

**STATEWIDE PEF/NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL
CONSERVATION LABOR/MANAGEMENT COMMITTEE REPORT
December 5, 2002**

Attendance:

PEF:

David Persson, LM Chair
Karl Berger, Albany LM Co-Chair
George Stadnik, Region 2
Joseph Battista, Region 3
George Casey, Region 5
Leslie Eggleton, Region 5
Frank Flack, Region 6
William McCarthy, Region 7
James Kersten, Region 9
Kevin Hintz, Region 9
Mike Keenan, Albany
Wayne Bayer, Albany
Holly Clark, Albany
William Wurster, Albany
James Trossbach, Albany
John Donlon, Albany
Kuldeep Gupta, Albany
Lawrence D'Arco, Albany
M. Geoffrey Brown, Albany
Mike Kanuk, Albany, SUNY East
Jim Kemenash, PEF Field Representative

Management:

Joseph Lattanzio, DEC Director of Employee Relations
Carole LaVigna, DEC Acting Director of Personnel
Mike Turley, DEC Director of Operations
Jean Edouard, DEC Director of Health & Safety
Nancy Lussier, DEC Budget Services Unit
Gail Balluff, DEC Employee Relations
Carl Gonzalez, DEC Employee Relations
Marie Furlong, DEC Employee Relations
**Guests: James Tuffey, Assistant Commissioner, Office of Public Protection
Christy Spadaro, Special Assistant to the Commissioner
Henry Hamilton, DEC Director of Internal Audit**

PEF's questions and statements are in bold faced type.
Management's responses are in italics.

I. New Business:

1. Budget

- a. How does DEC plan to implement the 5 percent savings for fiscal year 2003-2004 with minimum program disruption? In fiscal year 2003-2004, how is the DEC preparing to place particular focus on reducing the agency work force?**

Management's response: The 5 percent NPS savings is against the General Fund only. DEC has developed a plan to shift some planned NPS savings to other funding sources and restrict some other planned spending for travel, supplies and other NPS categories for the remainder of this year.

DEC has no plan for reducing the work force in 2003-04 at this time since our 2003-04 Budget is not known. To prepare for various alternatives which may be considered, we are currently soliciting employee interest in the Targeted Early Retirement Program to be prepared to use that as a Management tool to meet possible reduced staffing requirements with minimal impact on both employees and agency program efforts.

- b. For the remainder of the 2002- 2003 fiscal year, does DEC anticipate any layoffs? Will expenditures from General Fund for supplies, equipment, travel, and contractual services be reduced by 5 percent?**

Management's response: DEC does not expect any layoffs in 2002-03. As mentioned previously, the 5 percent reduction in 2002-03 is all General Fund and will likely affect all NPS categories.

- c. Will DEC provide the results of the Employee Survey and Notification of Interest Form to determine whether to apply to the Task Force on State Work Force Management and Employee Deployment to eliminate "non-critical positions" targeted positions through the Early Retirement Incentive? Will the DEC reverse it's earlier position and now participate in the ERI to reduce the impact of any potential layoffs?**

Management's response: Management will provide the survey results when available. DEC is currently conducting a preliminary survey of employee interest in both the 55/25 and Targeted Early Retirement Programs in order to be prepared to potentially use such tools in managing our work force to live within 2003-04 Budget levels. DEC will participate in the 55/25 program to the extent employees apply. No decision has been made yet on participation in the targeted program. Management is simply trying to solicit interest at this time. Update: On 12/23/02 the Department decided to pursue application of the Targeted Retirement Incentive.

- d. Where is the funding coming from for the 30 orphan Manufactured Gas Plants MGP sites? What contractor reviews cleanup work plans?**

Management's response: The Division of Environmental Remediation (DER) is not familiar with the 30 orphan MGP. sites referenced. DER is dealing with all the MGP sites in the same manner as all other inactive hazardous waste disposal sites. Therefore, DER, in coordination with the Division of Environmental Enforcement, is seeking to identify responsible parties and, when such parties are identified, seeking to have such parties implement the remedial program for the MGP sites. If sites are found to be without PRP, they will be evaluated for inclusion on the Registry to be addressed by the SSF when it is preauthorized. Regarding review of the cleanup work plans, DER assigns a project manager to every site where active remedial activities are underway. The DER project manager is responsible for the work plan review and approval. Management to provide info on whether the project manager is a contract employee. PEF to provide the name of the contractor to Management.

- e. Is the project date for the Region 4 move still April 2004? Has management engaged in**

meaningful discussions for PS&T unit members in the context of a Joint Labor/Management Quality of Worklife Committee, which shall make recommendations to the Regional Director? In this regard, George Stadnik should be the PEF steward contacted.

Management's response: No updated information is available at this time. The projected date for the Region 4 move remains scheduled for April 2004. When appropriate, the regional director has agreed to the formation of a group to share ideas and involve employees in the process.

- f. What is the status of the additional 28,000 square feet at the New Paltz office? Did DEC Project Managers/Engineers finalize their review comments and recommendations of the Stein White Nelligan Preliminary/Schematic Design Report and is the schedule to award construction projects still Summer 2003?**

Did management initiate meaningful discussions for PS&T unit members in the context of a Joint Labor/Management Quality of Worklife Committee, which shall make recommendations to the Regional Director? In this regard, Keith Browne should be the PEF steward contacted.

Management's response: Comments on the initial Stein White Nelligan Preliminary/Schematic Report were made on October 29, 2002. A substantially revised report to address these comments was received on November 13, 2002. It is now under review by design staff, and it is anticipated that comments will be issued by December 6, 2002. At this point, a Summer 2003 award of construction contracts is still achievable. Update: Stein White Nelligan has received the DEC comments on the Schematic Report and is incorporating them into the Preliminary Design Phase for the building.

A meeting was held in mid-November between the Regional Director and representatives of Region 3 labor, including Keith Browne. The Regional Director reviewed the current status of this project, and various design issues were discussed. This follows the public posting of early conceptual design documents this summer, as well as the Regional Director's solicitation of comments/suggestions from all staff.

- g. Why haven't all those who worked overtime and were eligible for an exemption for 9/11 overtime pay been paid? When will all the 9/11 overtime be paid? PEF provided the names of the employees not paid.**

Management's response: Management is not aware of any outstanding WTC overtime payments. The waiver to cover payment expired on December 31, 2001. Update: Due to an oversight, one employee was found to be due funds. Payment was processed on 12/9/02. Although the Division raised the question, the other three employees were not approved for waiver requests for the period after the blanket waiver expired.

- h. Has DEC budgeted for the expenses associated with the transfer of National Priority List sites in Operation and Maintenance (O&M), which NYS must assume staffing and monetary responsibilities at the end of the federal financial responsibility period?**

Management's response: DER confirms the transfer of these NPL sites to their program responsibility and intends to budget for these expenses accordingly.

2. Civil Service

- a. **How many budgeted items of the Annual Salary Average Fill Level (3,720) are not filled?**

Management's response: There are 3,604.6 items filled as of December 4, 2002.

- b. **PEF requests a copy of the Work Force Management Plan-Program Analysis for FY 01-02, FY 02-03 and FY 03-04 when it is released.**

Management's response: We have not yet received this. When we do, we will provide a copy to PEF.

- c. **Did DEC or Civil Service identify titles for development of parallel career tracks based on the work responsibilities for master professional titles of Biologist, Chemist, Engineering Geologist, Environmental Analyst, Environmental Engineer, Environmental Radiation Specialist, and Environmental Program Specialist? How will promotion exams test knowledge, skills, and abilities to assess the competence of people to be chosen for those titles?**

Management's response: This item is still under discussion by PEF representatives and the Personnel Office. The parties agreed to meet to focus on which titles will be involved.

- d. **Is DEC planning any title consolidations?**

Management's response: No.

- e. **How many new waiver requests did DEC send to DOB and of these how many were approved? What direction did management give Divisions to submit waiver requests. A number of positions are federally funded (e.g. wetlands, watershed and flood protection), but are not approved.**

Management's response: Since the last PEF Quarterly Meeting report, an additional 21 (Pesticides and Oil & Gas) requested waivers have been approved, for a total of 211 this year (since October 17, 2001). Management looks at the workforce not the funding source. There have been no requests since the 211. We have not requested a new waiver package from DOB.

- f. **PEF/encon would like to know why the blanket waiver exemption has been disapproved for the fish hatcheries.**

Management's response: The Division of the Budget would not entertain any blanket waivers under the current freeze. Individual fill requests were submitted instead and all six (6) were approved.

- g. **What additional information does management need to request that Civil Service increase hiring rate for Biologist I (Marine), Bacteriologist (Marine), and Senior Bacteriologist (Marine)?**

Management's response: The Bureau of Personnel is now reviewing documentation submitted by the Division of Fish, Wildlife & Marine Resources to support an increased hiring rate for Biologist 1 and Biologist 2 (all parentheses) for appointments in Regions 1 and 2. The incumbent of the Senior Bacteriologist (Marine) position was recently reclassified to Associate Bacteriologist (Marine), and the status of the Bacteriologist (Marine) incumbent was recently changed from provisional to permanent. Since DEC has no other Bacteriologist (Marine) positions, these titles will not be included in our request for increased hiring rates. At this point in our review, additional information from program is not

needed; however, we have asked the program to prepare fiscal impact forms.

Is there a schedule for submission to Civil Service?

Management's response: No.

- h. PEF/encon will meet with management in a L/M subcommittee to support salary grade parity between the career ladders of the Natural Resources and Quality divisions. With permission of his supervisor, Region 7 forester Gerry Kachmor and Karl Berger are willing to work on committee. We need somebody from Natural Resources in Central Office.**

Management's response: We continue to disagree with PEF's opinion that a formal L/M subcommittee is necessary. However, Personnel is agreeable to meeting with PEF regarding salary grade parity.

- i. On October 31 PEF filed a FOIL request to obtain all 9 point memos submitted to Management and Budget over the last year for contractual personal services.**

Management's response: This information was provided to PEF (Bill Wurster) on 12/03/02.

- j. What are the plans to reconstruct divisions or regions at this time?**

Management's response: The Department has no active plan to reconstruct divisions or regions at this time.

3. Health & Safety

Assistant Commissioner Tuffey addressed the committee regarding the Agency's Emergency Preparedness Response Plan. In 1996 the Governor issued an Executive Order that all agencies implement an Incident Command. In March 1999 DEC began Y2K preparation and this included having employees on call for that period of time. What followed was the development of a draft plan based on the incident command structure. All division and regional directors will or have been briefed on this plan. Executive is receiving comments back from those directors; supervisors will identify employees interested in being trained. DEC is currently in the process of setting up a location for an incident command center.

Weapons of Mass Destruction Task Force: The purpose of this task force is to define how we as a State would respond to various incidents. DEC is part of the task force. Members receive briefings through the Office of Public Security. The task force has incorporated the President's March 2002 emergency warning policy into its own plan.

Specific updates and actions on all outstanding H&S agenda items are itemized within the Statewide Health & Safety Labor/Management Committee meeting minutes which are available on the OER website and through the respective union representatives.

In coordination with the Office of Homeland Security, EPA is developing a National Decontamination Team, a cadre of highly specialized and experienced emergency responders, engineers and scientists dedicated to providing immediate technical decontamination expertise at the scene of a chemical, biological, or radiological attack. What is DEC's role and how will employees be safeguarded? Can Management provide PEF with a copy of the Emergency Response Plan?

Management's response: Assistant Commissioner Tuffey reported that it should be announced shortly by the President that Smallpox vaccine will be dispensed to emergency responders. DEC will be

given three incident command trailers which will house the appropriate emergency related equipment (e.g. respirators). Management will provide a copy of the Department's Emergency Preparedness Response Plan to PEF when division comments are received and incorporated into the Plan. PEF comments would be welcome at that time.

Defensive Driving: The Department expects to initiate this program within the next week or two.

VIN Etching Program/Watch Your Car: In conjunction with the Albany Police Department, this program is currently being conducted in the Central Office. Over 200 vehicles have been involved. In addition to providing a savings on insurance costs, it has been a proven tool in preventing vehicle theft.

Child Safety Seat Program: This program, also conducted by the Albany Police Department, was completed in November. The program offered individual inspection of employee vehicles for proper installation of child safety seats.

II. Old Business

1. Online Employee Orientation Program

Has management sent a memorandum to the Administrative Assistants in Central Office and the regions reminding them that temporary and seasonal employees should have the benefit of an orientation session, including Right To Know training?

Management's response: The Bureau of Personnel sent this reminder to the Administrative Assistants on December 4, 2002. Management requests this item be dropped.

It was mutually agreed to drop this issue.

2. Boards and Commissions

Commissioner's Policy 27 states that the Office of Legislative Affairs shall maintain a complete membership list for all Department boards and commissions, and a list of all Department personnel approved to represent the Department on all non-Department appointed boards, commissions, or other similar panels. Such lists should include names, addresses, and expiration terms of members. PEF believes that these are public records that should be readily available to the citizens of the State. On November 4, 2002, DEC acknowledged PEF/encon's FOIL request for this information.

Management's response: The Department currently retains only an internal working list of this information, which we believe may be incomplete, not current and inappropriate for distribution. Management acknowledged PEF's verbal FOIL request made at the last meeting. The request was forwarded to the Department FOIL Officer on 10/28/02 for response. PEF (Dave Persson) was notified by the DEC FOIL Officer via letter of 11/04/02 that the request was received and is currently being processed. Division and Regional Directors have also been asked to provide any appropriate updates to this report.

3. Identity Theft

DEC management issued a directive on September 24, 2002 to all staff involved in the collection and retention of time cards that they are responsible for protecting the privacy of that information by placing collected time records in a locked drawer or file cabinet. PEF requests that the topic be dropped.

Management's response: Management agrees that this is an important issue and will monitor handling of such information in the future. Management agrees this item should be dropped.

4. 625 Broadway

The DEC Albany office needs convenient and easily operable means of entry into and exit from 625 Broadway, as well as full accessibility to rest rooms, mail rooms, nurses offices and training rooms for the physically disabled through out the building.

Management's response: Accessibility for the physically disabled has been an ongoing local Central Office Health & Safety Committee issue. We believe this issue is currently being addressed appropriately at that level; and, therefore, not appropriate for discussion at the Statewide level.

5. TransitChek

**Will GOER offer NYSDEC Metropolitan Regional offices TransitChek?
www.transitcenter.com**

Management's response: No, not at this time. GOER continues to work with PEF towards a TransitChek Pilot Program. An agreement on this Pilot Program is anticipated during January 2003. As stated previously, DEC has not been selected to participate in this program. The only agencies selected are the State Insurance Fund, the Department of Labor and the Office of the State Comptroller. It is anticipated that any Pilot Program will operate at least one year before any considerations for expansion are entertained.

6. Employee Time and Attendance Handbook

PEF believes it is incumbent upon DEC to provide timely and accurate information to its employees. Various sections of DEC's Employee Time and Attendance Handbook have been superseded by later documents such as the Fair Labor Standards Act, PEF Contract, Office of State Comptroller (OSC) Bulletin # G-180, OSC Travel Manual (10/98) & OSC Traveler's Guide (10/98). For example, Section 5.1.6 conflicts with federal and state laws and regulations concerning time worked and should be corrected to read as follows: "Time spent by employees for actual travel and/or service performed while traveling is compensable work time provided that the travel is between the employee's residence and a work site other than their official station." PEF/Encon provided errata concerning other discrepancies to management at the November 29, 2001 Labor Management meeting. When will Management and Budget distribute a revised edition of the Employee Time and Attendance Handbook, which has not been updated since January 3, 1994?

Management's response: A revised Time & Attendance Manual has been drafted and is now under review by staff in the Personnel and Fiscal Offices. Management will provide PEF with a copy of the final draft for review and comment.

7. Failure to Provide Travel Advances

- a. PEF is concerned that the agency did not respond to the request that Fiscal Bulletin 354 TA Advance Quick Pay Method be used? Why does DEC not provide travel advances to corporate card holders for meals. Did DEC substantiate the need to provide travel advances to corporate card holders for meals? Use of the Corporate card causes problems for employees traveling in rural areas.**

Management's response: The "quick pay" method for advances is labor intensive for the Fiscal Office and no quicker for the employees. Corporate card holders receiving advances reduces advance funds available for non-card holders. It is not Management's responsibility to pay for all travel in advance.

- b. Why does it take five months to reimburse travel under the Conservation and Federal Aid program after being denied a travel advance? What plans have been put in place to avoid this in the future?**

Management's response: The Conservation Fund was in the red, and the vouchers could not be paid until funds became available. These charges were eventually moved to another funding source. That process was slow because some of the alternative funding sources also had temporary cash flow problems. Efforts will be made to avoid long delays in the future. [Management to identify efforts made.]

8. Contracting Out Computer Services

The consultant EDP professional costs more than twice (\$1,763,594) what the state EDP professional costs the state of New York. Will DEC continue to contract work that can be done by the PS&T unit? PEF suggests DEC employees be trained to perform the work, which would also be a considerable savings to the Department.

Management's response: Management has a right to contract out. The Department will continue to do so when it believes it is appropriate and in the Department's best interests.

PEF requests a copy of the WorldCom contract.

Management's response: Management has provided a copy of the contract to PEF at the 12/3/02 weekly Central Office update meeting. Management requests this item be dropped.

PEF requests an update on DECALS and the Harvest Reporting system (HRS). Many of the individual problems with vendors and license buyers could have been handled easily if the regional offices and suboffices had access to the DECALS system. When will these offices be allowed to sell licenses? Are State Tax & Finance employees still handling the HRS? How much did it cost the Department for WorldCom's inability to set up the HRS on time? PEF requests a copy of the new contract.

Management's response: To date DECALS has sold \$34.5 million worth of licenses to 890,000 customers. This includes about \$1.7 million in agent commission. This total does not count licenses sold before DECALS was implemented Statewide on August 26. For the past two years, \$5 million dollars worth of licenses were sold by July 31. In comparison, as of January 31, 2002, license sales totaled \$30.9 million.

WorldCom has 12 of 17 DECALS applications in place and operational and is correcting remaining defects. The remaining 5 DECALS applications will be completed by mid-2003. Major ones include the internet sales application, the ad hoc query application and the sportsman education application.

By Executive decision last year, regional offices outside of Region 1 will not sell licenses. All regional offices (law enforcement staff) currently have access to customer information in the database in order to check the status of licenses. All regional offices will also have ad hoc query capability by mid-year in order to make more detailed queries of the DECALS database, such as names and addresses of specific audiences for mailings.

Tax and Finance is no longer handling the Harvest Reporting System. It was switched 100% to WorldCom on November 25. The IVR system started at Tax and Finance on October 15 when the early archery season opened. On 11/7, 25% of calls were switched to WorldCom, on 11/12, 50% of calls were switched to WorldCom and on 11/13, 100% of calls were switched to WorldCom to test data load and decide on the split for 11/18, opening day of the Southern Zone regular big game season. For opening week, calls were split 60% Tax and 40% WorldCom. Calls were less than expected and were switched 100% to WorldCom on 11/25. The bill from Tax and Finance is not known yet.

The contract with WorldCom has not been amended to date, but an amendment will be developed shortly. When the contract amendment has been approved by OSC, it will be shared with PEF.

9. Intranet/Internet

PEF's improper practice charge alleged that EnCon violated the Taylor Law when it unilaterally issued an Internet Acceptable Use policy in October, 1997. Will a revised policy be issued by the Governor's Office for Technology on personal use of the internet?

Management's response: The Improper Practice (IP) case remains on hold at the Public Employment Relations Board (PERB). Settlement discussions remain ongoing between PEF and GOER. The Governor's Office for Technology has not yet issued any policy addressing personal use of State Internet services.

10. Labor/Management Training

PEF proposes LM Training for March 2003.

Management's response: Management agrees to work towards scheduling this training. However, the State's current financial condition(s) will ultimately dictate the Department's ability to do so.

11. Scheduling of L/M Meetings

PEF proposes Labor/Management meetings for March 13, June 11, October 2 and December 3, 2003. PEF requests that Commissioner Crotty attend. A Commissioner last attended a meeting June 15, 1995.

Management's response: Management is pleased that Assistant Commissioner Jim Tuffey is able to address this meeting. An invitation will be extended to Commissioner Crotty to attend the next scheduled meeting.

12. Pollution and Energy Reduction Committee (PERC)

Since management has stated that the expansion of compressed pay period (CPP) and telecommuting to the regions is contingent upon success in Albany, PEF is discouraged that the telecommuting expansion has not moved forward to the solicitation of interest stage.

Management's response: We are currently in the evaluation phase of the CPP Pilot. We expect this evaluation to be completed in the near future. Management will not extend the CPP to any other regions at this time. It is expected that the next step will be to expand the program within the Central Office only.

The application process for the expansion of telecommuting in Central Office was initiated on 9/25/02. Forty-nine (49) approved applications for telecommuting have been received from the participating divisions. We are now in the process of scheduling telecommuting informational sessions for both telecommuting participants and their supervisors.

Downstate (NYC) set a record this past summer with 21 ozone alert days. Regions 1, 2 and 3 pay for emissions testing on vehicles annually. Isn't it about time that those employees who work in the regions be afforded the same benefits as those offered to Central Office personnel. PEF requests that the CPP and telecommuting programs be offered downstate without delay.

Management's response: Management is not prepared to extend these programs to the New York City Metropolitan Area at this time.

13. Laboratory Consolidation

What is the schedule and site for construction of the \$25 M three bay light duty Automotive Emissions Laboratory (AEL) with funding from the Clean Water/Clean Air Bond Act under NYSERDA?

Management's response: SUNY East is no longer the designated site for this laboratory. It was

determined that the available (SUNY East) land was unsuitable for this purpose. The Department is now in the process of determining whether or not to build this laboratory somewhere else. If a determination is made to build on an alternate site, the Department will work with OGS toward this end.

14. Acting Positions

Albany Air

**Is the EE4 Director of the Bureau of Technical Support in Air filled?
Is the G31 Director of Air Research filled?**

Water

**Is the Director of the Bureau of Watershed Assessment and Research filled?
Is the Compliance Assurance Section Chief, Bureau of Water Compliance Programs filled?**

DER

**Is the Division Director filled?
Is the Investigation Support Section Chief, Bureau of Construction Services filled?
Is the Bureau of Construction Services Director filled?
Is the Eastern Field Services Section Chief filled?**

Solid & Hazardous Materials

**Is the Pesticide Compliance Section Chief filled?
Is the Pesticide Reporting Section Chief filled?**

**REGION 1 Regional Spills Engineer position filled?
Regional Real Properties Manager position filled?**

**REGION 2 Is the SG-31 Section Chief in Air Unit filled?
Is the SG-31 Regional Solid & Hazardous Materials Engineer filled?
Is the Regional Hazardous Materials Engineer (G-27) position filled?**

REGION 3 Regional Water Engineer position filled?

REGION 4 Has Region 4 identified a funding source for the Supervisor of Natural Resources position, Item No. 09403, exemption request?

REGION 6 Regional Fisheries Manager position filled?

**REGION 7 Is the Natural Resource Supervisor position filled?
Is the Regional Fisheries Manager position filled?**

REGION 8 Will the EE2 vacated by the new Regional DER Engineer be backfilled?

Management's response: The response to all of the above questions is no.

PEF requests that waivers be submitted for these positions and that they in fact be filled.

Management's response: So noted.

15. Contracting Out

PEF/encon requests the funding source for the Onondaga Lake Monitor, a contract employee of the Central New York Regional Planning & Development Board.

Management's response: These are not State funds; therefore, DEC Management is not accountable for the fund sources. Informal inquiries indicate the funds are pursuant to an agreement between the Board and Onondaga County.

PEF requests copies of the Unit Management Plan contracts for the Wilcox Lake Wild Forest and the Lake George Wild Forest.

Management's response: Management has provided a copy of the contracts to PEF at the 12/3/02 weekly Central Office update meeting.

DEC

PEF/ENCON

Joseph A. Lattanzio

David J. Persson

DATE February 10, 2003

February 6, 2003