

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

June 14, 2007

Attendance:

PEF:

David Persson, LM Chair
Karl Berger, Albany LM Co-Chair
Katy Murphy, Region 1
George Stadnik, Region 2
Keith Browne, Region 3
Andy Marcuccio, Region 4
Harry Spetla, Region 5
Terry Tyoe, Region 6
Frank Flack, Region 6
Tara Blum, Region 7
Jim Kersten, Region 9
Wayne Bayer, Albany
Holly Clark, Albany
John Donlon, Albany
Kuldeep Gupta, Albany
Mark Hyland, Albany
Mike Kanuk, SUNY-East
Dylan Keenan, Albany
Tim LeBarron, Albany
Robert McDonough, Albany
John Munn, Hemlock Lab, Latham
Denise Stephens, Albany
William Wurster, Albany
Ed Bradley, PEF
Josephine Rice, PEF

Management:

Jack McKeon, DEC Assistant Commissioner for Administration
Joseph Lattanzio, DEC Director of Employee Relations
Carole LaVigna, DEC Director of Personnel
Mike Turley, DEC Director of Operations
Mark Cadrette, DEC Director of Health & Safety Unit
Carl Gonzalez, DE Employee Relations
Gail Balluff, DEC Employee Relations
Marie Furlong, DEC Employee Relations [Minutes]

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. Where are the September, 2006 and March, 2007 minutes? The last minutes received were June 2006 on August 14, 2006.

Management provided the final minutes from the March 2007 meeting.

1. Privatization

Please provide an update.

PEF/encon supports the goals of the Pollution Prevention Institute (PPI) including toxic waste reduction and the protection of both human health and the environment. While we could be convinced that the research aspect of new technologies related to these goals is best supported by academia, we feel strongly that public employee's are best able to represent and serve the needs of overall public interest.

Management's response: The Department is doing an RFI on the Pollution Prevention Institute (PPI). This effort is being led by J. Sama with the assistance of the Contract Unit. We hope to have an RFP by the end of the summer. This is the first time the Department has done something like this. It appears there will be a public airing of the RFI before it becomes final. PEF will have the opportunity to comment at that time. This project will be affiliated with an academic institution.

Since June 19, 2006, what are the number of contracts for consulting services, value of contracts, the number of contract employees performing such consulting services, types of services provided by such contract employees, the number of hours they work and their total compensation under the contract, at the Department of Environmental Conservation?

A contract for consulting services means any contract entered into by DEC for analysis, evaluation, research, training, data processing, computer programming, engineering, environmental health and mental health services, accounting, auditing, paralegal, legal, or similar services.

Management's response: We have three large contracts at OSC pending. There has been no indication of a significant slowdown in approvals.

We have also requested of OSC that they provide a summary of responses to the requirements of Chapter 10 of the Laws of 2006 (Consultant Disclosure Legislation). We will forward that response to PEF when we receive it.

Executive Budget

Management's response: The Department acquired 109 new items with six months of funding; 17 positions have already been filled or have had a candidate selected. A special focus will be on the Climate Change Office and filling all 12 positions there.

Our goal is to maximize available funds and hire the 109 staff as quickly as possible. The

Budget passed was the same mix of items as you've seen from a programmatic standpoint. [A copy of the most recent organization chart was distributed to meeting attendees.]

The Spills status report (5/31/07)

	Region 3	Region 2
current	5259	5359
1 year ago	4518	6180
2 years ago	4213	8128
3 years ago	5268	9093
5 years ago	4745	15613

In June of 2005, management indicated that DER had a plan for eliminating/reducing the backlog of spill investigations in the central and lower Hudson Valley through the use of DER personnel. DER personnel in the mid-Hudson region have now been told that DER is considering contracting out this work or making use of a federal contractor (e.g. TechLaw). What is the reason for this change? What does management plan to do to ensure the integrity of this process and protect the environment and public health and safety? How much involvement will DEC staff have in this process?

Management's response: In response to an offer from the USEPA to assist with the review of spill investigations in Region 3, files for approximately 300 cases were provided to EPA's contractor (Techlaw) for them to review and recommend to DEC whether the case can be closed or what the next steps in the investigation should include. This is not a long term action and reflects the use of limited EPA funds, not those of DER. Decisions regarding the final disposition of these cases remains with DER.

The Federal Energy Act legislation imposed new requirements on the states and EPA to increase inspections of chemical and petroleum bulk storage facilities. What is the DEC's analysis of the staffing impact and will increased staff be requested to do this work?

Management's response: The requirements and overall impacts of the Energy Act are under review. This review includes implications for possible changes that would be needed to New York State law and regulations and possible impacts on staffing. The requirements of the Underground Storage Tank Compliance Act (USTCA) portion of the Energy Act are significant and include a requirement to inspect each federally regulated UST facility at least once every three years. Final decisions by Congress and the USEPA regarding what funding might be available to the states to carry out the various requirements of the law have not yet been made. Once information becomes available regarding what, if any, long term funding from EPA will be available to support implementation of the Energy Act in New York State, a decision can be made regarding the State's willingness to assume some or all of EPA's responsibilities through a delegation. At this point, it is premature to discuss the need for additional staff.

Contracting Out Computer Services

Do remaining \$23,337,161 Information Technology (IT) contracts with consultants cost between 53 percent and 62 percent more than the cost to use public employees (including benefits)?

Does DEC pay its employees an average annual pay less (including benefits) than supervised consultants?

What is the cost savings to the State of New York and it's taxpayers, if DEC filled vacant IT positions and relied on those employees, instead of consultants?

Management's response: Our goal is to fill all the vacancies first and then use other resources (contracting out IT services) to get the job done. Our goal is not to limit the size of DIS. We would prefer to use in-house staff and not contract out.

Management reported that OGS uses what are called "backdrop" contracts. OGS procures the contract services, and agencies hire off a list of approved vendors. IT contracts generally do not have back drops except for purchasing computers and other commodities. M. Turley reported this type of contract is also used for construction projects providing a good, workable process where the Department does 80% of the work in-house and OGS does the other 20%. We do the bulk of the EPF projects in-house.

J. McKeon to follow up on PEF's comment that the contract allows 10% of the contract time for transfer of knowledge from IT contractors to DEC staff.

PEF requests an update on the DECALS and MCI (WorldCom) remaining sportsman education application responsibilities and OSC approval of the five (5) year contract extension after May 15, 2007. When will DFW&MR take over operational responsibility for application?

Management's response:

Note: MCI was purchased by Verizon in 2006.

Sportsman Education: A review of the revised Sportsman Education Application business rules on sportsman education class outcomes has been completed, and Verizon is coding the changes to the application. The testing of the expanded search capabilities for the Customer Maintenance and Law Enforcement applications was completed, and expect these applications to be promoted to production in late March 2007. A schedule for addressing the remaining open issues in the System Assessment will be developed with Verizon, but remains a second priority to the contract amendment discussions.

Five Year Contract Extension: The Department is continuing to discuss the details of a contract amendment with Verizon to exercise the option for an additional five years. A Draft Contract Amendment was provided to Verizon for their review on 2/13/07, and Verizon provided finalized pricing on 2/17/07. The Division will continue to work on the contract amendment as the top priority.

Operational Responsibility: DFW&MR continues to move towards taking over operational responsibility for managing the DECALS system. This will continue through the contract extension.

2. Work Schedule Flexibility

What is status of CPP policy? PEF/encon provided comments on the Draft CPP Guidelines document on 11/28/06. PEF requests copy of proposal under Article 32.7 of contract.

Since a 1989 agreement, DEC has failed in it's commitment to adopt statewide compressed pay period. The full implementation of compressed pay period and telecommuting programs in central and regional offices would reduce pollution across the State and concurrently improve employee morale and productivity. The CPP has been proven to be a successful program in other governmental agencies and should be offered to DEC employees throughout the state immediately.

Management's response: The CPP Draft should go to the Executive Deputy's office next week. The concerns of the Joint Committee will be emphasized with Executive at the time of their review. The plan will be shared with the Regional Directors during the Regional Directors meeting on 6/26 and 6/27. When finalized, CPP will be a Department program. There will be an approval process, and approval may be denied for operational reasons. PEF raised the questions of why we are excluding VRWS and supervisors who are already participating in CPP, policy suggestions made by the Joint Committee.

PEF made a formal request for a copy of the CPP Plan. Management agreed to share the plan with the CPP Joint Committee on 6/28.

3. Diversity

Diversity of the workforce includes as age, race, creed, color, national origin, sexual orientation, military status, sex, disability, genetic predisposition or carrier status, or marital status. How does DEC propose to increase diversity?

Karl Berger, Kevin Hintz, John Donlon Jim Kersten are PEF/encon's Diversity subcommittee representatives.

Has DEC completed edit of the June 2, 1997 Affirmative Action Plan?

What are DEC's specific goals and timetables for the prompt achievement of full and equal employment opportunity for minorities, women, disabled persons and Vietnam era veterans?

PEF requests copy of the most recent annual report.

Management's response: The Affirmative Action Plan is being reviewed by the DEC Legal Office at this time.

4. Promotional Ladders

a. What is the implementation plan for individual Natural Resources titles to be reallocated for parity with Environmental Quality?

Management's response: As mentioned in the March minutes, there is no current plan for the reallocation of individual Natural Resources titles to provide parity with Environmental Quality titles. The reallocation that was requested by Fish Wildlife & Marine Resources was for an entire package/all or nothing. The recommendation was made by the Personnel Office that we look at individual requests by title and grade which may be economically feasible and supported by analysis. We are focusing on the Natural Resource Supervisor title and the Biologist (Marine) & Specialist titles. DEC wrote to Civil Service requesting that exams for Biologist title be T&E. J. McKeon to schedule a meeting in August with PEF to discuss. PEF expressed an interest in resurrecting the Parity Committee.

J. McKeon reported that Mike Lenane is now overseeing the regions. The Department is in discussions with Civil Service on geographic pay differential and recruiting difficulties. We believe that hiring by specific title rather than from lists will work better for us. These issues will also be

reviewed during contract negotiations. We also need to focus on the Conservation Fund imbalance and the Natural Resources Account.

Karl Berger, Joe Battista, Terry Tyoe, & Tara Blum are PEF/encon's Promotional Opportunities subcommittee representatives.

- b. How can specialty job duties and responsibilities be used instead of supervisory responsibilities in job descriptions for titles above SG-18?
Would DEC consider any title consolidations for development of parallel career tracks based on the job duties and responsibilities for master professional titles of Biologist, Chemist, Engineering Geologist, Environmental Analyst, Environmental Radiation Specialist, Environmental Program Specialist and Foresters?**

Management's response: As mentioned previously, title specific and position specific job descriptions and responsibilities do include responsibilities other than supervision. It is not the sole basis for classification at any level, and there are numerous instances where it is not a classification factor for positions above SG-18.

Because minimum qualifications are based on specific titles and associated duties, title consolidation would not be possible between these titles. They each have very distinct minimum qualifications with the exception of Environmental Analyst and Environmental Program Specialist titles which have a broader base of minimum qualifications. These two titles still have differing knowledge, skill and abilities requirements. If there were a master professional title, the distinctions would be even greater.

5. Environmental Management Systems

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?

If so, PEF/encon requests a copy of this plan to review how it will impact PEF/encon members.

Management's response: As mentioned previously, Commissioner's Policy 34 requires the Department to pilot the EMS concept at DEC facilities. This effort is being undertaken to better understand the costs and benefits of implementing EMSs at DEC facilities and to develop an EMS model that can be emulated at other facilities. To date, this effort has resulted in the development of an EMS at the Godfrey Point Sign Shop. The development of the EMS at Godfrey Point was undertaken solely with DEC staff. This effort has not utilized any contractors, and there are no current plans to contract this EMS development work. In order to more fully assess the EMS concept, a second facility may develop an EMS in the future.

It was mutually agreed to table this issue.

6. DEC Library and Training & Development

All of the library electronic periodicals and databases and training and development should be available to Department staff at the DEC Regional Offices.

Management's response: As mentioned previously, electronic periodicals and databases are available to regional staff. Only two databases are available exclusively in the Library: Inside EPA and Westlaw. This is due to cost. Regional staff who may need to access either of these services should contact Library staff for assistance.

Library staff conduct group training on Library resources and database searching as time allows throughout the year. With the advent of video conferencing, these sessions will be available to regional staff. Regional staff are encouraged to contact Library staff directly to request material and personal assistance. The Library's webpage on Insite has a complete description of the Library's collection and services. In addition, periodic newsletters are e-mailed to all staff.

J. McKeon to speak to Training & Development Director Bill Giruzzi regarding increased regional training. The Department has started conducting its Supervisory Institute out in the regions.

7. Foresters

Did DEC meet with DOB to address the Department's need for additional foresters for forest management priorities and sustainable timber harvest?

Management's response: Yes, Division staff met with DOB in December to discuss the staffing levels. There were no stewardship positions in the new budget. However, we are aware of the need and are confident that additional staff will be requested for Lands & Forests in next year's budget.

The Special Assistant in Region 5 was loaned to Adirondack Park Agency. This temporary provisional position was extended several times. The Special Assistant moved to Region 2. Incumbent of the other position was working on stewardship, but was a conduit to different municipalities. APA got five items in the budget.

8. Civil Service

a. How many DEC positions are currently filled?

Management's response: There are 3,383.4 positions on the payroll as of 6/12/07.

b. Did DEC fill all waivers?

Management's response: Yes, we have approximately 140 waivers and are working toward a fill of 3,480 by January 1.

c. Did Civil Service approve Job Classification Standards with professional titles of Environmental Engineering Technician and Environmental Analyst?

Management's response: No, not yet. The new Civil Service Commissioner has put a push on finalizing submitted job standards.

- d. The downstate pay adjustment package was sent by Division of Fish, Wildlife & Marine Resources to the Management and Budget about 3 years ago. Was the submission of the of fiscal impact forms that request \$600,000 geographic pay differential for the Biologist 1 and Biologist 2 (Marine) for appointments in Region 1 and 2 approved? Is the geographic pay differential approximately \$ 5000 to \$20,000 for Biologist(Marine) Series for trainee levels G-13 & G-14, to G-18 (Biologist) and final at G-23 (Biologist 2)? If not approved yet, where is the package. What office is it stuck in? Who is responsible for this stall in review? And what is the reason for the Department's failure to act in a timely manner while the PEF/ENCON employees working in this high cost of living area are forced to live with a lower quality of life than their upstate counterparts? How many DFWMR biologists have the Region One, Region Two and Marine offices lost in the last three years to transfers to other regions in the last three years while the Department has stalled on this review? The recruitment and retention of employees with valuable institutional knowledge in Region One, Region Two and Marine office undermines the ability of these regional office to serve their respective areas.**

The "official" files/information that was assembled over several years by the Professional Compensation Work Group, in the Bureau of Fish, Wildlife and Marine Resources, to support desperately needed salary adjustments for Biologists used to be on [\\co-nw-dis1\shared](#) . What drive are the files on?

Management's response: The Bureau of Personnel is working on the issues.

The former file on [\\co-nm-dis1\shared](#) is now [\\cs1-data2\data2\DEC-SHARE\DFWMR_ProfComp](#).

e. Acting Positions

Tabled

Management's response: Management agrees.

f. Interns

Please provide the following information:

*** Number of summer interns, broken out by program area;**

*** Cost of interns - total, and broken out by program area;**

*** Who decides what programs get interns, and what drives their assignments to different program areas? Are program needs assessed before interns are hired, or are they hired first and then work is "found" for them? Which is it?**

It was mutually agreed to table this issue.

9. Laboratory Consolidation

PEF/encon provided comments on the Health & Safety content of the CUH2A Document - "Study - Rough Order of Magnitude ROM & Program Validation", Final Draft, Dated, August 18, 2006, the Consolidated Laboratory Collaboration Effort. Where is DEC planning to relocate the DEC SUNY East labs? Will the labs be consolidated with other DEC divisions or Agencies at the new site? Will the new location result in expanded lab space and/or additional DEC staff?

Management's response: As mentioned previously, no determination has been made with regard to location. The report prepared by CUH2A considered only DEC divisions, not other Agencies. Any new location would be appropriately sized.

J. McKeon reported DAR has briefed the Commissioner and Executive Deputy on the diesel lab and they were supportive. The Department will also need to speak to the Governor's Office about accessing the Clean Air Fund for construction costs. We will be working with DOB over the summer on the police academy and the consolidated lab projects.

What programs will the staff be pulled from to staff this the heavy duty Automotive Emissions Laboratory (AEL) at NYSERDA's Saratoga Technology & Energy Park (STEP)? lab? Will those programs be allowed to backfill those positions with new state employees or will remaining PEF/ENCON members in those programs be expected to take on additional workloads to make up for staff shortages?

Management's response: Additional staffing requirements and plans will be developed as the new facility progresses towards construction and occupancy. Any State building under construction must meet the State Building Code. Management to check on the specifics of the air exchange plan.

J. McKeon reported that DAR has provided lists of staff for the diesel lab and the consolidated lab. There has been no discussion of having NYSERDA staff there. Design is 75% completed.

10. Scheduling of L/M Meetings

**PEF proposes the following dates for 2007.
August 17 in Buffalo, & November 29**

Management's response: Management agreeable to the 8/17 date for the next meeting,, possibly at the Reinstein Visitors Center. The Commissioner will be invited to attend the 11/29 meeting.

11. Environmental Monitors

- a. Will DEC prepare an Environmental Impact Statement for the proposed Commissioner Policy to replace Organization and Delegation Memo #92-10? In response to PEF's March 2004 request, has the Department assembled information regarding how many independent environmental monitors the Department has caused to be hired? If not, why is the Department still avoiding answering this request after three years?**

Management's response: This issue will be reviewed by the new Administration.

- b. During October of 2004, DEC gave a public notice of its intent to change from On-Site Environmental Monitors being DEC career, civil servants to allowing the regulated entity to hire a private third-party consultant (a.k.a. "Independent Environmental Monitor") to perform this critical function of safeguarding public health. When will the analysis of these comments will be completed?**

Management's response: This issue will be reviewed by the new Administration.

- c. Kodak and the Department entered into a memorandum of understanding (MOU) that requires Kodak to fund environmental monitor positions under Kodak's Part 373 permit when it is issued. These positions are currently funded under the MOU itself. Kodak's draft Part 373 permit was public noticed in 2004, yet the permit has not been issued. Kodak and the Department recently agreed to at least temporarily suspend processing of the Permit. What are management's plans for funding these positions?**

Management's response: This issue will be reviewed by the new Administration.

12. 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.

- a. PEF/encon requests written description of the NYS Threat Levels and security**

enhancements as implemented by the agency and Region. Any employee who is required to be available for immediate recall and who must be prepared to return to duty within a limited period of time must be compensated as per programs established pursuant to Article 7.17(a), Article 7.17(b), Chapter 33 of the Laws of 1999 and possibly Article 7.18 and Section 130.8 of the NYSCSL.

- b. Does DEC support a Safety Incentive Differential request to Civil Service that expands 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); investigate and/or manage the cleanup of inactive hazardous waste sites?
- c. Has OGS identified the funding allocation for AEDs in yearly increments through fiscal year 2009-10?
- d. What is DEC doing to prepare for potential avian flu epidemic or pandemic ? Will meetings and/or field work be suspended to safeguard staff health ? What provisions are being made to allow staff to work from home ? Will DEC provided anti-viral medications to "essential" staff that will be required to work and exposed to avian flu and to family members of "essential" staff being required to work and exposed to avian flu ?

Management's response:

AEDs

The Health & Safety Unit has received and (with the assistance of the Division of Operations) distributed 221 AED units to the Central Office and the regions. Some of the non-regionalized facilities are scheduled to have them installed shortly.

We are working on scheduling training by the Employee Health Service (EHS) and implementing the web-based tracking system which will monitor the location of the units and equipment maintenance (replacements batteries, etc.). This system will also track the certification of the volunteers. In order to be covered under the Good Samaritan Law, all volunteers must have certified training, which we will conduct every 2 years. Regional Operational Supervisors will be the program's coordinators in the regions. Program staff will handle coordination in the non-regionalized facilities. All Central Office AEDs were replaced, many of which did not meet industry standards. Having a uniform AED model allows for consistency in training and comprehensive program monitoring.

On 6/14/07 all Central Office employees were notified of the AED locations and responders. The Central Office has eight (8) AEDS located on every other floor (the same installation program as OGS). It is our intent to have an AED on every floor in the Central Office. We believe the AEDs have been place as equitably as possible, based on the recommendation of EHS and the Department Nurse. We are looking to trade in the old units. The Department plans on placing another sizeable order for

AEDs next year.

The Health & Safety Unit is preparing signage for placement throughout the building to give notice of where the AEDs are located.

PEF to send J. Lattanzio a request that the old AEDs be placed in the regional fisheries.

Avian Flu and Pandemic Preparations

Nothing new to report.

DOH WTC Follow Up Medical Monitoring

DOH has initiated another follow up phase related to WTC. Participating Agencies are DEC, DOT, OMH and the State Police. Everyone who participated in the first round was canvassed for interest in the program. Of the approximately 200 DEC responders who participated in the initial program, 42 of our staff have been chosen for this next (voluntary) phase of testing. We are working with DOH nursing staff on scheduling. Nursing staff will go on the road to do the necessary testing.

- e. **Right-to-Know (RTK):** On December 12, 2003, PEF filed a statewide complaint with the Attorney General. On September 18, 2006 the Office of the Attorney General reminded DEC that “category specific training” is not training on the specific toxic substances to which employees are routinely exposed. DEC has agreed to provide appropriate training material, once the list of toxic substances that employees are routinely exposed to is compiled. Has DEC compiled the list of toxic substances that employees are routinely exposed to provide appropriate training material?

Management’s response: Because it is part of an ongoing investigation, we cannot discuss this issue.

13. **625 Broadway**

- a. **PEF/encon requests that an electronic pedestrian crossing button be installed on Water Street.**

Management’s response: As mentioned previously, Executive Staff have requested that OGS work with the Department to address issues related to the garage entrance at 625 Broadway.

- b. **Will DEC promote the Web-based bulletin board of people seeking car pool partners, <http://www.commuter-register.org>**

Management’s response: As mentioned previously, an article will appear shortly in the e-News. The Department has also discussed carpooling with OGS.

- c. **PEF/encon requests discussions with security and OGS regarding the new proximity ID cards for entrance to garage during work hours M-F and the blanket restriction on nweekend building access.**

Management response: We will address issue separately.

14. Office Moves

- a. **What is schedule of construction for the additional 20,000 square feet at the New Paltz office? What is the schedule to start the construction project?**

Management's response: Construction began in January 2007 with Phase 1 (New Addition) scheduled for completion in November 2007. Phase 2 (Renovation of Existing Building) to begin December 2007 and final completion scheduled for April 2008.

- b. **Does management continue meaningful discussions for PS&T unit members in the context of Joint Labor/Management Quality of Worklife Committees?**

Management's response: The Region 3 Regional Director has agreed to conduct quarterly labor/management meetings to discuss this and other matters of interest to the employees of Region 3.

- c. **Did Galesi Management Corporation install Region 4 exterior lighting to provide ample illumination on all parking areas and pathways, and extend and connect the sidewalks to prevent further injuries to employees and to visitors to the building?**

Management's response: A revised proposal for the lighting is being developed. The Town of Rotterdam will be consulted and, after all parties are in agreement, a work order will be issued. The sidewalk proposal has been agreed to by all parties and construction should begin within the next few weeks.

DEC

PEF/ENCON

Joseph A. Lattanzio

David J. Pansom

DATE

August 2, 2007

July 11, 2007