

**STATEWIDE PEF/NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL
CONSERVATION LABOR/MANAGEMENT COMMITTEE REPORT
March 15, 2007**

Prepared by David Persson and Josephine Rice

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
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
Mark Malinoski, DEC Assistant Director of Operations
Jean Edouard, 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.

Budget

There is much momentum to restore the Department. We will start the process to fill 109 jobs. Fees were tied to 2006-2007 36 jobs. DEC postponed number of regulatory fees to pay for those jobs. Pollution Prevention Institute was part of EPF, disassociated with the Bottle Bill. Enough money in EPF account to not need the \$25 million this year for Pollution Prevention Institute. Passage of Bottle Bill would kick in January 2008. Long term estimate is \$100 million would come from Bottle Bill to EPF..Last year some monies were interchanged between EPF and open space accounts.

David: Business Council would like to see money generated as rebate back to industry?

Jack: That's not current year budget issue, but starts in 2009 or 2010. Debate is starting.

What is purpose of Lands and Forests positions? Two groupings. Land and Forest were related to natural resources damages from a combination of Fish and Wildlife and a few attorney jobs.

Mistake by originator. 109 doesn't include any Land and Forests stewardship jobs.

David: Conservation Fund pays for part of conservation officers settlement. Is there a \$10 million short fall from that?

Jack: Yes, looking to delay fringe benefits until next year. Three things to do for Conservation Fund. Raise fees, everyone is against raising fees. Reduce program. Look for more general fund support for on-going basis. Spitzer administration will have to find out how to do that. Program not affected because division between fund and patching holes. Holding off bills to following year. Wetland biologists positions last year we asked for 7, this year 9. Those went back to Fish and Wildlife. We will look at it internally to see what combination is needed. There may be some Superfund money.

I. New Business:

A. Discussion

1. 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?

Management's response: That was our best estimate looking at money we had in contracts that we thought represented people didn't include construction and backed into \$200,000 per job, \$75,000 per year salary at 2.5 to 2.6 per job multiplier. Anything bid after June 19 we put criterion sections in the contract requiring them to report and notify anyone already with a contract about the criteria. OGS contracts would have that criteria to report to us. We have it centralized with Fiscal Management.

Wayne: Conversations with contractors are you starting to alert them to consider hopefully we will have cost/benefit analysis.

Jack: We wrote to everyone with an existing contract, informing them of the reporting requirements. Don't believe the cost/benefit analysis was mentioned.

Wayne: It will be fairly intensive work. Need to make it as easy as possible for DEC.

Jack: We have variety of contracts. We have solid group to manage this information.

The Spills status report (2/16/07)

	Region 3	Region 2
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 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: Will followup

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:

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 subcontract 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: Will followup

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:

2. Work Schedule Flexibility

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

Since a 1989 agreement, DEC has failed in its 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: We have a plan as soon as new people are in place. We took your comments, some for clarification purposes, We made changes. We did not change the supervisor piece. The plan is to hand to Commissioner Grannis with recommendations. Management disagreed with PEF that supervisors should be eligible, but did agree there were some inconsistencies with the language. PEF: Guidelines for administration or participation trickle throughout the document. People continue to be participants since 1989. It's gone through various changes since then. More than 350 people have left since then and 500 new employees weren't eligible as they entered. Eligibility is being expanded quite a bit.

David: Joint survey results? Management: 53% showed interest and another 27% said they may be interested in the future.

Karl: Members will suffer because of management's inability to deal with OGS about parking. Can't get representative to attend local meeting to discuss it. Ruining program that 70% of employees may be interested in doing even though need supervisors approval when you have full control over program. Program gets NYers to use these options. Great that Commissioner is eligible.

Jack: Biggest debate is supervisors being eligible. At the time of preparing the draft, Grade 27's were eligible. The idea that central office division directors are for it is probably because they are the ones well-staffed.

Karl: They generally respond in favor of more control. They would be very unwilling to grant participation. Everyone should be eligible if it works within the parameters of their jobs. Management was concerned with not reinforcing inequities between Natural Resources and biologists. There was a question with seasonal employees. 99% of people in Fish and Wildlife could not participate in the program.

Jack: We have not had an alternate workweek program like this before or this widespread. Believe the best approach is a measured approach.

PEF requests copy of proposal under Article 32.7 of contract.

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:

4. Promotional Ladders

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

Management's response:

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:

4. 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:

5. 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:

B. Information

1. Budget

a. How many DEC positions are currently filled?

Management's response: 3398 positions, 27 items over target

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

Management's response:

2. Civil Service

a. Did DEC fill all waivers?

Management's response: 60 outstanding waivers

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

Management's response: No still waiting

c. 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: Towns, counties, cities, and EPA are good to some extent at hiring people away from us. Probably more on Long Island. Lists are long. We can get people from the Civil Service lists. Looking at it for cross purposes. Usually pay differential is because you can't recruit. See differences between EQ and Natural Resources side. We will try to do something. Just a matter of what. Civil Service cares less about retaining people.

David: Civil Service looks at recruitment and retention.

Karl: people with professional degrees willing to take hire at less salary but expensive place to live. Need way to hire at higher beginning salary. Always case of getting people to take the job, recruitment, and training costs for turnover.

d. Acting Positions

Tabled

Management's response:

e. 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:

3. **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:

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: Location has not been determined. The CUH2A report was considered by DEC divisions no other agencies. We don't have expected start date. Diesel in Malta operations Joe: yes, we believe we will have sufficient staffing. Additional staffing requirements are being looked at. Auto Lab concern with where exchange rate trying to location steward based on experience believes building code requires four times per hour not six. Contractor says six and will drop it down to 4 will have CO monitors at night. Should meet requirement was going to increase it at night. We don't have access to that information. Mark: any building project doing work for state has to meet minimum standard of building code. CO2 monitoring system will show effectiveness of building. It's going to be a LEED building, need to meet for certification. Management will check on it.

Jim K: AEL is no different and should be treated same as consolidated lab.. You H & S division should be actively involved with OGS. as well. PEF and CSEA. are also part of this committee. We had significant input thus far. CO2 monitoring and all those things should be part of that decision making. Particularly now that

it's under design. PEF requests to have that input. We don't know who is involved in the oversight and we want input.

5. Scheduling of L/M Meetings

PEF proposes the following dates for 2007.

March 15, June 14, August 16 in Buffalo, & November 29

Management's response: Any planned site visits?

C. Unresolved Topics

1. 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:

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: Last administration ended without monitor policy being finalized..

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: Kodak is downsizing. We didn't get any response.

Bill W: Kodak closed incinerators, but it's still a brown field and needs monitoring. Eight

duties on site that's not directly related to the incinerator. It's not a closed unit, still needs to be maintained.

2. **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?**

Management's response: We must decide on vendor and will purchase 225 units for \$350 thousand in first phase. Main concern is quick installation into camp grounds. We need to start looking at training issues and maintenance. Many will be one expenditure. 80-90% of entire plan is mostly year one priority. Every location is a priority. Total allocation was approximately \$600 thousand. 200 units in police enforcement trucks. OGS resisted because that type of usage doesn't meet the language of the law. We argue can deliver unit within minutes.

Jim K: PEF requests implementation plan.

Joe: Once vendor is selected, we will share the complete plan with you. Vendor is through OGS. Some offer more services than others. They can provide units, coordinate training, recordkeeping, maintenance. Advertising to help recruit trainers.

- 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: not much activity continuity of operations being drafted. In Executive now. Lot of unanswered questions. Avian flue everything still animal to human if at some point goes to human to human may have pandemic, don't know. A few hundred people have been killed, all working with chicken livestock, mainly in southeast Asia. Focus of the cooperative plan agencies asked if more than 25% of employees are impacted and can't come to work. For us you can be rest assured the 50% won't report to work from personal fear or concern. Ultimately plan to shut down all state government except extremely essential personnel.

- 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: Individuals with Hazmat training may not need Right to Know. Management agreed. We can't discuss the open investigation. DEC is working with the AG office.

3. **625 Broadway**

- a. **PEF/encon requests that an electronic pedestrian crossing button be installed on Water Street.**
- b. **Will DEC promote the Web-based bulletin board of people seeking car pool partners, <http://www.commuter-register.org>**

Management's response: Will speak to Karen Carptenter and Lawrence D'Arco and ask them to connect to the website car pool finding service. They were going forward, charging for every ride. We would encourage anything that encourages ride sharing without starting to complicate with reimbursement.

4. **Office Moves**

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

Management response: LEED rating was not part of Region 4 RFP. Region 3 New Paltz will be a LEED certified building, close to silver level.

- b. 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: Construction contracts were awarded December 15, 2006. Field offices are being set up as of March 21. Addition will be done first, around August. People can be moved into addition. \$9.9 million for four construction contracts. Design over \$1 million, redesign \$600,000. OGS fees, inspection, construction, and hiring Turner for construction management. Complete renovation by April 21, 2008. Separate schedule for new building. Once everything is in place, HVAC will run without occupants for up to five days to ventilate the entire building.

Joe: We will set up new proximity cards. Mike Mascelli will give full briefing.

- c. 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: Management group for building met on site with the contractor, BBL. Came up with new plan to meet Town approval. Had to comply with 20% more efficiency than before. Requested CO2 monitoring system in that building. Required low e glass.

DEC

PEF/ENCON

DATE