

**STATEWIDE PEF/NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL  
CONSERVATION LABOR/MANAGEMENT COMMITTEE MINUTES  
December 1, 2004**

Attendance:

**PEF:**

David Persson, LM Chair  
Karl Berger, Albany LM Co-Chair  
Chris Spies, Region 1  
Hassan Hussein, Region 2  
Joseph Battista, Region 3  
Frank Flack, Region 6  
Terry Tyoe, Region 6  
Thomas Gragg, Region 7  
James Kersten, Region 9  
Kevin Hintz, Region 9  
Mike Keenan, Albany  
Wayne Bayer, Albany  
James Trossbach, Albany  
Kuldeep Gupta, Albany  
Tim LeBarron, Albany  
Jim Kemenash, PEF  
Josephine Rice, PEF

***Management:***

Joseph Lattanzio, DEC Director of Employee Relations  
Carole LaVigna, DEC Director of Personnel  
Michael Turley, DEC Director of Operations  
Mark Cadrette, DEC Health & Safety Unit  
Carl Gonzalez, DE Employee Relations  
Gail Balluff, DEC Employee Relations  
Marie Furlong, DEC Employee Relations

**PEF's questions and statements are in bold faced type.**

*Management's responses are in italics.*

**It was mutually agreed that the minutes will be finalized within 30 days of the meeting.  
Updates to be forwarded when available.**

**I. New Business:**

**1. Budget**

- a. Please provide Sustainability , Strategic Planning and Cultural Change Update. How will the Commissioner's seven priorities of Greenhouse Gas, Acid Rain, Ozone, Superfund, Open Space, Onondaga Lake and the World Trade Center affect DEC's limited resources? What is the funding source for the SEEDS Systems contract? PEF noted that DEC has not updated the website since 2001.**

*Management's response: DEC has initiated a Department-wide effort to foster and improve intra-departmental collaboration to better achieve our mission. This effort builds upon several previous and ongoing initiatives, such as Strategic Planning and Sustainability. This effort will begin on December 8 at which time Commissioner Crotty has invited all DEC staff to participate. The goal on December 8 is to initiate an organization-wide dialogue to help build a better understanding of our current priorities, challenges and ways of working together and to flesh out our vision for what we can achieve together at DEC. The Department desires the widest possible diversity of participation to get the most accurate assessment and the most vibrant vision we can. The duration of this effort is expected to last about one year.*

- b. When will DEC post a summary of the budget changes passed by the Legislature?**

*Management's response: A summary of the 2004-2005 budget can be located at the following link: [www.senate.state.ny.us](http://www.senate.state.ny.us) (Go to Press Releases for 8/11/04/Fact Sheet on Transportation, Economic Development, Environmental Conservation).*

- c. How many employees who work for DEC under the \$19,366,000 personal services contracts (e.g. Environmental Facilities Corporation, NYSERDA, New England Interstate Water Pollution Control Commission (25), SUNY Research Foundation, Natural Heritage Trust (21) and computer consultants) received a 3% raise for FY 2004-2005?**

*Management's response: Asked and answered previously. Management has provided several of the MOUs. We are not prepared to provide any further information. Management to follow up on the number of employees.*

- d. On September 24, the State of New York Office of General Services (OGS) is seeking proposals within Schenectady County from qualified landlords and developers interested in entering into a full-service lease agreement, pursuant to the New York State Public Buildings Law, for approximately 29,000 usable square feet of general office space. What is the projected date for the Region 4 move? 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?**

*Management's response: OGS received a number of proposals on the due date, October 25, 2004. They are currently being evaluated. We will know in the next months in which direction OGS wants to go. When appropriate, the Regional Director has agreed to the formation of a group to share ideas and involve employees in the process.*

- e.(1) What is the status of the additional 28,000 square feet at the New Paltz office? Is the schedule to start the construction project still February 2005? PEF is concerned about space for storing files, parking and the traffic and pedestrian safety management on South Putt Corners Road.**

*Management's response: All code, permit and internal reviews have been completed. The consultant is finishing up the contract documents. Bid opening will be in February 2005. A picture of the new building design was displayed for the Committee. If possible, it will be duplicated in the minutes. Update: A picture of the new facility is attached to the minutes.*

- e.(2) Does management continue meaningful discussions for PS&T unit members in the context of a Joint Labor/Management Quality of Worklife Committee?**

*Management's response: Yes. The Regional Director will continue to schedule meetings with appropriate staff. The Regional Director will continue to solicit comments/suggestions from all staff and will continue these meetings as appropriate.*

**2. Civil Service**

- a. How many positions are filled? How many waiver requests are pending at DOB?**

*Management's response: We currently have 3,201.5 filled positions. We have no waiver package pending.*

- b. Did Civil Service approve Job Classification Standards with professional titles of Environmental Chemist and Engineering Geologist?**

*Management's response: They have been tentatively approved by Civil Service. Final approval is expected soon.*

- c. What titles has DEC submitted for FY 2005-2006 testing needs?**

*Management's response: The Department notified Civil Service of our exam needs and are now waiting for their Examination Calendar to be finalized. Our request included: Environmental Radiation Specialist Series; Sanitary Construction Inspector Series; Environmental Analyst Series; Mineral Resources Specialist 3 & 4; Engineering Geologist 1 & 2; Biologist 2 & 3; Fish Culturist Series; Forester 2, 3 & 4; Real Estate Officer 1 & 2; Forestry Technician 2 & 3; Environmental Conservation Officer; Forest Ranger 1 & 2;*

*Environmental Engineer (Civil) 1 & 2; Environmental Chemist 3; and Environmental Educator Series.*

- d. **Doesn't recruitment and retention (14 vacancies) justify Management and Budget's submission of the Division of Fish, Wildlife & Marine Resources fiscal impact forms that request increased geographic pay differential for the Biologist 1 and Biologist 2 (Marine) for appointments in Region 1 and 2? PEF requested information on the actual funding amount involved.**

*Management's response: An increased geographic pay differential can be requested when there is difficulty in recruitment or retention. Civil Service and DOB will only approve this differential when there is severe difficulty in recruitment. Thus far, we have been able to recruit whenever there has been a vacancy, although the numbers are not what we would like. We have lost Biologists 1 (Marine) to the Army Corps of Engineers, which should meet the retention requirement for an increased geographic pay differential in Regions 1 & 2. However, until we can complete a proposal, we will not know the actual funding amount involved. **Update: We have not found that the same recruitment and/or retention problems exist for Aquatic Biologists.***

- e. **Did work group compare organizational charts and review the Fish and Wildlife report to address fiscal issues management and support salary grade parity between the career ladders of the Natural Resources and Quality divisions?**

*Management's response: Yes. The work group has compared organizational structures between the Natural Resources and Quality divisions to potentially support salary grade parity. Management to follow up on date of next meeting. **Update: The next meeting has not yet been scheduled.***

- f. **Division of the Budget approved waivers for 34 Environmental Engineer 2 positions. How many positions are filled? There are 67 EE1s currently on the EE2 promotional list to backfill the 46 EE2 positions vacated due to the retirement incentive and backfilling EE3 positions. The engineers on the EE2 promotional list deserve to be equitably compensated for the professional work they perform so DEC can meet its mandates and fulfill its mission.**

*Management's response: We have waivers for 31 EE 2 positions, not 34. Of the 31, three (3) are still vacant: 2 Superfund items in Remediation (1 in Albany, 1 in LIC) and 1 in Operations (Albany).*

- g. **How will DEC recruit candidates for the Associate Bacteriologist (Marine) position if there is no Senior Bacteriologist (Marine) title to provide a pool of qualified candidates? Very soon DEC will have no Bacteriologists (Marine) left in any level position. This leaves no one to run the only laboratory in NYS that is approved by the FDA to examine water samples for year-round monitoring of the sanitary**

**conditions of shellfish harvest areas and supporting NY's shellfish industry.**

*Management's response: To our knowledge, the current incumbent of the Associate Bacteriologist (Marine) has no plans to vacate the position. We now have a waiver for the Bacteriologist (Marine) position and program is recruiting to fill. Recruitment issues are reviewed at the time a position becomes vacant or when an examination is planned. It is likely that we will request the reclassification of this position once the incumbent is appointable to the Associate level.*

**3. Health & Safety**

**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.**

**3.(a) PEF/encon requests an electronic copy of the Emergency Preparedness Response Plan.**

**3.(b) PEF/encon requests written description of the NYS Threat Levels and security enhancements as implemented by the agency and Region. PEF/encon is concerned that threat level implementation be uniform in DEC and OGS buildings as it may affect employees who are required to be available for immediate recall and who must be prepared to return to duty within a limited period of time.**

**3.(c) When will 30 employees receive 160 hours of training to enter imminently dangerous to life and health weapons of mass destruction environments? What is the first responders' curriculum?**

**3.(d) DEC employees are no longer eligible for the Safety Incentive Differential. PEF/encon asks DEC to request that Civil Service expand the criteria to include employees that conduct investigations at hazardous substance spills or other hazardous substance emergencies; or inspect hazardous substance facilities sites (e.g., manufacturers, storage facilities, active/inactive waste sites); or manage the cleanup of inactive hazardous waste sites.**

**3.(e) Did DEC modify the Division of Solid and Hazardous Materials Standard Operating Procedures (SOP) without PEF review? SOPs must be shared with PEF under Article 28. PEF has a role in the review of SOPs.**

**3.(f) When will all DEC public buildings be equipped with AEDs? How many Regions have AEDs? PEF/encon requests that DEC work to provide 100% training for staff in use of defibrillators.**

*Management's response: As stated previously at the last Statewide L/M meeting, this and all health and safety matters will be addressed via the Statewide Health & Safety Committee forum.*

*It was mutually agreed to pre-schedule 4 meetings a year of the Statewide Health & Safety Committee.*

*Executive approval has been received to conduct Defensive Driving sessions again in 2005. Regional Offices will be requested to schedule meetings, and the Central Office will have three sessions in March.*

## **II. Old Business**

### **1. Privatization**

**1.(a) According to budget calculations, will the U.S. Forest Service allocation continue to support DEC Foresters in the Bureau of Private Land Services Forest Stewardship program or will this too be contracted out to Cornell University or some other private group?**

*Management's response: Asked and answered previously. We have not contracted out with any private group. Although future funding is undetermined at this time, it is expected to continue at the current level. No additional information is available to provide at this time.*

**1.(b) Does a Division of Environmental Remediation (DER) work assignment (WA) still require a cost benefit analysis?**

*Management's response: DER has never done a cost benefit analysis for a work assignment. We do cost reviews prior to issuance, during the performance and at the end of a work assignment to ensure reasonableness and compliance with the contract.*

**1.(c) Has DEC hired two NEIWPC Marine Biologists in Region 1 (East Setauket), work traditionally performed by PS&T employees? Why doesn't DEC Division of Fish, Wildlife & Marine Resources use State matching funds for the Sport Fishing Tax - Wallop-Breaux/Dingel - Johnson - Federal Grant money to fill vacant federally funded items? Did DOB approve the request 10 hiring freeze waivers for these positions?**

*Management's response: The Department has not as yet hired any such employees. The Department did request waivers for the most critical positions. Six (6) of these have recently been filled; ten (10) waivers are currently at DOB. The six positions that were filed for FWMR with the last waiver round were: Environmental Chemist 2 [Hale Creek]; Biologist 1 (Aquatic) [Stony Brook]; Biologist 1 (Marine) [E. Steauket]; Biologist 2 (Wildlife) [Albany]; Biologist 2 (Aquatic) [Albany]; and Biologist 1 (Ecology) [Albany]. Management to follow up on status of the waivers. Update: All waiver requests submitted to DOB as of 12/09/04 have been approved. We cannot identify the ten (10) positions mentioned above without more specific information, such as item numbers and titles.*

### **2. Environmental Management Systems (EMSs)**

**If DEC is to develop and implement an EMS, has DEC estimated the costs, including: an investment of internal resources, including staff/employee time; costs for training of personnel; costs associated with the hiring of outside consulting assistance, if needed; and costs for technical resources to analyze environmental impacts and improvement options, if needed?**

*Management's response: We are still in the pilot program at the Godfrey Point sign shop. EMS at Godfrey Point is being done with all DEC staff, no consultants. July 2005 is the scheduled date for completion of the project.*

### **3. Empire State Outdoors Television Program**

**Does the Department still have in-house video production capability? PEF requests clarification on the definition of "some equipment resources."**

*Management's response: The Department has some capability for in-house video production but not full television capability. Management to follow up regarding the definition of "some equipment resources." Update: We do have some video-capable cameras; however, they are not high quality digital as is necessary to produce high quality broadcast television videos.*

### **4. Ernest Trad Award**

**Has DEC received nominations and recommended recipients for the Trad Awards?**

*Management's response: The Commissioner's memorandum announcing the Selection Committee and requesting nominations will soon be sent to all Department employees. Update: The memorandum was sent to all employees on December 2, 2004. The deadline for nominations is December 31, 2004.*

**When will iExpense work? Central Office has asked that each region designate its own expert and that regional personnel turn to that person for needed assistance.**

*Management's position: Asked and answered previously. iExpense is working. Related training is ongoing and should alleviate most employee concerns/frustrations.*

### **5. Continuing Education requirements for NYS Professional Engineers**

**Has DEC Education and Training established the review process for the State Education Department accreditation for seminar, workshop and course PDH (Professional Development Hour) credit for all engineers? If DEC cannot provide the PDH credits for the Land Surveyors, DEC should see that training is provided by an outside source.**

**VRWS does not reduce required CEU. EE2s and EE3s on VRWS are treated no differently by DEC with respect to assignment responsibilities and professional training. Therefore,**

**PEF requests that DEC acknowledge the EE2s and EE3s on VRWS that work exclusively for DEC are indeed "full-time" State employees with respect to the PE licensing exemption.**

**Employees in the VRWS program should be exempted from the continuing education requirements. The VRWS program is a Statewide program that applies to all State employees in the Professional, Scientific and Technical Services bargaining unit which are represented by PEF. The terms of the program are contained in the PEF/State collective bargaining unit. PEF considers the VRWS employees full time employees. PEF requests Management provide the standard on which DEC VRWS employees are not considered "full time."**

*Management's response: The Training and Development Office has been exploring outside source training with the Division of Lands & Forests.*

*In order to be consistent with the position taken by DOT and DOH, Management has reversed its initial decision and will consider engineers on the VRWS program to be full-time for this purpose. The Personnel Office will issue an attestation letter to any engineer who otherwise meets all the requirements.*

## **6. Environmental Monitors**

**Will DEC prepare an Environmental Impact Statement for the proposed Commissioner Policy to replace Organization and Delegation Memo #92-10? How many independent environmental monitors has DEC caused to be hired? PEF request all current information on the hiring of third party monitors.**

*Management's response: As PEF has filed a 11/19/04 FOIL request for information on this program, we do not feel it is appropriate to discuss this any further in this forum.*

**While PEF/encon understands and appreciates that the Department must still negotiate with Kodak concerning the monitor issue in the Part 373 permit, the Department has repeatedly stated that existing DEC monitors will be retained. These statements were made at L/M meetings and in the press by DEC spokespersons as recently as November 3 in the New York Times. Are these statements accurate? If they are accurate, will management please confirm that DEC staff who are monitors at Kodak will be retained to perform their duties at Kodak Park? If the statements are not accurate, please explain.**

*Management's response: The Department stands by its previous statements.*

## **7. 625 Broadway**

### **Unresolved topics**

**8.(a) PEF/encon objects to the unilateral decision by management to remove previously existing doorstops which allowed increased handicapped mobility and access by**

**disabled staff and citizens. When will management complete installation of compliant hold open devices for Vinny's cafeteria, Jerry's News, EAP, mail rooms, nurse's office and library?**

- 8.(b) PEF/encon requests that an electronic pedestrian crossing button be installed on Water Street.**
- 8.(c) Why were all compost containers replaced with tall white trash top loaders? Does Waste Disposal meet recycling requirements for the Green Building Annual Eligibility Certificate under Article 19 of the Tax Law?**
- 8.(d) Please provide cost to Divisions to move Solid Waste staff from the 8<sup>th</sup> floor to the 9<sup>th</sup> floor, which displaced Pesticides now located on the 11<sup>th</sup> floor in wake of OGS decision to move a new non-DEC tenant into NYSDEC space?**
- 8.(e) What were the total costs (computer, telephone, lost productivity, etc.) for rearranging/moving most of the 11<sup>th</sup> floor DER 3 times in 3 years?**

*Management's response: As stated previously at the last Statewide L/M meeting, this and all similar matters are addressed via the weekly Central Office Union Update Meetings.*

## **9. Pre-Tax Transportation Program**

**The New York City pilot program must be implemented 90 days after the Attorney General's office and the Comptroller fully execute and approve the vendor (Wageworks) contract. When will DEC notify eligible employees in the New York City area of the availability of the program and the process for enrolling?**

*Management's response: As soon as the Department receives the notification from the Governor's Office of Employee Relations (GOER) eligible employees will be notified.*

## **10. 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) and 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? PEF requests a**

**one month review of the final draft.**

*Management's response: This handbook is now undergoing a final review. A copy of the draft will be made available when appropriate.*

**11. Failure to Provide Travel Advances**

**When will Fiscal Bulletin 354 for Travel Advances and other Fiscal Bulletins be updated?**

*Management's response: Asked and answered previously. With the advent of the iExpense system, a complete review of all Fiscal Bulletins and the travel voucher process was initiated. When the review is complete, the Fiscal Bulletins will be reissued.*

**12. Contracting Out Computer Services**

**PEF requests an update on DECALS and MCI (WorldCom) remaining five (5) DECALS applications including the internet sales application, the ad hoc query application and the sportsman education application responsibilities and OSC approval of the contract amendment. What is the impact of Patriot Plan section 14 to the Conservation Fund? At current license sales level, when will the fund require another increase in the cost of a license or general fund bailout? What is the current annual cost of DECALS maintenance/operating costs including the Harvest Reporting System?**

*Management's response: Asked and answered. The Department is currently updating its revenue and expenditure projections. Accordingly, this question is not answerable at this time.*

**13. Internet Acceptable Use Policy**

**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: As stated previously, there has been no activity on this matter since the last meeting on March 11, 2003 at PERB. The last notice from PERB stated that this case would remain on hold (at PERB) until 3/19/04. No word from PERB since that notification. We still have not received any notice from the Governor's Office for Technology on the issuance of a policy addressing personal use of State Internet services. No additional information is available at this time.*

**14. Labor/Management Training**

**PEF/encon requests that joint L/M Training be scheduled. Four years of Article 15 monies must be spent in two years.**

*Management's response: Management agrees.*

**15. Scheduling of L/M Meetings**

**The next Labor/Management meeting is March 30, 2005. The remaining dates for the year will be June 29, October 5 and December 1. The October meeting should be outside Albany in either Buffalo, NYC or Long Island. PEF requests that Commissioner Crotty attend. A Commissioner last attended a meeting June 15, 1995, over 9 years ago!**

*Management's response: Management will extend an invitation to the Commissioner.*

**16. Pollution and Energy Reduction Committee (PERC)**

**Has the Executive approved the nine (9) out of ten (10) days compressed work schedule as a permanent offering in the Central Office and transmitted the request to the Department of Civil Service for formal approval of the program in the DEC Central Office? Has the Executive reapproved the telecommuting expansion in the Central Office which was put in abeyance in November 2002?**

**The full implementation of these two programs in the central and regional offices would reduce pollution across the State and concurrently improve employee morale and productivity. Thus, PEF requests that the CPP and telecommuting programs be offered to all regions without delay.**

**When will management respond to PEF's June 9, 2004 position paper on telecommuting, compressed pay period, carpooling, and transit subsidy programs?**

*Management's response: A decision on both programs currently remains at the Executive level.*

**17. Laboratory Consolidation**

**Will DEC build a heavy duty Automotive Emissions Laboratory (AEL) in Malta with funding from the Clean Water/Clean Air Bond Act under NYSERDA? What is the funding source for NYSERDA's Environmental Monitoring, Evaluation, and Protection (EMEP) program to provide policy-makers with scientifically credible and objective information on the impacts of pollution associated with energy and electricity generation?**

*Management's response: No new information to provide at this time. As stated previously, 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. Management to follow up on the funding source for the NYSERDA program. **Update: Currently not able to answer the question on the funding source for NYSERDA's Environmental Monitoring, Evaluation and Protection (EMEP) program as these are NYSERDA monies.***

**18. Acting Positions - Still pending**

**Albany**

**Solid & Hazardous Materials**

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

*Management's response: The Personnel Office has received the paperwork to make a permanent appointment to this position; however, the waiver has not been approved by DOB yet. As soon as it is, the permanent appointment will be processed.*

**Is the Bureau of Technical Support EE4 position filled?**

*Management's response: Management to follow up. Update: A waiver request is now being prepared for submission to DOB. When the waiver is approved, a roster will be requested from Civil Service, and a permanent appointment will be made.*

**PER requests that waivers be submitted for the vacant positions and that they in fact be filled.**

*Management's response: So noted.*

**DEC**

*Joseph A. Lattanzio*

**DATE**

**PEF/ENCON**

*David J. Persson*

**January 3, 2005**