

PENNSYLVANIA GENERAL ASSEMBLY

**JOINT LEGISLATIVE AIR AND WATER POLLUTION
CONTROL AND CONSERVATION COMMITTEE**

ANNUAL REPORT

2004

February, 2005

TO: All Members of the General Assembly

FROM: Representative Scott E. Hutchinson, Chairman
Senator Raphael J. Musto, Vice Chairman

SUBJECT: 2004 Annual Report

DATE: February, 2005

“Ideas are everywhere, but knowledge is rare”
-Thomas Sowell

In the next decade and beyond, the Pennsylvania General Assembly will be required to make critical decisions on a broad range of environmental issues involving air, land, water, living resources and the integrated management of them all. These issues, which raise complex social, economic, ethical and legal questions, are a central concern to most Pennsylvanians. One of the goals of the Joint Legislative Air and Water Pollution Control and Conservation Committee (Committee) is to help policymakers achieve a better understanding of the evolving and complex nature of the factors affecting Pennsylvania’s natural resource development and use, and to integrate these factors in a form that allows balanced decision-making.

The Committee contributes to this goal through its ongoing pursuit of knowledge through research, holding hearings and making recommendations to the Pennsylvania General Assembly on a variety of air and water quality issues, mining practices, land reclamation and other environmental issues. As a legislative service agency, the Committee is on the front line of many debates over the direction of science and technology. The quality of legislative decisions on these issues often depends on the quality and usefulness of information and analysis made available to the General Assembly. With over thirty-eight years of work behind it, the Committee has earned a reputation as a credible facilitator for environmental information that is accurate, balanced and objective.

The Committee members and staff are pleased to present to you its 2004 Annual Report. The report details key activities and achievements of the Committee in its effort to serve the General Assembly during the past year. The range and depth of our activities are reflected in the pages that follow, both in the summaries of what we have published in recent months and in the highlights of our ongoing activities. As in the past, we shall try to fulfill our mission and that of our members by looking ahead, seeking to anticipate the future environmental agenda.

COMMITTEE MEMBERS

2003-2004 Session

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Craig D. Brooks, Executive Director
Tony M. Guerrieri, Research Analyst
Geoff MacLaughlin, Communications Specialist
Lynn L. Mash, Administrative Officer

THE JOINT LEGISLATIVE AIR AND WATER POLLUTION CONTROL AND CONSERVATION COMMITTEE

In 1967, legislation (Act 448, P.L. 1022) was enacted creating the Joint Legislative Air and Water Pollution Control and Conservation Committee. The Committee consists of 18 members of the General Assembly. Nine members are appointed by the President Pro Tempore of the Senate, five from the majority party and four from the minority party. The Speaker of the House of Representatives also appoints nine members, five from the majority party and four from the minority party.

The Committee's powers and duties according to Act 448 include:

- **Conducting continuing studies of air and water pollution laws and recommending needed changes to the General Assembly.**
- **Conducting continuing studies of the enforcement of air and water pollution laws, and in conjunction with such studies making necessary trips to various sections of the Commonwealth to hold public hearings.**
- **Conducting continuing studies of mining practices, mining laws, and reclamation of mined lands.**
- **Holding public hearings and receiving comments regarding any or all of the above subjects of study.**

Since its creation, the Committee has been instrumental in the development of Pennsylvania's environmental laws and policies. The Committee staff is available at all times to assist members of the General Assembly with environmental and conservation issues. The Committee's files and library are extensive. Also, the staff has access to information from the Department of Environmental Protection (DEP) and the Department of Conservation and Natural Resources (DCNR), other state and federal agencies, private industry, and trade associations.

MINE RECLAMATION

Coal Ash Moratorium

Coal combustion waste (CCW) – a residual waste left over from the burning of coal or culm in power plants – has the potential for beneficial reuse in the mining environment. Pennsylvania's cogeneration plants produce approximately five million tons of CCW each year. Most of it, 90 percent or more, is used for mine land reclamation projects.

In Pennsylvania, CCW has been used by mine operators to reclaim 78 mine sites in bituminous coal fields in the western half of the state and 32 in the eastern anthracite coal region. The goal is to prevent acid mine drainage – the contaminated water that flows out of abandoned mines and pollutes waterways – and restore the landscape to its original contour.

Opponents question the long-term impact of the practice. They fear the materials will boost exposure to dioxin and heavy metals, such as arsenic and mercury. Advocates of CCW reclamation, including the Pennsylvania Department of Environmental Protection (DEP), have insisted that placement of CCW into open stripping pits helps correct highly acidic mine water because of CCW's high alkalinity and does not leach high amounts of such toxic metals into area ground water.

On July 9, 2003 the Committee held a public hearing at the Tamaqua Middle School in Tamaqua, Schuylkill County. Schuylkill County is the site of the Springdale stripping pit where use of CCW has drawn attacks from community members in both Schuylkill and Carbon Counties. The hearing was held to discuss a proposed statewide moratorium on the use of coal ash in mine reclamation and was in response to concerns raised by local residents about the safety of coal ash and its possible negative effects on the water table and the environment.

Between 200 and 300 people attended the hearing and the Committee heard testimony from numerous individuals including DEP's J. Scott Roberts, Deputy Secretary for Mineral Resources Management, and Nicholas DiPasquale, at that time Deputy Secretary for Air, Recycling and Radiation Protection. Others who testified included representatives from the U.S. Environmental Protection Agency (EPA), and the Army for a Clean Environment, a citizens' group in Tamaqua opposed to the use of coal ash.

The Committee issued a report to the General Assembly in February, 2004 with the following recommendations for consideration:

- **The Committee does not recommend or support a statewide moratorium on the use of fly ash in coal mine reclamation projects.**
- **The Committee recommends continued research into the environmental effects of fly ash on soils and waters of the Commonwealth and the impact posed by trace elements contained in the material.**
- **As an added measure to the current regulatory program, the Committee recommends that a statewide, third party oversight subcommittee be established within the Mining Reclamation and Advisory Board or the Citizen’s Advisory Council with a specific charge to oversee the state regulatory program.**
- **DEP, environmental organizations, industry and the newly established oversight committee should also consider and study the undocumented threat coal refuse piles themselves pose to human health and the environment.**
- **The electric utility industry needs to address the issue of public education and utilization of coal combustion waste.**
- **The coal combustion waste industry needs to be vigilant about the use of appropriate testing and monitoring methods and interpretation of data, and to communicate with state and federal agencies on the further development of regulatory guidelines for coal combustion waste management.**

Debate on these recommendations is ongoing.

Since the release of the Committee’s report in February, 2004, the National Research Council for the National Academy of Sciences, an advisory panel of prominent academics and scholars, met at the request of the U.S. Congress to examine the health, safety and environmental risks of the use of CCW in the reclamation of active and abandoned coal mines. A final report on the National Research Council’s findings should be completed by the end of 2005.

For a copy of the Committee’s report, “**A Proposed Moratorium on the Use of Fly Ash in Mine Reclamation Projects**”, please contact the Committee office.

RECYCLING

Waste Tires

The Committee took an active role in developing the state’s Waste Tire Recycling Law (Act 190 of 1996) and a follow-up measure to expand the original law (Act 111 of 2002). Since the legislation’s enactment, the Committee has held

a number of meetings and public hearings, with the most recent hearing being held on November 24, 2003, to assess its effectiveness and to seek ways to improve the state's performance in waste tire reuse and recycling.

In an effort to promote markets, the Committee conducted a roundtable discussion and input session on August 10, 2004. The purpose of the meeting was to initiate a discussion between members of the legislature, the Pennsylvania Department of Transportation (PennDOT), and interested parties concerning the use of rubber modified asphalt on Pennsylvania's highways.

Information gathered at the meeting indicated that although PennDOT has used a significant number of waste tires in civil engineering applications, the agency is still not committed to the use of rubber modified asphalt. PennDOT acknowledged that combining tire rubber with various types of asphalt has been demonstrated in recent years with some promising results. Unfortunately, the technology for using ground rubber seems to be relatively underdeveloped and the results of using rubber modified asphalt have often been erratic.

PennDOT suggested that the greatest deterrent to the use of crumb rubber modifier in highway construction is the high initial cost and the lack of consistent performance that seems to be associated with climate as well as many other variables. Under these circumstances, further study and investigation of the use of rubber modified asphalt mixtures is warranted.

The Committee plans to continue its discussions and work on waste tire issues in 2005. For more information, please contact the Committee office.

FOREST RESOURCE MANAGEMENT

Legislative Forestry Task Force

Pennsylvania's people have lived, worked, enjoyed recreational activities, hunted, and fished in woods for many generations. Forestlands provide environmental benefits that support wildlife, reduce pollution runoff to streams and lakes, and remove carbon dioxide found in the atmosphere. Timberlands provide the raw material for sawmills, paper mills, furniture makers, and other forest product businesses.

Pennsylvania's forest products industry faces unprecedented challenges in the marketplace. Regulatory controls and economic downturns have impacted the Commonwealth's forest products industry. Yet, Pennsylvania has many competitive advantages: diversity of species, abundant timberland, high quality wood fi-

ber, proximity to markets, an infrastructure to support pulp and paper manufacturing, and a work force that knows the wood business.

Pennsylvania hardwoods are known throughout the world for their quality, beauty, and sustainability. Pennsylvania leads the nation in the production of hardwood lumber and in the export of hardwood lumber and value-added products. With nearly 17 million acres of forestland, Pennsylvania also has the most abundant hardwood reserve in the nation.

The Commonwealth's forests support a forest products industry that is a key component of the state's agricultural industry and the state's economy. Over 90,000 Pennsylvanians are employed in the forest products industry – accounting for more than ten percent of the state's manufacturing workforce.

Because of the importance of the hardwoods industry to the economy of the Commonwealth and its rural communities, the Legislative Forestry Task Force was created. House Resolution 256, Printer's Number 1510 was adopted on November 24, 2003 and directed the task force to look into a number of forestry related issues. The task force consists of four members of the General Assembly, who work closely with an advisory committee, composed of 18 members from many disciplines: education; forestry; the lumber and timber products industry; the Pennsylvania Game Commission and others. The task force and its advisory committee has sought to build partnerships to better manage Pennsylvania's forestlands.

The task force met on the following dates:

April 8, 2004 – State College, Pennsylvania
August 26, 2004 – State College, Pennsylvania

The task force agenda included issues such as the United States Department of Agriculture's Forest Service's National Woodland Owner Survey and government and non-government acquisition of forest lands.

For more information concerning the Legislative Forestry Task Force, please contact the Committee office.

AQUACULTURE

Guidelines for Fish Consumption Advisories

Fishing has been part of Pennsylvania's culture since the first exploration and settlement of the Delaware River in the 1600's. Today, Pennsylvania's fishing industry is undergoing a transformation from recreational fishing to aquaculture (fish farming).

Aquaculture is important socially and economically to families and individuals who make their living from it and to the communities surrounding this resource. Pennsylvania's aquaculture heritage contributes to its cultural identity.

According to the Pennsylvania Department of Labor and Industry, there were 70 aquaculture operations in Pennsylvania with sales valued at just over \$9 million. In 2003 the aquaculture industry in Pennsylvania employed 131 people. Pennsylvania is the second leading state in trout sales and the fifth largest in trout production, supplying about 75 percent of the trout in the Northeastern United States.

Aquaculture has great potential for growth but it remains controversial and symptomatic of increasing debate over health concerns. Fish consumption advisories regarding PCBs and other toxins have caused consumers to limit their fish intake. The challenge is to accommodate and balance the various interests and concerns for health.

In March 2004, Committee staff toured two different Pennsylvania aquaculture businesses, one in Mount Pocono in Monroe County and the second in York Haven in York County. At both stops, Committee staff heard similar anxieties from operators regarding the impact of fish consumption advisories on what they consider the high quality and safety of their product. The operators were concerned that advisories prescribing limitations on consumption are unnecessarily negative and are deterrents to their ability to grow their businesses. They also raised concerns about the appropriateness of safety levels and how they are determined.

The Committee held a public hearing on August 20, 2004 in Mount Pocono to discuss the status of the state's aquaculture industry and the challenges its producers face in regard to fish consumption advisories. Specifically, the Committee examined whether consumption guidance can be used more effectively to safely promote Pennsylvania's aquaculture industry. Among those testifying were the Pennsylvania Secretary of Agriculture, the Pennsylvania Fish and Boat Commis-

sion, the Pennsylvania Department of Environmental Protection, and members of the aquaculture industry.

The hearing included testimony that raised issues of cooperation between state and federal agencies that regulate consumption advisories; the criteria that is used for issuing advisories; and the public's confusion regarding advisories that are issued as guidance and not as standards, rules or regulations.

Testimony from the Committee's public hearing on aquaculture may be obtained from the Committee office.

PUBLIC MIND SURVEY

The Public's Attitude Toward Renewable Energy

Since 1997, the Committee has commissioned a series of questions included in the annual Public Mind Survey of Mansfield University (now known as the Mansfield University State Survey) to look at how Pennsylvania residents view their environment. The Mansfield University State Survey is often a first step in understanding the public assessment on environmental issues facing the legislature.

The 2004 survey focused on the public's attitude toward alternative forms of energy, focusing for the second year on wind power, which has shown the most growth of such alternatives. The primary purpose of the survey was to gauge whether the public supports non-polluting wind power.

The survey results show that there is continued support, but that not much has changed in a year. The percentage of Pennsylvanians willing to pay more for wind power increased slightly (59.8 percent in 2004, 57.4 percent in 2003), but that increase is within the survey's margin of error (2.4 percent).

In 2004, 73.4 percent of those willing to pay more would pay between \$5 and \$9 a month more, 17 percent would pay \$10 a month more and 9.6 percent would pay greater than \$10 a month more. In 2003, 65 percent were willing to pay \$5 a month more, 25.3 percent \$10 a month more and a nearly identical 9.7 percent more than \$10 a month.

Of those who consider themselves to be environmentalists, 67.5 percent are willing to spend more for electricity if it comes from wind, while only 49.1 percent of those who do not consider themselves to be environmentalists are willing to do so.

The 2004 survey results are based on more than 1,700 telephone calls to adult Pennsylvania residents. Survey respondents are proportionately represented in terms of regions, gender, and political affiliation.

Survey results and additional information concerning renewable energy may be obtained by contacting the Committee office.

RECREATION AND TOURISM

Heritage Parks

Pennsylvania's heritage parks, administered by the Department of Conservation and Natural Resources, are scattered throughout the state, and they pay homage to the different industries and cultures that give Pennsylvania its history.

Nearly 73 percent of the counties of Pennsylvania have a portion of a heritage park within their borders. The parks all vary in size, purpose, and geographic scope, and provide an opportunity for conservationists, planners, historians, and the tourism industry to contribute to community revitalization and economic growth.

Since 1996, the Committee has been examining and promoting the Pennsylvania Heritage Parks Program and heritage development as an excellent tool for economic development, education, community preservation and tourism.

In 2004, the Committee continued its commitment to Pennsylvania's Heritage Parks program. Recognizing the need for supporting heritage parks, Committee staff traveled to Washington D.C. in January to meet with members of Congress and their staffs to discuss pending federal legislation regarding National Heritage Area designations.

The U.S. Congress approved a plan to designate the birthplace of the commercial oil industry as a national heritage area. As part of a spending bill passed by Congress on November 20, 2004, lawmakers approved a provision creating the Oil Region National Heritage Area in parts of Venango and Crawford counties in northwest Pennsylvania. The area is home to the Drake Well in Titusville, which was the nation's first commercially successful oil well when it was drilled in 1859, as well as the world's oldest continuously producing oil well, the McClintock No. 1, which was drilled in 1861.

The new Oil Region National Heritage Area was established December 8, 2004. With the federal designation comes expertise and guidance from the Na-

tional Park Service, which administers the 27 national heritage sites, and up to \$1 million in matching funds each year to develop educational and recreational programs, increase public awareness about the history of the oil region, and restore historic buildings and facilities.

The national designation will have a profound and positive impact that will spread from the Venango/Crawford County home of the heritage region all across Pennsylvania.

Six of the national heritage areas are in Pennsylvania, including the Path of Progress National Heritage Route, a 500-mile corridor that travels through the areas of the Johnstown Flood and Altoona's Horseshoe Curve; and the Rivers of Steel National Heritage Area, which runs through seven counties, explaining the history of steelmaking along the Allegheny, Monongahela and Ohio rivers.

Other national areas found in Pennsylvania include the Schuylkill River Valley Heritage Area, the Delaware and Lehigh National Heritage Corridor and the Lackawanna Valley National Heritage Area.

The Committee's efforts in the past have helped raised awareness and visibility of the state's 11 heritage regions. A twelfth heritage park, the "Pennsylvania Route 6 Heritage Corridor" was designated by the governor on January 13, 2005. The Committee is continuing its discussions and work on heritage park issues in 2005.

FUTURE COMMITTEE PROJECTS

The Committee will continually identify environmental issues for the General Assembly's attention. Activities may range from information sharing and discussion to symposiums or public hearings. Committee members have looked ahead to identify issues where they might request Committee attention (or in some cases, additional Committee attention) in 2005; a list with some of these issues is provided below. While the list is not intended to be comprehensive, it is illustrative of the range of issues that could be addressed by the Committee as time and resources allow.

The first is a proposed resolution directing the Committee to establish a task force to study issues concerning sewage management and treatment at publicly owned treatment facilities and systems throughout Pennsylvania (Appendix A). The Committee has worked extensively on the subject in the past and is considering policy options for this issue.

The Committee is also continuing its work on waste tires with a series of meetings scheduled in 2005. The Committee recently toured a Whitehall, Pennsylvania cement plant that uses waste tires as a source of fuel.

Also, on a monthly basis, the Committee will continue to invite experts to Harrisburg to speak at the Environmental Issues Forums (described later in this report).

In addition to the activities of the Committee itself, Committee staff works on various special projects and outreach activities on an ongoing basis. In consultation with Committee members, Committee staff attends local, state and federal policy forums, including the Chesapeake Bay Advisory Committee, the Penn State School of Forest Resources Advisory Board, the National Research Council for the National Academy of Sciences and other environmental events during the past year.

The Committee looks forward to working closely with the General Assembly on these and other important environmental issues during 2005.

COMMITTEE ACTIVITIES

January 7, 2004 – Committee staff attended, and its chairman spoke at “The Challenge of Overabundant Deer in Pennsylvania” conference in Hershey. The conference, sponsored by over 70 Pennsylvania conservation groups, examined the history of game management and the impact deer have on the landscape and economy.

February 10, 2004 – Committee staff traveled to Washington D.C. to meet with members of Congress and their staffs and discussed pending federal legislation regarding National Heritage Area designations.

March 11, 2004 – Committee staff met with members of the aquaculture industry in Mount Pocono, Pennsylvania to discuss the issues that impact aquaculture in Pennsylvania, specifically fish consumption advisory warnings.

March 29, 2004 – The Committee held its first Environmental Issues Forum of the 2004 legislative session. Pennsylvania Department of Conservation and Natural Resources Secretary Michael DiBerardinis discussed the department’s first-ever action plan, entitled “Shaping a Sustainable Pennsylvania – DCNR’s Blueprint for Action.”

March 31, 2004 – Committee staff toured Susquehanna Aquacultures, Inc. in York Haven (York County) for the purpose of gaining a better understanding of their operation. The plant personnel conducted the tour and provided much valuable information.

April 8, 2004 – The Legislative Forestry Task Force and Advisory Committee heard from Harry V. Wiant, Jr., the Joseph E. Ibberson Chair at Penn State University, regarding the Chair and its mission, and discussed the USDA Forest Service's National Woodland Owner Survey.

May 11, 2004 – The Committee joined with the PA Municipal Authorities Association, American Water Works Association – PA Chapter, PA Water Environment Association, Professional Recyclers of PA and the Keystone Chapter of the Solid Waste Association of North America for an Environmental Issues Forum on environmental infrastructure needs and concerns.

May 25, 2004 – Pennsylvania Department of Environmental Protection Deputy Secretary of the Office of Energy and Technology Development Daniel Desmond discussed the governor's energy initiatives as well as energy price and supply issues.

June 7, 2004 – Ms. Jolene Chinchilli of the Citizens' Advisory Council of the PA Department of Environmental Protection and Mr. Joel H. Hersh MEd MPA, director of the PA Department of Health's Bureau of Epidemiology discussed a new initiative aimed at utilizing environmental and health data systems to discern links between environmental pollutants and human health.

June 17-18, 2004 – The Committee traveled to Pittsburgh to meet with officials from Shaw Environmental & Infrastructure, Inc. Shaw Environmental is one of the nation's largest full-service contractors, providing solutions to environmental and infrastructure projects worldwide. Topics discussed during the meeting included mercury pollution and remediation, brownfields and technology advances.

August 10, 2004 – As a follow-up to the Committee's 2003 public hearing on the use of scrap tires, a roundtable discussion was held with state officials and private industry to review the issue of rubber-modified asphalt and determine any necessary action.

August 20, 2004 – The Committee held a public hearing to discuss the challenges state fish farms face in regard to fish consumption advisories. The Committee examined whether consumption guidance can be used more effectively to safely promote Pennsylvania's aquaculture industry.

August 26, 2004 – The Legislative Forestry Task Force and Advisory Committee met to discuss government and non-government acquisition of state forestlands.

October 18, 2004 – Mr. Keith A. Craig, Executive Director of the PA Hardwoods Development Council, provided a presentation examining Pennsylvania's hardwoods industry, updating its status and looking at its future. Members also had the opportunity to visit the PA Woodmobile, a traveling display regarding Pennsylvania's hardwoods.

October 27, 2004 – Committee staff traveled to Washington D.C. to participate in a public hearing by the National Research Council of the National Academy of Sciences on the environmental impact of disposing coal combustion waste in mines.

COMMITTEE LIBRARY

The Committee maintains an extensive, publicly available, reference library of environmental and legal materials. A valuable resource on environmental protection, the library currently holds over 1,200 publications, many of which are unavailable elsewhere. The library holds materials that Committee staff uses for their research, as well as materials we think are useful to the public.

COMMITTEE WEBSITE

The Committee also maintains a world wide web site. On the site, you can access the Committee's newsletter, **Environmental Synopsis**, and view archived issues as well. The website also contains information regarding current Committee activities, reports and the Environmental Issues Forums.

The links page can direct you to a range of sites that identify global, national, regional, state, and local issues and perspectives.

The Committee hopes you use the website to not only find information, but to also contact the Committee and utilize our resources. Your comments about what is posted as well as suggestions to improve the site are welcomed.

For a closer look at the Committee's website, use <http://jcc.legis.state.pa.us>.

ENVIRONMENTAL ISSUES FORUMS

The Committee seeks to provide timely and interesting information on a variety of environmental topics to members of the General Assembly. One way in which the Committee accomplishes this is through its Environmental Issues Forums. The forums are public informational sessions at which prominent guest speakers present information on topics of interest related to the Committee's mission.

The forums are designed for the discussion of issues of interest and importance to members of the General Assembly. Forum programs are, however, open to the public and are intended to reach a wide audience. Participants in the forum programs include policy makers, scholars, and business and community leaders. Forum topics are as diverse as the speakers themselves, and include everything from infrastructure to alternative energy.

The forums are held on legislative session days and are normally conducted once a month in those months in which the General Assembly is in voting session.

Please check the website for upcoming forums, or contact the Committee office at 717-787-7570 for information on upcoming forums.

COMMITTEE NEWSLETTER

Environmental Synopsis

The **Environmental Synopsis** is a monthly newsletter, written by the Committee staff, that covers state, national, and international environmental issues. Articles in 2004 covered a diversity of topics ranging from school sprawl to the impact of regulatory requirements. The **Environmental Synopsis** is distributed to all members of the General Assembly and to more than 400 other locations including business and industry, environmental organizations, government agencies, colleges and universities and citizens.

The **Environmental Synopsis** is published by the Committee to brief decision-makers and citizens on critical issues, trends, and ideas that could impact citizens and government. Information in the synopsis does not necessarily reflect the opinions or policies of the Committee or the Pennsylvania General Assembly.

The **Environmental Synopsis** is available in hard copy or in electronic version, as well as on the website. Please contact the Committee office at 717-787-

7570 if you wish to be included on either the hard copy or electronic mailing list. Back issues are available upon request.

COMMITTEE REPORTS

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- 1995 Annual Report, February, 1996.
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- Forestry Issues For Pennsylvania: Report of the Forestry Task Force Pursuant to House Resolution 263, March, 1997.
- Pennsylvania's Environment and the Future of Independent Power Producers, March, 1997.
- 1997 Annual Report, February, 1998.
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