fund.

11 SENATOR BROWN: Did the Governor request additional funds to go from the original
12 fifty-five million (\$55,000,000.00) to the final fifty-seven point eight million (\$57,800,000.00)?

13 KEN EUDY: No, Sir.

14 SENATOR BROWN: Then why was the additional two point eight million
15 (\$2,800,000.00) requested?

16 KEN EUDY: We understood from discussions with the ACP that when you removed an
17 amount of money that was going to mitigate the pipelines path through State and National
18 Parklands that the remaining amount was fifty seven point eight million (\$57,800,000.00).

19 SENATOR BROWN: Why was renewable energy included in the Memorandum of
20 Understanding?

21 KEN EUDY: I'm sorry?

22 SENATOR BROWN: Why was renewable energy included in the Memorandum of
23 Understanding?

1 KEN EUDY: Well, I would say that when we received suggestions from the Department
2 of Commerce, they said that one of the best ways to create jobs in the Pipeline Corridor was to
3 encourage solar development. Because solar developments do create jobs.

4 SENATOR BROWN: Did Duke express any concerns about the way that MOU was
5 changed by the Governor's Office?

6 KEN EUDY: No, Sir.

7 SENATOR BROWN: Why was the meeting on January 2, 2018 to sign the MOU
8 cancelled? That would be Document 7.

9 KEN EUDY: We, again we were hopeful that if and when the Department of
10 Environmental Quality issued a Water Quality Permit that we also could announce a mitigation
11 fund and that we could announce a resolution of the impasse on House Bill 589 all at the same
12 time. In order to give North Carolinians a comprehensive view of their energy future. I
13 wanted to wait until we were closer to an announcement to sign those agreements.

14 SENATOR BROWN: OK. Again, I am referring again to Document 7. Was there a
15 connection between the cancellation of the MOU signing and the Solar Industries settlement with
16 Duke over the name plate capacity issue?

17 KEN EUDY: No, Sir. And it wasn't a cancellation, it was just that the MOU was ready.

18 SENATOR BROWN: What was the urgency in having the MOU signed prior to drafting
19 an Executive Order and creating a plan for implementation of funds?

20 KEN EUDY: I don't think there was urgency on that on our part.

21 SENATOR BROWN: Did you have any conversations with Duke regarding the MOU
22 and funding after it was signed and made public?

1 KEN EUDY: I don't recall any conversations with them. I am certain that after you all
2 hijacked the fund that we had no conversations.

3 SENATOR BROWN: Did you ask Duke to provide a statement regarding the voluntary
4 status of the MOU and fund?

5 KEN EUDY: No, Sir.

6 SENATOR BROWN: OK, I will move on to the 401 Water Quality Permitting process.
7 Do you know why, on January 4, 2018, the DEQ's Secretary's Office requested to review the
8 Hearing Officer's Report for the ACP before being reviewed by the Division Director?

9 KEN EUDY: No, Sir.

10 SENATOR BROWN: Why were multiple emails being sent from DEQ to the
11 Governor's Office with updates on the 401 Permitting Process?

12 KEN EUDY: We had been updated on the status and the timing on a series of Permits,
13 not just the Water Quality Permit, but there was an erosion and soil, there were air quality
14 permits and we were – we were kept abreast of the status and the timing of when permits might
15 be issued. But not the substance of the permits.

16 SENATOR BROWN: Were you invited and did you attend meetings at DEQ involving
17 the permitting process?

18 KEN EUDY: No, Sir.

19 SENATOR BROWN: Did the fifty seven point eight million (\$57,800,000.00)
20 referenced in the MOU directly influence the timing and issuance of the 401 Water Quality
21 Certification?

22 KEN EUDY: No, Sir.

1 SENATOR BROWN: Just to back track for one second. I asked you earlier did you ask
2 Duke to provide a statement regarding the voluntary status of the MOU and fund. Did anyone in
3 the Governor's Office do that?

4 KEN EUDY: Not that I am aware of.

5 SENATOR BROWN: OK. Alright, next I am going to move to the Lloyd Yates,
6 Christie James text on January 16, 2018, this would be Document 8. Explain your conversations
7 with Duke in relation to the Lloyd Yates and Christie James text on January 16, 2018, about slow
8 progress of the ACP approval.

9 KEN EUDY: We received, I would not call them frequent calls from Duke Energy
10 Executives, but when they called they were almost always asking about the slow pace of the
11 review of the Department of Environmental Quality.

12 SENATOR BROWN: Why are you discussing the 401 Permit process with Duke instead
13 of Duke addressing it with DEQ.

14 KEN EUDY: Well, they called and we generally try to answer the phone or answer text
15 messages. But in almost every case, well in every case that I know of, Senator, when Duke
16 asked about the status or the pace or why it was so slow, we directed them to DEQ.

17 SENATOR BROWN: Did Duke believe the Governor was making the decision on the
18 401 Certification?

19 KEN EUDY: I cannot answer what Duke believed, but I can tell you that the Governor
20 and everybody that I know if the Governor's Office repeatedly said, that that was a decision that
21 DEQ would make on the basis of science, technology and the law and nothing else.

22 SENATOR BROWN: Did you inform anyone that the Governor would be making the
23 decision on the 401 Certification?

1 KEN EUDY: No, Sir.

2 SENATOR BROWN: OK. Now - talk about a phone conversation between the
3 Governor and Lynn Good on January 17, 2018. What were the topics of discussion for the
4 Governor's call on that date? That would be Document 8.

5 KEN EUDY: Did you say Document?

6 SENATOR BROWN: Document 8. – Again, the question was - what were the topics of
7 discussion for the Governor's call on January 17, 2018 between the Governor and Lynn Good?

8 KEN EUDY: It was, she was concerned and frustrated about the slow pace of the DEQ
9 review of their Application for a Water Quality Permit.

10 SENATOR BROWN: Alright, next – talk about the programmatic agreement recall.
11 Why was the programmatic agreement signed by the State Historic Preservation Officer
12 requested to be recalled? That would be Document 9.

13 KEN EUDY: Just to give some context, Senator, it was a Saturday morning, I was
14 coming out of Fresh Market with some groceries. I got a call from a representative from Duke
15 who said, have you all signed the Programmatic Agreement? My response was I don't even
16 know what a Programmatic Agreement is, much less whether or not we signed it. So I called
17 the Secretary of the Department of Natural and Cultural Resources and said what is the
18 Programmatic Agreement? She had to get back to me. It turns out, when she did, that it had
19 been signed and sent to FERC the day before. I asked – and it was very clear – that neither she
20 nor her Department's legal counsel had reviewed that agreement. And so, I asked that it be
21 recalled. I must tell you that I was unhappy that that was the case. We had tried to be aware of
22 everything that had to happen on these issues of agreement or permit. And so it was recalled.

1 The secretary and the legal counsel at that Department reviewed it, found that it was a fairly
2 routine agreement and sent it back approved to FERC within a matter of days with no changes.

3 SENATOR BROWN: Who called, you said someone called?

4 KEN EUDY: Kathy Hawkins.

5 SENATOR BROWN: Who conducted the legal review of the Programmatic Agreement
6 after you had recalled it?

7 KEN EUDY: I believe that, its still, I think, I may get his name wrong, but I think it is
8 Phillip Feagan at DNCR.

9 SENATOR BROWN: Can you describe the type of legal review that was given the
10 Programmatic Agreement?

11 KEN EUDY: No, Sir.

12 SENATOR BROWN: Why wasn't the PA sent back immediately after the legal review
13 was complete?

14 KEN EUDY: As I recall, well, I'm not sure, and I am not sure exactly when it was sent
15 back. I think it was sent back maybe the Wednesday or Thursday after I had asked that it be
16 recalled on Saturday. That seems efficient to me.

17 SENATOR BROWN: OK. This will be in reference to Document 10. Why did you
18 email Regan on January 14, of 18 to ask why Regan didn't inform Governor's Office about tree
19 cutting permits.

20 KEN EUDY: Because I was unhappy that we hadn't been informed about that part of the
21 – that piece of the ACP project.

22 SENATOR BROWN: Did the Governor's Office have an expectation to be informed on
23 issues such as this on behalf of DEQ.

1 KEN EUDY: We wanted to know, Senator, about the existence of them, what they
2 committed the State to, and what the time line was within which we had to respond.

3 SENATOR BROWN: Next would be dealing with the Name Plate Settlement. How was
4 the Governor's Office involved in assisting with the Name Plate Settlement agreement between
5 the Solar Industry and Duke?

6 KEN EUDY: Our biggest concern, Senator, was to get those two sides, who had tangled
7 over the implementation of 589 to get back together to talk about how your Statute, the one that
8 this Legislature passed, how they would be implemented, as agreed to. We - so that was mostly
9 our job of just getting the two sides back together to begin discussions to resolve the issue.

10 SENATOR BROWN: On a text message to the Governor regarding where are the solar
11 boys on their deal? Was that in reference to the name plate settlement? That would be
12 Document 7, page 2.

13 KEN EUDY: I believe that that was referring to the discussion and I dare say the debate,
14 within the solar developers about which projects would be put back in the interconnection queue.
15 That was not so much referring to whether or not they had an agreement with Duke Energy, but
16 whether had an agreement among themselves.

17 SENATOR BROWN: Who are the Solar Boys?

18 KEN EUDY: You are approaching my limit on knowledge of the solar industry, but I
19 believe that it was Cypress Creek, Holocene, Strata Solar and there are others that I don't know.

20 SENATOR BROWN: Did the Governor, during the November 30, 2017 meeting with
21 Lynn Good, convince Duke to begin to settle the Name Plate dispute?

22 KEN EUDY: He made a request of Lynn Good for Duke Energy to enter into those
23 discussions in an effort to resolve the impasse and she responded that she would try to do that.

1 SENATOR BROWN: House Bill 589 was a Bill that was passed to provide the rate
2 payers the maximum benefit by saving rate payers money. Was the Governor made aware that
3 the settlement between Duke and the Solar Industry would ultimately cost the rate payers over a
4 hundred million dollars (\$100,000,000.00)?

5 KEN EUDY: I don't know whether he was made aware of that or not. I would say that
6 this – that the two chairs of this committee- both voted for a Bill allowing for multiyear rates that
7 would allow regulated utility monopolies to over earn by over a billion over a period of three
8 years.

9 SENATOR BROWN: Did the Governor indicate to the public staff, Chris Ayers in
10 particular that he wanted the public staff to agree to any settlement regardless if it cost rate
11 payers millions.

12 KEN EUDY: No, Sir.

13 SENATOR BROWN: The General Assembly's intent was that House Bill 589 would
14 provide maximum savings of eight hundred fifty million dollars (\$850,000,000.00) to the rate
15 payers. That is how the Bill was presented in Committee and how it was sold and got support to
16 pass. Was that consideration on behalf of the Governor's Office to consult or bring the name
17 plate settlement back – issue back to the North Carolina General Assembly?

18 KEN EUDY: I don't understand the question, Senator.

19 SENATOR BROWN: Was there any consideration to bring that Bill back to the General
20 Assembly to settle the dispute, because the Bill was presented that it would save the rate payers
21 eight hundred million dollars (\$800,000,000.00). Why didn't the Governor, or was there any
22 consultation to bring that Bill back to the General Assembly to address the issues that the
23 Governor had concern with.

1 KEN EUDY: I will just say two things. I think that your characterization of it is an
2 oversimplification. It was much more complex than the savings. But, no sir, we did not have
3 discussions about bring it back to the General Assembly. This was about the implementation of
4 what you all had – had passed.

5 SENATOR BROWN: Mr. Chairman, that concludes my questions for Mr. Eudy.

6 CHAIRMAN: Thank you Senator Brown. Thank you Mr. Eudy. Is Ms. White available
7 Mr. Lilly? I'm sorry, she's not available? Yes, I don't think we have any more questions.

8 CHAIRMAN: Members if you haven't completed your member assistance forms, you
9 can certainly turn that in.

10 Mr. Lilly, is Ms. White going to?

11 Thank you Ms. White. Thank you, Ms. White for coming. The way we are doing is, we
12 appreciate you coming to answer questions. This is not a trial, interrogation, this is just simply
13 questions that the investigators would ask and with this I am going to turn it over to Senator
14 Brown and will be asking the questions. Thank you.

15 SENATOR BROWN: Ms. White, I appreciate you being here as well and first, just some
16 background information. What is your position with the Governor's Office?

17 JULIA WHITE: Good morning. Julia White. I am Senior Advisor to the Governor at
18 the Governor's Office. In 2017 and 2018 I was Deputy Chief of Staff for the Governor's Office.

19 SENATOR BROWN: What are your duties in that position?

20 JULIA WHITE: I work in a variety of issues, primarily communication work, policy
21 work, and doing legislative analysis, working with Cabinet Secretaries and other Senior Staff
22 members on issues that come to the Governor's Office.

23 SENATOR BROWN: Who do you report to within the Governor's Office?

1 JULIA WHITE: I report to the Chief of Staff Christie Jones and to the Governor.

2 SENATOR BROWN: Alright, Ms. White, I don't have very many questions. But the
3 questions are dealing with communication with DEQ. Why did Doug Heyl of DEQ send you
4 multiple emails providing updates on the ACP 401 Permitting process?

5 JULIA WHITE: Well part of my role as a member of the Senior Staff was to work as a
6 liaison to various Agencies - so to give them a single point of contact in the Governor's Office,
7 DEQ was one of those Agencies. Office of State Budget Management, Department of Revenue,
8 so forth. So it was common for me to get - to request and to get updates on issues that were in
9 front of the State of North Carolina and specifically Department of Environmental Quality.
10 Other examples would be Comoros and GenX issue, hurricane disaster recovery, fisheries issues,
11 off shore oil drilling and so forth, so these updates on information requests and the schedule that
12 was going on with the ACP was one of those topics.

13 SENATOR BROWN: Were you asked to inquire about the ACP 401 Permitting
14 Process?

15 JULIA WHITE: I believe I initiated the request to be kept updated on the timetable.
16 There was certainly a lot of public attention being paid to that. Attention from this body,
17 attention from environmental advocates, economic developers, others in the East, the utility
18 company itself, it was really a national issue, so it was something that I was interested in and also
19 the Governor was interested in.

20 SENATOR BROWN: Did you pass this information to anyone else at the Governor's
21 office?

22 JULIA WHITE: I probably verbally relayed it as I got it. I don't recall if I forwarded it
23 to anyone, but it was something that I was aware of as it was going along.

1 SENATOR BROWN: What was the purpose of a document received by you – This
2 would be Document 11, if you want to look. On November 28, 2017, from Doug Heyl, named
3 possible ACP mitigation options?

4 JULIA WHITE: I am sorry, can you ask me the question again?

5 SENATOR BROWN: What was the purpose of the document received by you on
6 November 28, 2017 from Doug Heyl – named possible ACP mitigation options?

7 JULIA WHITE: This was a request for information that I had passed along to DEQ, I am
8 not sure specifically to whom I asked it. It may have been him, may have been someone else.
9 To come up with ideas on how the Eastern part of the State, specifically how the area that the
10 pipeline would pass through could benefit. How the environment could be mitigated? How
11 economic development could be shared? It was a different part of the State than we usually talk
12 about. For example – air quality mitigation, were in city, urban areas you see carbon reduction
13 – how could that be done in the Eastern part of the State? How could we actually make the
14 environment better along the path of the pipeline? What some projects would be? So this was
15 an idea list that the Department shared with me at my request.

16 SENATOR BROWN: Why was this document forwarded to Christie Jones on November
17 28, 2017?

18 JULIA WHITE: At one time, in the office, there was a compilation of information, since
19 it touched various agencies and various departments, there was a compilation of information on
20 the Atlantic Coast Pipeline that was put together and Christie who serves as Chief of Staff was
21 putting that information together.

22 SENATOR BROWN: Who requested DEQ to produce this document?

23 JULIA WHITE: I believe it was me.

1 SENATOR BROWN: Do you know who, at DEQ was involved with producing the
2 document names possible ACP mitigation options? That would be Document 12.

3 JULIA WHITE: I am not sure that I've seen this before, so I just have to trust that the
4 people who are listed here as participants would have been the one, but that is a guess on my
5 part.

6 SENATOR BROWN: OK. And then Document 13, why did you forward this document
7 to Governor Cooper on December 6, 2017?

8 JULIA WHITE: I can't remember specifically why I would have. I believe it was
9 because this had been a topic of conversation among us as a staff and in answer to questions that
10 we all had about ways that we could mitigate environmental issues in the path of the pipeline.

11 SENATOR BROWN: OK. Mr. Chairman, that is all the questions I have.

12 CHAIRMAN: Thank you. At this time, this concludes the -this meeting and I appreciate
13 your attendance.

14 The meeting is adjourned.