

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

March 13, 2008

Attendance:

PEF:

David Persson, LM Chair
Karl Berger, Albany LM Co-Chair
George Stadnik, Region 2
Kristofer Alberga, Region 5
Terry Tyoe, Region 6
Frank Flack, Region 6
Tara Blum, Region 7
Jim Kersten, Region 9
Kevin Hintz, Region 9
Wayne Bayer, Albany
Holly Clark, Albany
Mark Hyland, Albany
Tim LeBarron, Albany
Mike Kanuk, SUNY-East
William Wurster, Albany
Denise Stephens, Albany
Ed Bradley, PEF
Josephine Rice, PEF

Management:

Joseph Lattanzio, DEC Director of Employee Relations
Carole LaVigna, DEC Director of Personnel
Mark Cadrette, DEC Director of Health & Safety Unit
Gail Balluff, DEC Employee Relations
Nina White, 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.

1. Privatization

The Executive Budget estimates for SFY 08-09 that DEC will disburse \$31,616,000 in consultant service contracts for 159 employees. The average cost for consultant employees is \$198,800 per employee. What actions did DEC take subsequent to the SFY 07-08 report that identified 66,000 contract hours and high cost/hour contracts?

Management's response: The Department is required to include information related to Contract Employees in its annual budget request. In State Fiscal Year (SFY) 2007-08, the Department estimated

that 169 contract employees were providing services to the Department at an estimated average salary of \$199,834; the estimate for SFY 2008-09 is 159 employees at an estimated average salary of \$198,843.

The number of employees was estimated using the annual contract expenditures in the current year and dividing by the average annual salary for a typical consultant services contract. The annual salary includes fringe benefits, indirect costs (i.e. rent and utilities) and non-personal services costs (i.e. supplies, equipment, travel); actual salary costs would most likely range between \$79,000 and \$88,000. As it's highest priority, the Department continues to fill all approved items. Contractors are hired on an as-needed basis.

PEF average salary is \$55,000 with fringe benefits the salary (include from Nov. Chart). PEF noted that profit value should also be considered.

PEF/Encon supports contract deliverables of the Pollution Prevention Institute (PPI) that include toxic waste reduction and the protection of both human health and the environment.

The Administration recently outsourced the functions associated with the Pollution Prevention Institute (PPI) in selecting the Rochester Institute of Technology (RIT) as PPI's host. RIT hopes to create a partnership with the ten regional technology development corporations (RTDC) to help disseminate data, tools and strategy. The RTDCs recently formed a "green sustainability" working group to bolster environmental opportunities across the State.

The Institute hopes to tap into cutting edge academic research and technology to help bring pollution-reduction processes to market by identifying practical pollution-reduction methods, cost-effective equipment and safe materials. The Institute also plans to work collaboratively with businesses, provide professional education and training and create a pipeline of technical advancements. It is not clear, however, that the Institute will have significant interaction with the dedicated environmental professionals currently working at DEC. If the Department and the Institute are to succeed in delivering a consistent message to business, PEF/encon believes that substantial interaction between DEC staff and PPI will be needed. How does DEC management plan to encourage this interaction? Will the Institute's collaborative approach extend beyond academia and business to include DEC? Will the Institute's professional education and training include DEC staff?

Management's response: The Department's Pollution Prevention Unit (PPU) will manage the contract between the P2I and the Department. This will include participation in the development of a scope of work, project oversight and review. Training of DEC staff is an activity included in the draft workplan. The P2 Council, of which the Department is a member, will also interact with the P2I. The PPU interacts with all Department programs. Consequently, Department staff will have significant interaction with the P2I. It is the Department's intention that the information and products of the P2I be distributed to the broadest audience possible.

Executive Budget

Why were 61 of the 109 2007-2008 FTEs moved to administration from the PS&T unit?

Management's response: There was no major adjustment from the original list of 109 items approved in the 07/08 Budget (see attached). A large majority of the new items were PEF items.

Why is the appropriation different than FY 07/08? Why only 4 positions in this year's budget?

Management's response: The Executive Budget and the final Legislative Budget approved just four new jobs for the Department.

What are the structural imbalances in the Conservation Fund, Environmental Regulatory Account, Clean Air Fund, and Natural Resources Account and how are they being addressed?

Management's response: Appropriation amounts have been included to fund all approved positions. Please see the Department's Management & Budget website for a summary of the Budget breakdown.

Lands & Forests

Did the Executive support the Lands & Forests plan for more Foresters, Real Estate Specialists, Land Surveyors, Environmental Program Specialists, Citizen Participation Specialists, Natural Resource Planners, and Geographic Information Specialists (GIS) in Budget request? Who will support the New Conservation Easement Unit? What divisions are these 4 new employees under? Are the Project and Program Planner positions Civil Service positions? What are their Civil Service titles? What is the funding source for these positions?

Management's response: Executive supported additional staff for a variety of offices. Again, just four items were approved in the final Budget. Three were for Invasive Species and one for the Canal Mitigation Task Force. All are General Fund items. All will be Civil Service titles (two Biologists, a Forester in the Invasive Species Unit and an Engineer or Environmental Program Specialist for the Canal Mitigation Task Force.)

Bulk Storage

Did Congress and the USEPA decide what funding might be available to the states to carry out the various requirements of the Federal Energy Act legislation to increase inspections of chemical and petroleum bulk storage facilities Federal law? Is the State willing to assume some or all of EPA's responsibilities through delegation? What is the DEC's analysis of the staffing impact and will increased staff be requested to do this work? What plans does DES have to do the work no longer done by the EPA? Contract out?

Management's response: Since a Federal budget was not passed, Congress and the USEPA have not made any decisions about what long term funding might be available to the states to carry out the requirements of the Underground Storage Tank Compliance Act portion of the Energy Act. The Department is using available resources to complete inspections at federally regulated bulk storage facilities while also completing inspections at State-regulated facilities. The USEPA recently provided a

two year grant to the Department to complete inspections at federally regulated facilities. The Department is continuing to review the resources needed to accept delegation from USEPA. Management to follow up with additional information.

Contracting Out Computer Services

Can DEC fill positions from other higher grade titles and provide alternative promotional opportunities?

Management's response: The Personnel Office contacted OFT and requested information on what they are doing. When this information is received, we will evaluate whether it s something DEC could consider. Management to provide an update if available.

2. Work Schedule Flexibility

Did Civil Service review the 9 day compressed pay period, approved by the commissioner and forward to GOER for their approval? Will supervisors be allowed to participate?

Management did not respond to PEF/encon's comments on the draft guidelines and request for a meeting to discuss management's revisions.

As long as the average workweek can be construed to be 37.5 hours for both overtime eligible and overtime ineligible employees, full time status and the concomitant accrual rates would be maintained.

The VRWS Guidelines in the CBA state: 7. Coordination with Alternative Work Schedules It is possible to coordinate VRWS agreements with Alternative Work Schedule arrangements when desired by the employee and consistent with operating needs.

Please provide analysis and consideration of objections to the proposed changes and of alternatives proposed. PEF would have appreciated seeing the package approved by the Commissioner and forwarded to Civil Service and GOER. PEF requests a copy of the package that was sent out. Doesn't DOB need to approve any alternate work schedule?

Management's response: Program is under review by the Department of Civil Service. It then has to be approved by GOER. After those approvals, the plan will be issued. The revisions which were suggested by PEF have been discussed several times, including at a previous Labor Management meeting. The primary changes are that staff with significant supervisory responsibility will not be eligible. Also, there will be a yearly process for review and approval of a staff's inclusion in the program.

3. Diversity

Diversity of the workforce includes 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. Does Management plan to continue this subcommittee? Follow up

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?

Has DEC Legal completed review of this plan?

PEF requests copy of the most recent annual report.

Management's response: Plan still in the Legal Office.

4. Promotional Ladders

- a. Did Fish & Wildlife develop justifications for individual Natural Resources titles to be reclassified for parity with Environmental Quality? Jack McKeon has had the Natural Resources and Geographic Pay Differential packages since December 2005. The Natural Resource Supervisor position was not part of the package. What if any part of package is being pursued?**

Management's response: Information has been prepared to upgrade the Natural Resource Supervisor position. It is currently being reviewed by Personnel.

- b. Did Civil Service approve DEC's request that the examination for Biologist 1 be a "Rating of Training & Experience"?**

Management's response: Yes. Civil Service will issue the exam announcement in May.

5. Environmental Management Systems

Tabled

6. Civil Service

- a. How many DEC positions are currently filled? If DOB projects 3,750 positions by 3/31/08, when will Programs and Regions be allocated additional staff?**

Management's response: The Department's target for SFY 2007/08 is 3,748. For SFY 2008/09 the target is 3,752. As of the end of the fiscal year the Department currently has 3,775 items filled or 27 items over target. During SFY 2007/08, there have been 228 separations from the Department including 108 retirements. During that period the Department hired 366 new staff, promoted 249 staff, and reclassified 23 staff. In addition, 244 long-term seasonals became permanent.

- b. Did DEC fill all waivers?**

Management's response: Waivers are constantly in process.

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

Management's response: No, they are still pending at Civil Service.

- d. **When will DEC ask Civil Service for the downstate geographic pay differential for the Biologist 1 and Biologist 2 (Marine) in Region 1 and 2? Bureau of Marine Resources organizational chart shows that the entire Bureau (all programs; all regions) is riddled with vacancies (34 to be exact) out of 90 positions.**

Management's response: This was not designated as the Division's highest priority. The vacancies notes are historic; there are no targets available for the vacancies in the Bureau of Marine Resources. However, it is still worthwhile to pursue the downstate geographic pay differential.

- e. **Region One currently has no Foresters in the Bureau of Forestry, and there is no Manager in the Bureau of Wildlife. What is being done to fill these positions? Why is management not petitioning Civil Service to allow a provisional appointment to the Biologist 2 positions in the Bureau of Forestry and the Bureau of Wildlife, so that these positions may be filled by Biologists who are willing to work in the Region, and would be qualified to take the exam at the next offering, as is done with other programs?**

Management's response: The Division posted for the Forester position in December, and the only candidates that applied for the position did not sit for the December 1, 2007 exam. Therefore, we could not offer them an interview. We are currently waiting for the list to be established and will canvass when it is.

The Biologist 2 (Wildlife) position was filled provisionally on 2/21/08. There is no date scheduled for the exam.

- f. **When will Walt Linck and/or his item (23734) be returned to DEC from APA?**

Management's response: Walt Linck remains in an exempt item assigned to APA.

- g. **42% of State workforce will be 55 within five years. What is the succession plan?**

Management's response: Developing succession planning processes will be a priority for SFY 08/09. Executive would strongly welcome written suggestions from PEF.

- h. **Is DEC policy to only allow one reclassification per Division per month?
Is it DEC policy that promotions should be done as reclassifications?**

Management's response: As noted above, almost 275 staff have received either a promotion or had their item reclassified during SFY 07/08. Promotions and reclassifications are priorities for the Department, as noted above, the vast majority are promotions, but obviously many more promotions are being processed.

I. Acting Positions

Tabled

j. Interns

How many Pollution Prevention Unit Interns did DEC hire and where will they work?

Management's response: These are not State positions. Funds are provided by a grant that is being administered by the Pollution Prevention Unit for interns to work at a business. The Pollution Prevention Unit's intern coordinator is currently researching requests from businesses and looking at matching interested students who have applied for the program. The internship opportunity has been posted on our public website, and the program did extensive outreach to college campuses.

7. Laboratory Consolidation

When is the multi-agency meeting to discuss the possibility of " identifying state laboratory resources in the Capitol region to try to coordinate planned and future laboratory design and construction projects so that co-location at a common site and efficiencies through use of shared facilities and infrastructure is considered. "

Management's response: The multi-agency meeting has not yet been scheduled. Operations has been in contact with Agriculture & Markets and will be notified when the meeting is scheduled.

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?

Management's response: No funds have been approved in the SFY 08/09 for a Consolidated Lab. The Department will continue to review options.

What is the staffing plan for the heavy duty Automotive Emissions Laboratory (AEL) at NYSERDA's Saratoga Technology & Energy Park (STEP) lab? What lists of staff (titles and numbers) has DAR provided for the diesel lab and the consolidated lab? Is design complete? Is there a funding source?

Management's response: As reported at previous meetings, 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.

DAR has provided lists of staff for the diesel lab and the consolidated lab. There has been no discussion of having NYSERDA staff there. The design has been completed.

There were no funds appropriated specifically for the lab in the 08/09 Budget. The Department continues to explore funding options.

8. Scheduling of L/M Meetings

**The next meeting is scheduled for June 12.
PEF/encon invites the Commissioner to attend the next meeting.**

Management's response: Management is in agreement on this date.

9. 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?**

What is the status of the new administration's review of this item?

Management's response: This matter is still under review.

- 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 be completed?**

What is the status of the new administration's review of this item?

Management's response: This matter is still under review.

- 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 since they are no longer funded by Kodak?**

What is the status of the new administration's review of this item?

Management's response: Management to follow up on the funding source.

10. 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 continue to implement this program. Based on a needs assessment, the Department purchased an additional 65 units for the campgrounds. We also purchasing 8 units for the ECO boats. Training is continuous in the Central Office and in the regions utilizing EHS staff to deliver that training. For the most part, we have sufficient AED coordinators.

The Pesticide Control Specialist (PCS)/Parkinson's Issue: A work group has been formed and is looking at PCS work activities and SOPs as we work to improve the health and safety of those employees in these positions. The work group is meeting again on 3/18/08. The PCS supervisors have polled their groups, and these comments will be discussed at that meeting. Outside medical experts will be brought in to the process when appropriate.

- 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 ? Is telework an element of the Department's Continuity of Operations? 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: The Department's Continuity of Operations Plan under the direction of the Office of Administration has been established to deal with this issue. No updates to provide.

- 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: This matter is still under investigation, and Management feels it is inappropriate to discuss this subject in this forum.

11. 625 Broadway

- a. **PEF/encon requests "WALK"/"DON'T WALK" lights with countdown numbers at the southeastern and southwestern corners of the intersection of Water Street and Colonie Street (across Water Street). Employees parking in the Corning Preserve Boat Launch also request**

signals at the northeastern and southeastern corner of the same intersection (across the 787N off-ramp/Colonie Street).

Management's response: The Department will attempt to address this concern during this fiscal year.

- b. **PEF/encon requests a "pedestrian crossing" sign be placed in the middle of Orange Street (the same as those successfully piloted on Pearl Street).**

PEF/encon requests an update of the developments from the Executive staff's request that OGS and the Department address this issue and others related to the garage entrance at 625 Broadway.

Management's response: The Department will attempt to address this issue during this Fiscal Year.

- 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 weekend building access.**

Management stated that a briefing would be held prior to initiating the system. This briefing was never held.

Management response: A conversion date for Prox Card entrance to the DEC Central Office garage has not yet been determined. Prior to the conversion date, Management has agreed to brief PEF on this matter.

- d. **What are the arrangements to provide ID cards for those employees who are exercising their rights to not use their DMV identification number as their employee ID number and their DMV information to create an ID card?**

Management's response: We have reached out to OGS to discuss this issue.

- e. **When will DEC brief PEF on the new 625 Broadway access policy?**

Management stated that a briefing would be held on this item. The briefing was never held.

Management's response: The Department is currently pursuing an alternate means to produce an appropriate ID card for these individuals. This alternate process will require OGS approval. PEF will be kept informed during this process.

12. Office Moves

- a. **Was construction for the additional 20,000 square feet at the New Paltz Office Phase 1 (New Addition) completed in February 2008 with Phase 2 (Renovation of Existing Building) to begin December 2007 and final completion scheduled for April 2008?**

Management's response: Phase 1 is complete with new furniture being installed beginning 2/25/08. Staff moves are scheduled for the weekend of 4/05/08 and 4/19/08. Phase 2 will begin on 5/01/08 and continue for six (6) months with furniture delivery and staff moves to follow.

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. When will Galesi Management Corporation install Region 4 exterior lighting on north side of building to provide ample illumination on all parking areas, pathways, and sidewalks for safety of employees and visitors?

Management's response: The exterior lighting proposal presented to the Town Board was rejected. OGS is working with the landlord to revise the proposal to be presented to the Town Board. Other options are being actively investigated and pursued with the landlord and OGS.

DEC

PEF/ENCON

DATE

Joseph A. Lattanzio

4/29/08

David J. Pansson

5/5/08

109 Positions By Division

Division	New Positions
Climate Change	12
Water	24
Fish, Wildlife & Marine Resources	12
Lands & Forests	2
General Counsel (NRD & Enforcement)	18
Solid & Hazardous Materials	10
Air	10
DER	7
Pollution Prevention	7
Public Affairs & Education	6
Operations	1
TOTAL	109