

**STATEWIDE PEF/NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL
CONSERVATION LABOR/MANAGEMENT COMMITTEE REPORT
June 11, 2003**

Attendance:

PEF:

David Persson, LM Chair
Karl Berger, Albany LM Co-Chair
Katy Murphy, Region 1
George Stadnik, Region 2
Hassan Hussein, Region 2
Keith Browne, Region 3
Andy Marcuccio, Region 4
Leslie Eggleton, Region 5
Frank Flack, Region 6
Terry Tyoe, Region 6
Tara Blum, Region 7
James Kersten, Region 9
Kevin Hintz, Region 9
Mike Keenan, Albany
Dylan Keenan, Albany
Wayne Bayer, Albany
Holly Clark, Albany
William Wurster, Albany
James Trossbach, Albany
John Donlon, Albany
Tim LeBarron, Albany
Lawrence D'Arco, Albany
Kuldeep Gupta, Albany
Vimal Minocha, Albany
Debbie Gardell, Albany
Jim Kemenash, PEF Field Representative
Josephine Rice, PEF

Management:

Denise Sheehan, DEC Executive Deputy Commissioner
Jack McKeon, DEC Assistant Commissioner for Administration
Joseph Lattanzio, DEC Director of Employee Relations
Carole LaVigna, DEC Director of Personnel
Nancy Lussier, DEC Director of Management & Budget Services
Everett Chamberlain, DEC Director of Fleet Management
Gail Balluff, DEC Employee Relations
Carl Gonzalez, DEC Employee Relations
Marie Furlong, DEC Employee Relations

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

Management's responses are in italics.

Executive Deputy Commissioner Denise Sheehan addressed the Committee discussing how Executive Staff, Regional and Division Directors worked hard to put together a comprehensive plan that would permit the Department to participate fully in the retirement incentive. That plan, which included retirements and targeted backfills of positions, was approved and the Department is now in the process of implementing it. This comprehensive plan focuses the Department's resources on its highest priorities and ensures that the Department is organized around fulfilling its core mission. She acknowledged and thanked Jack McKeon for coordinating this effort. She also expressed

Executive's appreciation of DEC's talented and dedicated workforce and the importance of a productive labor-management dialogue.

I. New Business:

1. Budget

- a. How is our department taking advantage of this period of change to think and manage more strategically and to make decisions and take actions based on established goals and priorities.**

Management's response: The Department continues to meet to review our priorities and make them known to all Department staff. The Strategic Planning Program has been reinvigorated, and established goal teams are meeting quarterly. This initiative is being headed by the Commissioner. Management will periodically provide updated Strategic Planning information.

- b.(1) What are DEC's Contingency Austerity Plan steps and immediate options for delayed spending?**

Management's response: The Department will be formulating its spending plan when cash ceiling information is received.

- (2) Has DOB instructed DEC not to spend any portion of the money legislature budgeted for Superfund program?**

Management's response: The Legislature did not enact a superfund program. Hopefully they will do so in the few remaining days of the session. They did enact a \$28 million appropriation to pay for staff. The Legislature's budget included \$105 million for the cleanup fund, but language states funds can't be used until a separate chapter is adopted.

- c. What is the impact, if any, of the proposed legislation that would increase the Environmental Facility Corporation's bond cap?**

The Executive Budget proposes increasing the EFC's bond cap for environmental infrastructure projects from \$135 million to \$277 million and authorize proceeds from these bonds to support \$128 million in DEC programs (\$10 million for Onondaga Lake Cleanup, \$11 million for DEC Capital projects, \$43 million for projects supported by the EPF, and \$64 million for the identification, classification, investigation, and remediation of hazardous waste disposal sites). Can or will any of these funds be used to support personal service expenses or PS&T titles or are the funds used for EFC jobs?

Management's response: The increase in the bond cap for the Environmental Facilities Corporation for fiscal year 2003-04 does not have an impact on personal service expenditures at EFC or DEC. It simply means that EFC can sell more bonds for New York State if requested to do so. Seven DEC employees are currently assigned to EFC.

- d. What critical backfills did DEC request? What did DOB & Civil Service approve?**

Management's response: PEF will be provided with copies of the waivers at the next Update Meeting. All backfills requested were approved. The waivers expire July 29, 2003. 100 of the 149 initial waivers are filled. 22 secondary backfills are soon to be requested. Management stated that no third tier waivers are planned.

- e. PEF/encon requests that DEC backfill more than one EE2 position. Unanswered April 7, 2003 letter to the Commissioner attached. There are sufficient EE1s currently on the EE2 promotional to backfill the 46 EE2 positions that will be 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: A response has been developed and is now undergoing Executive review. We asked the regions and the divisions to identify organizational changes as a result of the retirements. They were also requested to prioritize their waiver requests. The positions that were included in the waiver process were for the higher end positions.

- f. 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, Andy Marcuccio should be the PEF steward contacted.**

Management's response: The decision has been made to build another building in the proximity of the current building. There is no projected completion date. When appropriate, the regional director has agreed to the formation of a group to share ideas and involve employees in the process.

- g.(1) What is the status of the additional 28,000 square feet at the New Paltz office? Is the schedule to award construction projects still Summer 2003?**

Management's response: Our consultant, Stein White Nelligan, is more than 60% complete on the Construction Document phase. The approved, revised design schedule will allow for a late summer 2003 award of construction contracts.

- g.(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. As the design is being finalized and the bid is being prepared, the regional director will continue to schedule meetings with appropriate staff. The last Region 3 L/M meeting was held on 1/16/03. The regional director will continue to solicit comments/suggestions from all staff and will continue these meetings as appropriate. Also, the regional director advises that he will be appearing before the local planning board as a courtesy in an effort to reach out to surrounding neighbors.

- h. PEF requests copies of current Memoranda of Understanding with SUNY.**

Management's response: It appears there are approximately 23 such MOUs that may be currently active. We will continue to explore the feasibility of providing these to PEF. Management to follow up with D. Persson on a timeline for providing the information.

- i. Are the 226 new vehicles approved for 2003-2004?**

Management's response: Funding is included in the enacted budget. However, we are still awaiting guidance from DOB concerning budget implementation.

- j. Can Standby On-Call rosters be extended pending DOB approval?**

Management's response: There is no need to extend standby. The rosters have been approved and information forwarded to the Payroll Office.

2. Civil Service

a. How many budgeted items of the Annual Salary Average Fill Level are not filled?

Management's response: There are 3,273 filled items as of the June 4th payroll. The entire retirement plan is not yet completed.

b.(1) Did Civil Service approve Job Classification Standards with professional titles of Chemist, Engineering Geologist, Environmental Engineer, and Environmental Program Specialist?

Management's response: Not yet. We're still awaiting their approval.

c. Is DEC planning any title consolidations?

Management's response: No.

d. How many new waiver requests did DEC send to DOB?

Management's response: The Department submitted 149 waiver requests. 22 secondary waivers will be submitted shortly.

e.(1) Did the Division of Fish, Wildlife, and Marine Resources submit fiscal impact forms for the request that Civil Service increase hiring rate for Biologist 1 and Biologist 2 (all parenthetics) for appointments in Regions 1 and 2?

Management's response: The amount of the recommended salary increases is still under discussion at the Division level. Fiscal impact forms have not yet been submitted.

e.(2) Is there a schedule for submission to Civil Service?

Management's response: No.

f. PEF/encon proposes to meet with management on June 26 in a subcommittee to support salary grade parity between the career ladders of the Natural Resources and Quality divisions? Is DEC management being proactive to fairly compensate employees in Natural Resources titles?

Management's response: We continue to disagree with PEF's opinion that a formal L/M subcommittee is necessary. However, Personnel staff is scheduled to meet with PEF representatives to discuss this issue on June 26, 2003. Conceptually we agree but there are fiscal issues to contend with.

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.

PEF/encon requests written description of the NYS Threat Levels and security enhancements as implemented by the agency and Region.

Management's response: This and all health and safety matters raised are currently being addressed via the Statewide Health & Safety L/M Committee forum. However, copies of the requested

information is also being provided to PEF in this forum. Management provided the web copy of Governor Ridge's Homeland Security Advisory System.

PEF/encon is concerned that threat level implementation be uniform in DEC and OGS buildings, as it may affect terms and conditions of employment.

Have the 100 employees received Incident Command training?

Management's response: We are still working on it as part of our overall strategy. If a curriculum has been developed, it will be provided to PEF through the Statewide Health & Safety L/M Committee.

What are the proposed terms of a GOER/Unions MOU for the placement of AEDs in state agency buildings?

Management's response: This matter is currently being addressed via the Statewide Health & Safety L/M Committee forum. This issue is currently under discussion at the GOER level. We have no new information to report at this time.

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.

Management's response: This matter is currently being addressed via the Statewide Health & Safety L/M Committee forum. Also, it is the Department's understanding that PEF has raised this issue at the current Collective Bargaining negotiations. The Department believes this may be the best forum for this matter.

***Management Update: World Trade Center Medical Monitoring Task Force**

We have been advised by the Department of Health that the World Trade Center Medical Monitoring Program has been extended through January 2004. Accordingly, any employees not originally electing to participate may still do so by contacting the Employee Relations Office to schedule the appropriate medical examinations. Update: As of July 18, 2003, twenty (20) additional DEC employees have been enrolled.

II. Old Business

1. Privatization and Organizational Development

Why is work traditionally performed by PS&T employees now contracted at \$20 million to the Institute for the Application of Geospatial Technology (IAGT)? (Formerly known as RACNE.)

Management's response: Management to follow up.

2. Environmental Monitors

Is there a new policy?

Management's response: The Department is developing a policy document to be used in place of the dated O&D Memo 92-10. As it will be neither a substantive change nor a rule, a public hearing is not required. Existing staff will not be affected.

3. Boards and Commissions

On September 19, 2002, PEF/encon submitted a FOIL. When will the Office of Legislative Affairs provide 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 requests that the roster include the titles for personnel.

Management's response: This question has been previously asked and answered. Please refer to the minutes of the March 13, 2003 meeting. Every Division affected by this listing is making an effort to update the information and then the request will be honored. Management's current list is internal, incomplete and inappropriate for distribution.

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, nurse's office and training rooms for the physically disabled throughout the building. PEF/encon requests that DEC urge Picotte management to use some of their \$3,339,737.50 Green Building Tax Credit savings to finance the necessary renovations to upgrade the building for full accessibility. Door openers should be installed and threshold lips corrected. PEF offered to work with Management.

Management's response: These matters continue to be raised and addressed via the local Central Office Health & Safety Committee.

5. Pre-Tax Transportation Program

Due to the cancellation of the New York City pre-tax transit pilot program and the negotiations currently taking place to implement a new program, PEF requests that DEC support a fully implemented Statewide pre-tax transit program. PEF believes that DEC should support a fully implemented Statewide program because this program is congruent with the Department's mission. If the current negotiations result in a plan for a pilot program limited to New York City, PEF requests that DEC request the inclusion of DEC employees.

Management's response: PEF asked that this issue be tabled at the last meeting, and Management agreed. We have no new information to provide. The Department has no plans to consider this program at this time. Management will follow up with GOER.

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? PEF requests a one month review of the draft.

Management's response: The handbook is going through the internal approval process at this

time.

7. Failure to Provide Travel Advances

When will Fiscal Bulletin 354 for Travel Advances be updated?

Management's response: The travel bulletin is one of several we now have in draft. It will be issued shortly.

8. Contracting Out Computer Services

What are the actual itemized listing of expenditures by vendor for SFY 2002-03, budget costs, and purpose of contracted out computer support for SFY 2003-2004? Is the Help Desk to be privatized and if so why?

Management's response: Itemized computer support expenditures information is not available at this time. Management expects to be able to provide this information to PEF prior to/at the next L/M meeting. The Department has no plans to privatize the Help Desk.

9. PEF requests an update on DECALS and WorldCom contractual responsibilities and contract amendment.

Management's response: To date, DECALS has sold more than \$40.5 million worth of licenses. WorldCom has changed its name back to MCI. Twelve of 17 DECALS applications are in place and operational, and we continue to work with MCI on correcting defects. The remaining five (5) DECALS applications will be completed in late 2003. Major ones include the internet sales application, the ad hoc query application and the sportsman education application.

Tax and Finance will be handling phone sales as well as harvest reporting due to MCI's lack of capacity.

The contract with MCI is in the process of being amended and, when it is approved by OSC, it will be shared with PEF.

10. 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: There has been no activity on this matter since the last meeting on March 11, 2003 at PERB. 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.

11. Labor/Management Training

PEF/encon requests that joint LM Training be tabled. PEF/encon urges DEC to immediately undertake orientation and training for all DEC Regional and Division Directors as well as all Commissioner level appointees in the basics of the Taylor Law and their responsibilities under the PS&T contract.

Management's response: The Department believes its Regional and Division Directors do have a working knowledge of their responsibilities under the PS&T contract. When necessary, these managers have and continue to contact the DEC Office of Employee Relations for appropriate assistance.

12. Scheduling of L/M Meetings

Unanswered May 8, 2003 letter to the Commissioner attached.

The next Labor/Management meeting is October 2, 2003. PEF requests that Commissioner Crotty attend. A Commissioner last attended a meeting June 15, 1995.

Management's response: Executive Deputy Commissioner Denise Sheehan has appeared here today on behalf of Commissioner Crotty. We will extend PEF's invitation to Commissioner Crotty to attend the next meeting.

13. Pollution and Energy Reduction Committee (PERC)

Attached & herein made part of PEF's statement in these minutes are a PEF/encon Position Paper providing references on successful telecommuting and compressed workweek programs implemented across the country, and the May 27, 2003 letter from the PEF/encon PERC Committee Chair to Commissioner Crotty.

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 Nov. 2002?

PEF believes that the CPP and telecommuting should be strongly embraced by this agency since it encourages pollution prevention and resource conservation. The program should be expanded to include regional employees. This is important not only in Regions 1, 2 and 3 where ground level ozone pollution reaches dangerous levels and where public transportation costs have increased by one-third, but upstate as well because both pilot programs resulted in increased productivity on the part of employees. Additionally, CPP allows more effective time in the day for work - thus allowing a field person to perhaps complete twice the work in half the travel time. An example - you need to drive 1.5 hours to get somewhere, the inspection takes you 3 hours. If you had a longer day you could complete 2 inspections and only travel once. This will be especially useful with DEC having less staff (attrition - no backfills) trying to do more work.

Therefore, 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.

Management's response: The answer to both questions is no. Both programs remain on hold with Executive. Executive Deputy Commissioner Sheehan will review the January 2003 joint L/M committee pilot reports and the NYMTEC research package provided by PEF and respond to the request for a meeting.

14. Laboratory Consolidation

Will DEC build 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: No new information to provide at this time. As stated during the last meeting, SUN 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. We expect to have some updated information by the next meeting.

15. Acting Positions

Albany Air

Is the EE4 Director of the EE4 Director of Bureau of Air Quality Surveillance in Air filled?

Management's response: Yes. A permanent appointment was made on 6/25/03.

Is the G31 Director of Air Research permanently filled?

Management's response: Yes. A permanent appointment was made on 3/28/03.

Water

Is the Director of the Bureau of Watershed Assessment and Management filled?

Management's response: No, but it will be filled shortly.

Is the Director of the Bureau of Compliance filled?

Management's response: Yes. This position was filled on 5/15/03.

Is the Director of the Bureau of Program Resources and Flood Protection filled?

Management's response: Yes. A permanent appointment was made on 6/10/03.

Is the Director of the Bureau of Permits filled?

Management's response: Yes.

DER

Is the Investigation Support Section Chief, Bureau of Construction Services filled?

Management's response: Due to reorganization, this Bureau no longer exists.

Is the Bureau of Construction Services Director filled?

Management's response: Due to reorganization, this Bureau no longer exists.

Is the Eastern Field Services Section Chief filled?

Management's response: Yes. This position was filled on 5/22/03.

Is the Federal Project Section Chief filled?

Management's response: Yes. This position was filled on 5/22/03.

Is the Central Remedial C Section Chief filled?

Is the Western Remedial C Section Chief filled?

Is the Eastern Remedial B Section Chief filled?

Management's response: Yes. These positions were all filled on 5/22/03.

Has the vacant Site Control Section Chief been advertised?

Management's response: Yes. This position was filled on 5/22/03.

Solid & Hazardous Materials

Is the Pesticide Reporting Section Chief filled?

Management's response: No.

REGION 1 Regional Spills Engineer position filled?

Management's response: No. Also, the region does not have an approved waiver to fill this position.

Regional Real Properties Manager position filled?

Management's response: Yes. This position was filled on 6/30/03.

REGION 2 Is the SG-31 Section Chief in Air Unit filled?

Management's response: Yes. An appointment was made on 6/04/03.

REGION 3 Regional Water Engineer position filled?

Management's response: No. An appointment will soon be made.

Is the Regional Hazardous Materials Engineer (G-27) position filled?

Management's response: Not yet, but an appointment is expected shortly.

REGION 7 Is the Natural Resource Supervisor position filled?

Management's response: Yes. This position was filled on 6/19/03.

Is the Regional Fisheries Manager position filled?

Management's response: Yes. An appointment was made on 6/05/03.

REGION 8 Will the EE2 vacated by the new Regional DER Engineer and previously a Kodak Monitor be backfilled?

Management's response: This was answered previously. This position will not be filled. The work was reassigned to existing staff.

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

Management's response: So noted.

David J. Persson

DATE

July 23, 2003