

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

March 15, 2007

Attendance:

PEF:

David Persson, LM Chair
Karl Berger, Albany LM Co-Chair
Chris Spies, Region 1
George Stadnik, Region 2
Densford Escarpeta, Region 3
Andy Marcuccio, Region 4
Kristofer Alberga, Region 5
Terry Tyoe, Region 6
Frank Flack, Region 6
Jim Kersten, Region 9
Kevin Hintz, Region 9
Wayne Bayer, Albany
Denise Stephens, Albany
Robert McDonough, Albany
Kuldeep Gupta, Albany
Holly Clark, Albany
Dylan Keenan, Albany
Tim LeBarron, Albany
John Donlon, Albany
William Wurster, Albany
Jim Hair, PEF
Edward Bradley, PEF

Management:

Jack McKeon, DEC Assistant Commissioner for Administration
Joseph Lattanzio, DEC Director of Employee Relations
Carole LaVigna, DEC Director of Personnel
Mark Malinoski, DEC Assistant Director of Operations
Jean Edouard, DEC Director of Health & Safety
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.

The Committee acknowledged Jean Edouard, who is due to retire in late April, for his many years of dedicated service to the health and safety of DEC employees.

I. General Discussion

J. McKeon provided a report on the Budget. All 109 items included in the Executive Budget were approved in the final budget. There is enough cash in the approved Budget to fund the 109 items on average for six months.

We are at a fill level of 3,398--27 items over our target.

There are no new items in the budget for Lands & Forests stewardship positions.

The Conservation Fund was used to pay much of the ECO settlement. Consequently, there was a shortfall at the end of the Fiscal Year and we are looking at delaying payment of fringe benefits.

Will provide for 06/07 as soon as possible.

II. Specific Discussions with Assistant Commissioner McKeon

Privatization

As of 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.

The Executive Budget estimates for SFY 07-08 that DEC will disburse \$34,044,000 in consultant service contracts for 170 employees at an average cost of \$200,259 each. What programs are using these contracts and why can't the work be done by state employees?

The Consultant Disclosure legislation that took effect on June 19, 2006 mandates that Contractors disclose additional information related to employees performing under certain consulting service contracts and that state agencies collect and report this information. The agencies that must report this information are the Department of Civil Service and the Office of the State Comptroller (OSC), and also the Division of the Budget, which must include information from state agencies in the Executive Budget.

State agencies that enter into contracts for consultant services are required to incorporate the additional requirements into new contracts and obtain a completed Form A, "Consultant Services - Contractor's Planned Employment", from each contractor. DEC has been complying with this requirement since July 17, 2006 when OSC starting requiring this information for contract approval as part of the Procurement Record. OSC used the Form A information provided by state agency contracts to report to the legislature on May 1, 2007.

*Since the law applies to existing contracts as well, DEC sent out a notification letter in January 2007 to advise our contractors that Form B ("State Consultant Services Contractor's Annual Employment Report) must be submitted each year that the contract is in effect. Form B captures historical information, detailing actual employment data for the most recently concluded state fiscal year. This form is submitted by the Contractor to the Department, OSC and Civil Service by May 15th of each year. OSC and Civil Service are required to report on this information by July 1st and September 30th, respectively. **We are attempting to get a summary of the results of the submittals for the Department.***

Contracting Out Computer Services

What were the expenditures by vendor for SFY 2005-06, 2006-07, & 2007-08 budget costs, and purpose of contracted out computer support?

Do Information Technology (IT) contracts with consultants cost between 53 percent and 62 percent more than the cost to use public employees (including benefits)?

Does Keane subtract employees in India that cost \$94/hour under contract?

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

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

Management's response: Management to provide follow up information.

Work Schedule Flexibility

What is status of CPP policy? PEF/encon provided comments on the Draft CPP Guidelines document on 11/28/06.

Management's response: J. McKeon reported that Management did review PEF's comments. The Joint Committee's survey indicates 53% of our employees are now interested in CPP and 27% might be in the future. This could conceivably include almost everyone. Management felt the Department needed a measured approach to initiating the plan. The survey was used in producing the CPP plan, and Executive will recommend that Commissioner Grannis approve it. The Plan will not include a change in supervisory eligibility, a PEF concern. (A supervisor would be defined as an employee with significant supervisory responsibility.) In response to their request, Assistant Commissioner McKeon will consider sharing Management's plan with PEF.

Carpooling Issue: Management investigated PEF's suggestion that we develop a DEC website

connection to access OGS' carpooling site and will be announcing a link shortly. Management approves of the concept. Kevin Carpenter of the Sustainability Forum has recommended a site and there will be a link on the internal web-site shortly.

III. Discussions with Joseph Lattanzio and Other DEC Management

Promotional Ladders

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

Management's response: 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 Marine Resource Specialist.

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

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: 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.

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: 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.

Management to provide follow up on RIT contract for training.

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: 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.

Budget

How many DEC positions are currently filled?

Management's response: 3,398.3 as of payroll paid 3/07/07. That is 27 items over it's target for 2006/07 of 3,371.

If an ERI is offered, how will the agency determine titles eligible for participation?

Management's response: We have heard nothing to date about any possibility of an early retirement incentive.

Civil Service

Did DEC fill all waivers?

Management's response: There are 60 outstanding active waivers.

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

Management's response: No, not yet.

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? This constant emigration of employees with valuable institutional knowledge from the Region One, Region Two and Marine office will undermine 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-nw-dis1\shared](#) is now [\cs1-data2\data2\DEC-SHARE\DFWMR_ProfComp](#).

Acting Positions

PEF suggested this issue be tabled.

Management's response: Management agreed.

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: 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.

Does DEC have sufficient staff and expertise to staff the heavy duty Automotive Emissions Laboratory (AEL) at NYSERDA's Saratoga Technology & Energy Park (STEP)? What

programs will the staff be pulled from to staff this 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: Yes. We are confident we will have sufficient staff. 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.

Scheduling of L/M Meetings

PEF proposes the following dates for 2007: March 15th, June 14th, August 16th in Buffalo, & November 29th.

Management's response: Management agrees to the proposed dates.

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. 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.

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?

Has OGS identified the funding allocation for AEDs in yearly increments through fiscal year 2009-10?

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?

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: The Department has selected a vendor for its AED Implementation Plan. During the first phase of the plan, DEC will purchase 221 AEDs (90% of the plan) costing approximately \$300,000. These will be installed in the regional offices, sub-offices, educational centers and campgrounds. Operations will assist with the distribution. The total allocation was over \$600,000. Our secondary plan to put approximately 462 units in the ECO and Ranger trucks has not been approved to date. Once the vendor is selected, the plan will be shared with PEF. We hope to select a vendor who can provide the product and coordinate the training and other related services.

Avian and Pandemic Flus: Continuity of Operations Plan (COOP) has been drafted and is under Executive review. To date, the flu has been seen in Asia, with mostly chicken farmers being affected. Currently, just over 150 related deaths have been reported. The COOP provides a plan of action in the event a sizeable percentage of employees do not report for work due to a widespread flu event.

WTC Medical Monitoring: An additional medical monitoring program sponsored by the Department of Health (DOH) will commence in May. This will include a sampling of all prior registered WTC responders who participated previously in the WTC medical monitoring program. DEC, the Department of Transportation, the Office of Mental Health and the State Police will participate. DOH will contact the employees directly regarding completion of a questionnaire and two (2) clinical tests. All Regional and Division Directors have been asked to provide the necessary time and expenses to accommodate those selected. Of the approximately 500 DEC employees who were WTC responders, approximately 200 employees chose to participate in the initial program.

DEC Medical Monitoring: In response to a PEF comment that some employees are waiting over three (3) years for a Medical Monitoring physical, Management replied that, in some cases, where an employee transitions to a new position, the physical could get off schedule. Also, in an upward promotional move, the position might no longer be covered by the Program. We try to provide a transition exam in these cases.

Supervisors Health & Safety Training: A schedule for this year will be finalized in the next week, and the schedule will be posted on the GLC. We will train 360 employees this year, actually more than covered in the MOU. This training will begin in late April.

Right-to-Know Complaint: Management is unable to discuss as this is an open investigation.

625 Broadway

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

Management's Response: Executive Staff have requested that OGS work with the Department to address issues related to the garage entrance at 625 Broadway.

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

Management's response: Yes. An E-News article has been drafted and will be included shortly.

Office Moves

What are the Region 4 and New Paltz Leadership in Energy and Environmental Design (LEED) Green Building Ratings?

*Management response: The Region 4 building was not included in the Leadership in Energy and Environmental Design (LEED) rating system. New Paltz was designed to be a "Certified" Green Building under LEED. Management to share the LEED requirements with PEF. **Update: LEED Scorecard attached.***

What is schedule of design contract for the additional 20,000 square feet at the New Paltz office? What is the schedule to start the construction project?

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 construction contracts for New Paltz were awarded on 12/13/06 with an anticipated completion date of 4/21/08. On-site construction activity began in February 2007 with some site work. Field offices will be set up the week of 3/12/07. Hoping to complete construction by April 2008.

When will 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: Galesi had a meeting on site with BBL (Galesi Contractor). BBL and the architect (Hirshberg) are supposed to come up with a new plan for lights that will meet local town approval, but no firm date is set. As additional information becomes available, it will be shared with PEF. **Update: Copy of 3/12/07 letter from OGS to landlord attached.***

IV. Not Discussed

The Spills Status Report (2/16/07)

	<u>Region 3</u>	<u>Region 2</u>
Current	4874	5725
1 year ago	4482	6470
2 years ago	4794	8331
3 years ago	5313	9448
5 years ago	4636	16133

In June of 2005, Management indicated that DER had a plan for eliminating/reducing the backlog of spill investigations in 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 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.

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? 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 a 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.

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 a 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.

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?

Management's response: These items are requested by the Programs based on need.

Unresolved Topics

Environmental Monitors

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 with the new administration.

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 with the new administration.

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 with the new administration.

Attachments

DEC

PEF/ENCON

Joseph A. Lattanzio

David J. Pansom

DATE

June 14, 2007

14, 2007

June