

This PEF/encon Report on the June 9, 2004 LM Meeting was  
prepared by Dave Persson & Josephine Rice

**STATEWIDE PEF/NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
LABOR/MANAGEMENT COMMITTEE REPORT**

**June 9, 2004**

**Region 8 Avon**

Attendance:

**PEF:**

David Persson, LM Chair

Karl Berger, Albany LM Co-Chair

Katy Murphy, Region 1

George Stadnik, Region 2

Keith Browne, Region 3

Don Nelson, Region 7

James Kersten, Region 9

Kevin Hintz, Region 9

Mike Keenan, Albany

Wayne Bayer, Albany

Holly Clark, Albany

James Trossbach, Albany

Bill Wurster, Albany

Fred Becker, PEF

Josephine Rice, PEF

***Management:***

Joseph Lattanzio, DEC Director of Employee Relations

Carole LaVigna, DEC Director of Personnel

Gail Balluff, DEC Employee Relations

Marie Furlong, DEC Employee Relations

Frank Ricotta, Regional Engineer, Region 8

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

*Management's responses are in italics.*

PEF expressed their appreciation to management for providing a grief counselor in March at the Central Office upon the loss of Linda Stewart in the Division of Air. Management responded that they were pleased to do it and felt it was warranted.

Management apologized for the delay in approving the previous minutes. Today's minutes will be sent out by the end of June.

## I. New Business:

### 1. Budget

- a. **Please provide Strategic Planning Update. How many employees work for DEC under the personal services contracts with Environmental Facilities Corporation, NYSERDA, New England Interstate Water Pollution Control Commission, SUNY Research Foundation, Natural Heritage Trust, and computer consultants. PEF obtained some information on this through the FOIL process. PEF received 91 pages from management in response to FOIL requests. Some questions remain pending.**

*Management's response: No information to provide at today's meeting. We will ask Executive for an update.*

- b. **What is the projected date for the Region 4 move to the industrial park? 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: Management is in discussions with the landlord and, in the short term, we will continue the current lease. When appropriate, the Regional Director has agreed to the formation of a group to share ideas and involve employees in the process.*

- c.(1) **What is the status of the additional 28,000 square feet at the New Paltz office? Is the schedule to start construction project still June 2004? PEF is concerned about space for storing files, parking and the traffic and pedestrian safety management on South Putt Corners Road.**

*Management's response: The consultant is completing corrections/changes to the design and contract documents based on DEC Operations' April review. OGS is finalizing a Building Code Compliance review of the documents. Based on the site work design, revisions required to comply with the SPDES Stormwater Design parameters, the time line for this project has again been delayed. The current actual start of construction is slated for November 2004. A scale model of the proposed new building addition has been delivered to DEC and is available for viewing at the Operations Director's Office on the third floor at 625 Broadway.*

*Management to follow up on PEF concerns. They requested PEF provide a list following the meeting to be brought to Commissioner Tuffey's office. PEF added that the contractors drastically underestimated the filing requirements of the department.*

- c.(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.*

- d. PEF requests a spreadsheet of the 32 Memoranda of Understanding with SUNY including dollar value and purpose.  
e.g. Cayuga Community College (RACNE), \$258,144.96 for DEC Brownfield Outreach with SUNY Buffalo (Center for Integrated Waste Management), and SUNY East (WMD)

*Management's response: The Department was able to produce a number of MOUs, and we are prepared to provide them to PEF at today's meeting.*

2. Civil Service

- a. How many positions are filled?

*Management's response: We currently have 3250.5 filled positions. PEF noted that the fill level at the last meeting was 3,261. Management anticipates additional fills being done in the near future.*

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

*Management's response: Tentative standards have been established for Biologist 1, Environmental Chemist 1 and Engineering Geologist 1, 2 and 3. The finals should be issued in the near future. The Personnel Office is now working with the programs to develop standards for Biologist 2, 3 and 4 and Environmental Chemist 2, 3 and 4. That will be provided for review. They don't anticipate any further changes.*

- c. What is the DEC plan for examinations? Are any DEC promotion examinations scheduled in 2004 that will use the Promotion Test Battery.

*Management's response: Civil Service has approved DEC's exam schedule for 4/01/04-3/31/05; 18 promotion exams are planned. To ensure the integrity of the examination process and to not give an unfair advantage to some candidates, all information about an exam including the format and test components must be kept confidential until the announcement is issued.*

- d. When will Management and Budget submit the Division of Fish, Wildlife, and Marine Resources fiscal impact forms for the request to Civil Service for increased hiring rate for the 55 Biologist 1 and Biologist 2 (all parentheses) for appointments in Regions 1 and 2? PEF requested information on the actual funding amount involved.

*Management's response: This is still under review. When information on funding is available, it will be provided.*

- e. Did the 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: The organizational comparison has been completed. The Personnel Office plans to meet with the work group soon to assist with the drafting of updated duties descriptions.*

- f. PEF/encon requests that DEC backfill more than one EE2 position. The Commissioner has still not answered our April 7, 2003 and October 16, 2003 letters on the subject. There are 67 EE1s currently on the EE2 promotional 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: The Department recently submitted a waiver request to Division of the Budget. The waiver included 21 Environmental Engineer 2 positions. This includes the 14 already posted positions. A second grouping of requests will be sent to DOB for approval. They believe additional requests are in the process. They were successful in one EE returning to his position and are in the process of reaching out to second person who had left.*

- 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?

*Management's response: The Personnel Office is working with the program to pursue the reclassification of the current Bacteriologist (Marine) to the new title Senior Bacteriologist (Marine). While this won't provide an immediate "pool" of qualified candidates for the Associate Bacteriologist (Marine) position, it will provide a promotion opportunity for the one candidate we now have in this title series. In addition, this will officially establish the Senior Bacteriologist (Marine) title for future use.*

### **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) 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.(c) 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 terms and conditions of employment.**

**3.(d) PEF requests information regarding the equipment installation and alterations to room D101 at the SUNY lab which received OGS approval. Also, PEF requests information regarding the increased chemical, biological and radiological detection equipment, as well as nuclear and explosive responsibilities that have made it necessary**

**for the Division of Solid & Hazardous Materials to request 3950 ft2 for the pesticide laboratory at the SUNY East Campus, additional space for a Homeland Security Response preparedness laboratory and a secure sampling equipment preparation and storage laboratory. In addition to these, 2500 ft2 of secure, covered, heated (garage) outside space, with power supply sufficient for the storage, operation, and maintenance of up to six -10,000 lb. Homeland Security Trailers is required. Is the \$300,000 worth of equipment that was purchased October 2003 still under warranty?**

**3.(e) Did DEC modify the Respirator Policy?**

**3.(f) How will DEC expedite the placement of AEDs in state agency buildings? How many Regions have AEDs? PEF was informed that the ban on purchasing AEDs has been lifted by GOER.**

*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.*

Mgt: Commissioner Tuffey is committed to continue attending the meetings and keeping everyone updated on these events. PEF had an issue with getting the minutes being finalized and resolving the issue with the meeting preparation time and requiring further clarification. Management received a copy last week for review and wanted a summary.

PEF questioned what initiatives have been taken across the state for AED's. Regions 6 and 8 have things in place. Management replied that they continue to push regions to get AED's when appropriate. New legislation is expected to be signed and implemented fully by next spring that mandates placement of AED's in all locations with state government employees. Guidelines will be the responsibility of OGS to post. They expect to be in full compliance within one year from next spring.

PEF understood that letters were sent and meetings took place with regional and divisional directors. They encourage regional budgets to do these things. Training is also an issue. The Department's H & S division can provide CPR and First Aid training. Management stated that they would provide everything from purchasing units, maintenance and training of AED's.

Region 6 H & S committee was presented with a statewide award for their activities, identical to what was done for Region 8. They are recognizing local committees annually. Management was honored at the last statewide meeting. Division of Operations received a plaque. Region 6 was to provide language and a picture for the plaque.

PEF stated that their position was that this information should be in the minutes. The union requests that management provide answers in response to the questions. We would like to have the history reflected in the minutes. Management replied that the history exists in the H & S minutes. They didn't want this issue to consume time at LM meetings. PEF was concerned that answers have not been provided. Management stated that answers were provided in that forum, not this one. PEF's understanding was both sides need to agree to minutes. If answers were derived from the H & S meeting, then these issues would not be brought to this forum. Management committed to distributing the minutes within three weeks. PEF looks forward to receiving those minutes.

#### 4. Privatization

Why did DEC hire work traditionally performed by PS&T employees by approving contracts for third party contractors to perform long term monitoring and sampling of Class 4 Hazardous Waste Sites?

Did DEC request hiring freeze waivers to use Federal Funds for these positions?

What are the plans for the pilot projects in Operations, Maintenance and Monitoring in Regions 3, 4 and 8? Further PEF/encon does not believe this is a savings for taxpayers.

*Management's response: The statement is incorrect as to the characterization of third party contractors. The Division of Environmental Remediation (DER) has historically used its own standby contractors (not third party contractors) to perform remedial activities to supplement its staff when appropriate. DER does not have federal funds or federal items available that can be used to hire staff to perform long term monitoring and sampling of Class 4 hazardous waste sites.*

*Management to provide follow up information.*

PEF believes this is not a cost savings for taxpayers. Contractors' work will generate as much work as if staff had done it, predominately doing inspections and periodic samplings. There have been internal studies documenting expense of contractors and employees still have to provide oversight work as follow up. Contractors don't have institutional memory of the staff to be able to draw upon. The third parties took exception to that term.

**Will the M/A. Com (Tyco International) contract for the design, construction, network operations, and ongoing maintenance for Statewide Wireless Network (SWN) for State, federal and local governmental entities that operate within New York State's geographic borders displace staff in Engineering & Technical Services specifically the Laboratory Equipment Designers/Communications?**

*Management's response: The Department does not anticipate any staff being displaced because of these efforts.*

**Why did DEC hire 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 use state matching funds for the Sport Fishing Tax - Wallop-Breaux/Dingel - Johnson - Federal Grant money to fill vacant federally funded items? Did DEC request hiring freeze waivers for these positions?**

*Management's response: No information is available at this time. We will follow up with the program.*

#### 5. Environmental Management Systems (EMSs)

New York State Department of Environmental Conservation (DEC) Commissioner Erin M. Crotty announced a final DEC policy that sets forth how Environmental Management Systems (EMSs) and other environmental performance improvement tools will be incorporated into DEC programs.

**The policy also seeks to test the use of EMSs at DEC facility operations. How will DEC demonstrate the application of these systems at its own operations?**

**If DEC is to develop and implement an EMS, has the 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: The EMS is a pilot program. At this time, only existing staff is being used. No information on costs is available at this time. The pilot program will help determine ultimately what those costs will be. Follow up information will be provided when available.*

## II. Old Business

### 1. Cultural Change

**What is the source of funding for cultural change training to incorporate the concepts of systems thinking, creating learning organizations, and environmental sustainability throughout the everyday work of the organization?**

*Management's response: The funding source is not known at this time. Management to follow up on the status of the RFP and what the creating learning organizations have to do with the work at DEC.*

### 2. Out-of-State Fire Crews

**When will Commissioner Crotty and/or Regional Director Gerald Mikol respond to PEF's November 21, 2003 letter regarding DEC's policy with respect to employees participating in out-of state firefighting crews? Is there Federal reimbursement for time? Why are trained employees for prescribed burns, out-of-state fire crews and NYS fires not used when available to do the work?**

*Management's response: The Forest Ranger Division has developed protocols for making assignments to out-of-state fire crews. These protocols are designed to include and encourage appropriate Department employees, other agency employees and Department volunteers to participate in New York wildfires and prescribed fires and out-of-state fires. Those interested in being involved with wildfire incidents should discuss their interest with their supervisor and the regional Forest Ranger Captain.*

The division directors issued a copy of the protocol. Division or regional director for specific assignment pending on supervisor's approval gives annual blanket approval.

### 3. iExpense

**When will iExpense work? Is more or less professional work involved as compared to the previous system?**

*Management's response: Management to follow up and provide response.*

### 4. Continuing Education requirements for NYS Professional Engineers

**Did DEC Education and Training obtain accreditation for seminar, workshop, and course CEU credit for all engineers and surveyors? PEF hopes something can be done for the Land Surveyors; e.g. bring in some courses. If DEC cannot provide the training, DEC should see that training is provided by an outside source.**

*Management's response: We are only seeking accreditation for the engineers as the Division of*

*Lands & Forests and Operations do not deliver any in-house programs for the surveyors. The package is currently at SED for review. Management to follow up. Discussion with Peter Casale doesn't seem likely. PEF added that they weren't even grandfathered in. PEF wants something done for land surveyors. There needs to be similar protocols for required training to bring courses in or send people if it cannot be provided. Management will forward questions.*

#### 5. Environmental Monitors

As stated at the October 2, 2003 meeting and subsequent to the Albany Supreme Court decision, has DEC developed a new policy to embody Organization and Delegation Memo #92-10. How many 3<sup>rd</sup> party environmental monitors has DEC caused to be hired? PEF request all current information on the hiring of third party monitors. What is the environmental monitor policy?

*Management's response: The Department is developing a policy document that will embody the environmental monitors policy. It is not designed to embody O&D 92-10, as that is not the policy of the Department. The Department will assemble information regarding how many third party monitors the Department has caused to be hired.*

#### 6. 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.

On what boards and commissions is the Department represented?

*Management's response: This question has been previously asked and answered. Every Division affected by this listing is making an effort to update the information. When the updating is completed, the request will be honored. Management's current list is internal, incomplete and inappropriate for distribution. Management suggests PEF follow up with the FOIL Officer on their request.*

#### 7. 625 Broadway

**7.(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, mailrooms, nurse's office and library?**

*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.*

*The office manager addressed this on June 3. Mechanical door props were removed based on strict fire codes. Automated doors that were part of the fire protection system must not remain open. They are looking to install a magnetic hold open device.*

**7.(b) PEF requests a copy of the air quality report for 625 Broadway.**

*Management's response: This was requested at two Central Office meetings. A copy of the results is pending. They will obtain and produce the results. Employees are under the impression that it's not being done.*

## 8. Pre-Tax Transportation Program

When will GOER include all Agencies in the (NYC) pilot program PEF again requests that Commissioner Crotty write a letter to suggest to GOER and the Governor that they support a fully implemented Statewide pre-tax transit program. If this is not possible, the Capital District should be added to any pilot transit program. The transit pre-tax program is congruent with the Department's mission and the DEC Bus Subsidy Program has proven the effectiveness of transit subsidies. If the current negotiations result only in a plan for a pilot program limited to New York City, will DEC request that GOER include DEC employees, especially since the cost of public transportation has recently increased by 25 to 33%? PEF also believes the Department of Tax & Finance and the Downstate Medical Center has been included in the pilot program.

*Management's response: The current plan is to operate a New York City pilot program. State Agencies currently scheduled to participate are the Department of Labor, the Department of Transportation, the Office of the State Comptroller and the State Insurance Fund. The bidding process has begun. GOER has stated they ultimately hope to include all Agencies in the (NYC) pilot program but no guarantees are being offered at this time.*

DOT was not originally part of the pilot. PEF expressed their disappointment that DEC is not a participant of the pilot. Management stated that they did express DEC's interest in participating in the program but GOER left it up to the union to determine. PEF was not aware of anything and therefore had asked the commissioner to send a memo. Management replied that they had verbally communicated their interest in participating. PEF found it ironic that DOT, a participant, is located in the same area.

## 9. 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 final draft.

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

## 10. Failure to Provide Travel Advances

When will Fiscal Bulletin 354 for Travel Advances and other Fiscal Bulletins be updated? During the State Fair, what steps will DEC take to ensure that travel advances continue and not on a first come, first serve basis? This method is still unacceptable to PEF. PEF asked if employees could be given meal advances, such as is the practice in other agencies.

*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.*

#### 11. 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.**

*Management response: The Internet sales application and ad hoc query are being tested; sportsman's ed and the contract amendment are in development. DECALS has not gone over budget. The total contract amount has remained the same. The amendment will include the cost of options originally identified in the contract that DEC has decided to purchase in addition to the original contract deliverables. DEC has imposed approximately \$550,000 in liquidated damages as specified in the contract.*

#### 12. 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: 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.*

#### 13. Labor/Management Training

**PEF/encon requests that joint LM Training be tabled.**

*Management's response: Management agrees.*

#### 14. Scheduling of L/M Meetings

**The next Labor/Management meeting is September 23, 2004. 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.*

#### 15. 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 Nov. 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.**

PEF provided a 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.*

PEF requested that their position paper on telecommuting, compressed pay period, car pooling and transit subsidy programs be attached to the minutes. A decision on both programs currently remains at the executive level. Work has been done on alternate fuel cars. Central Office pilot in early May was a success. Advisories were given with new air quality. Press releases refer to justification to provide this program throughout the state.

#### 16. 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 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.*

#### 17. Acting Positions - Still pending

Albany

**Solid & Hazardous Materials**

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

*Management's response: This position has not been filled.*

**REGION 1 Is the Regional Spills Engineer position filled?**

*Management's response: A permanent appointment to this position was made on 4/01/04.*

**REGION 2 Is the Regional Solid Waste Engineer position filled? PEF to provide the Civil Service title.**

*Management's response: This is a functional title. Management requests that PEF identify the Civil Service title (i.e., EE 2, EE 3, EE 4) of the position in question.*

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

*Management's response: So noted.*