

**STATEWIDE PEF/NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL
CONSERVATION LABOR/MANAGEMENT COMMITTEE REPORT
October 2, 2003**

Attendance:

PEF:

David Persson, LM Chair
Karl Berger, Albany LM Co-Chair
Chris Spies, Region 1
George Stadnik, Region 2
Hassan Hussein, Region 2
Joseph Battista, Region 3
Andy Marcuccio, Region 4
Leslie Eggleton, Region 5
Frank Flack, Region 6
Terry Tyoe, Region 6
Thomas Gragg, Region 7
James Kersten, Region 9
Kevin Hintz, Region 9
Mike Keenan, Albany
Dylan Keenan, Albany
Wayne Bayer, Albany
Holly Clark, Albany
William Wurster, Albany
James Trossbach, Albany
John Donlon, Albany
Tim LeBarron, Albany
Lawrence D'Arco, Albany
Kuldeep Gupta, Albany
Vimal Minocha, Albany
Debbie Gardell, Albany
Jim Kemenash, PEF Field Representative
Josephine Rice, PEF

Management:

Joseph Lattanzio, DEC Director of Employee Relations
Carole LaVigna, DEC Director of Personnel
Nancy Lussier, DEC Director of Management & Budget Services
Jean Edouard, DEC Director of Health & Safety
Everett Chamberlain, DEC Director of Fleet Management
Gail Balluff, DEC Employee Relations
Carl Gonzalez, DEC Employee Relations
Marie Furlong, DEC Employee Relations

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

Management's responses are in italics.

Joe Lattanzio acknowledged PEF Steward Lawrence D'Arco's successful coordination of the Department's Bus Coupon Subsidy Pilot Program. As a result of DEC employee participation, this program saved 1,000,000 commuter miles. A Certificate of Appreciation for his outstanding efforts in this regard was presented to Lawrence by Commissioner Crotty on September 23, 2003.

I. New Business:

1. Budget

a. Please provide Strategic Planning Update.

Management's response: A meeting was held on October 1, 2003. We will follow up with updated information as an attachment to the minutes.

b. On September 19, 2003, pursuant to DOB Bulletin H-1025, what was DEC's recommended full-annual savings of new or renewal contracts for state operations, aid to localities, capital projects and installment purchase financing for April 1, 2003 to March 31, 2004?

Management's response: This still is a work in progress. If additional info is available, we will include it in the minutes.

c.(1) Has DEC received cash ceiling information and formulated Contingency Austerity Plan steps and immediate options for delayed spending?

Management's response: The Department has not received its cash ceiling. It has received authorization for fixed costs for the year and other non-personal service and personal service spending through 10/31/03.

(2) Has DOB instructed DEC not to spend the \$105 million that the Legislature budgeted for Superfund program?

Management's response: New Superfund legislation was passed with \$120 million in appropriations. That is approximately \$40 million more than we had been getting. \$15 million is provided for technical assistance grants. These amounts plus \$33 million for oil spills provide for a \$168 million program.

d. Did DOB & Civil Service approve the approximately 37 secondary backfill waivers?

Management's response: Yes. Copies were furnished to PEF. The waivers expire on December 9, 2003.

If management agrees to abide by the 1988 L/M Checklist for Office Moves and Relocations agreement provided to management March 1, 1999, PEF will drop the following three topics.

Management's response: This checklist, which was created in 1988, is not a binding document. Further, please note that the document itself states in part, "Please note that this checklist is meant to be only a guidance document to stimulate thought processes in the planning stage of an office move...different offices will have their own unique set of needs and desires."

e. Is the project date for the Region 4 move still April 2004? Has management engaged in meaningful discussions for PS&T unit members in the context of a Joint Labor/ Management Quality of Worklife Committee, which shall make recommendations to the Regional Director? In this regard, Andy Marcuccio should be the PEF steward contacted.

Management's response: No new information to report. As previously reported, the decision has been made to build another building in the proximity of the current building. There is no projected completion date. When appropriate, the regional director has agreed to the formation of a group to

share ideas and involve employees in the process.

f.(1) What is the status of the additional 28,000 square feet at the New Paltz office? Is the schedule to award construction projects still Summer 2003?

Management's response: Our consultant, Stein White Nelligan, has fallen behind schedule. Design and contract document preparation is only 90% complete. We had expected to be able to begin construction in late Fall. It now looks like construction will start in January 2004. Part of the problem has been with adapting the site design to comply with the new SPDES stormwater discharge requirements.

f.(2) Does management continue meaningful discussions for PS&T unit members in the context of a Joint Labor/Management Quality of Worklife Committee?

Management's response: Yes. The Regional Director will continue to schedule meetings with appropriate staff. The Regional Director will continue to solicit comments/suggestions from all staff and will continue these meetings as appropriate.

g. PEF requests copies of current 23 Memoranda of Understanding with SUNY.

Management's response: It appears there are approximately 23 such MOUs that may be currently active. The Department is having some difficulty identifying and locating these MOUs. We will continue to explore the feasibility of providing these to PEF. As these MOUs may be spread amongst many DEC divisions, we ask that PEF provide more specific identifying information if possible. This may assist the process. Management will follow up with the Regional Directors.

h. Are the 226 new vehicles approved for 2003-2004? Are there any changes on plans for the assignment to the regional and central offices? What is status of Emergency Spill Response vehicle replacement?

Management's response: Budget Bulletin D-1110 puts new guidelines and requirements in place for State agencies. With the exception of the Division of the State Police, all agencies are prohibited from entering into any new lease or purchase agreements until further notice. A policy document OAD-17 is being revised. Working to have this revision done by November 1, 2003.

Actual assignment of vehicles to the Regions and Central Office Programs will be determined once the final number and types of vehicles that can be procured are determined. Concerning the Spills Response Program, currently 16 vehicles are planned for procurement from SFY 2002-03 funding and an additional 16 from SFY 2003-04. However, the actual number to be purchased will be dependent on the total number of vehicles and funding that are approved by DOB.

i. In 1999, Governor Pataki proposed a comprehensive legislative package that included a modest increase in sporting license fees designed to sustain the Conservation Fund and improve hunting fishing and trapping opportunities in the state. How does management propose to keep their promise of maintaining and enhancing programs when the Division of Fish, Wildlife and Marine Resources has experienced a 20 % reduction in staffing since 1999?

Management's response: Management will follow up on this and provide a response in the minutes.

2. Civil Service

a. How many budgeted items of the Annual Salary Average Fill Level are not filled?

Management's response: This question is not being asked in correct terms. Targets, budget items, BFLs are moot and no longer operative terms. The only thing we will be reporting on is filled positions. As of 9/24/03 the Department has 3,261 filled positions.

b. Did Civil Service approve Job Classification Standards with professional titles of Chemist, Engineering Geologist, Environmental Engineer, and Environmental Program Specialist?

Management's response: Civil Service issued classification standards in November 2003 for Environmental Program Specialist 2, 3 and 4. The other titles are still being reviewed at Civil Service.

c. Is DEC or Civil Service planning any title consolidations?

Management's response: No. We ask that this item be removed from further agendas. If at such time consolidations are planned or considered, we will make it known to the unions when appropriate. When information is provided to PEF on consolidations, we will remove this item from the agenda.

d. Did the Division of Fish, Wildlife, and Marine Resources recommend salary increases and submit fiscal impact forms for the request that Civil Service increase hiring rate for the 55 Biologist 1 and Biologist 2 (all parenthetics) for appointments in Regions 1 and 2?

Management's response: Fish, Wildlife & Marine Resources has submitted fiscal impact forms to Management & Budget, and they are pending review.

e. Is there a schedule for submission to Civil Service?

Management's response: There is no schedule for submission to Civil Service.

f. How does management propose to address fiscal issues management to support salary grade parity between the career ladders of the Natural Resources and Quality divisions?

Management's response: This is a discussion/decision that Management will make at the appropriate time. Management to provide EQ and Natural Resources organization charts when available. Personnel to gather pertinent information and meet with the PEF Committee on November 25, 2003.

g. PEF/encon requests that DEC backfill more than one EE-2 position. The Commissioner has still not answered our April 7, 2003 letter on the subject. There are 67 EE-1s currently on the EE-2 promotional to backfill the 46 EE-2 positions vacated due to the retirement incentive and backfilling EE-3 positions. The engineers on the EE-2 promotional list deserve to be equitably compensated for the professional work they perform so DEC can meet its mandates and fulfill its mission.

Management's response: At the time of the last meeting, the Department was in the middle of implementing the first round of backfills and new hires related to retirements. Since then, we sent a package asking for the second round of backfills which DOB also approved. Both of these packages resulted in approximately 150 promotions and new hires, the majority being PEF positions. The EE-1/EE-2/EE-3 question will be looked at as part of the next set of waiver development, which will look at the overall priority needs of the Department. That process is just beginning and there is currently no time frame for its completion.

3. Health & Safety

Specific updates and actions on all outstanding H&S agenda items are itemized within the

Statewide Health & Safety Labor/Management Committee meeting minutes which are available on the OER website and through the respective union representatives.

PEF/encon requests written description of the NYS Threat Levels and security enhancements as implemented by the agency and Region. PEF/encon is concerned that threat level implementation be uniform in DEC and OGS buildings, as it may affect terms and conditions of employment.

Management's response: This and all health and safety matters raised are currently being addressed via the Statewide Health & Safety L/M Committee forum. Office of Homeland Security Advisory System guidelines were distributed to PEF at the last meeting. DEC will respond to any changes in threat level based upon specific conditions associated with each change. This response has been and will continue to be communicated to all DEC employees at the time of each change in threat level.

What is the curriculum for the 100 employees to receive Incident Command System and/or Interagency Joint Operation Group (IJOG) training? How were the 100 employees selected? Was age discrimination used in the selection process? Please provide a list of PS&T employees. PEF requests a written response from Assistant Commissioner Tuffey to the Health & Safety and L/M Committee questions.

Management's response: As stated before, these matters have been raised and will continue to be addressed in the Statewide Health & Safety Committee forum.

What are the proposed terms of a GOER/Unions MOU for the placement of AEDs in state agency buildings? How many Regions have AEDs?

Management's response: No new information to report at this time. This matter remains under discussion at the GOER level.

We currently have five (5) AEDs in the Central Office, one AED at our Automotive Emissions Lab in Latham, one unit at SUNYE laboratories in Rensselaer, one AED in Region 3 and two (2) AEDs in Region 8.

***Management Update: World Trade Center Medical Monitoring Task Force**

Management's response: We previously reported that the enrollment period was extended through January of 2004. Since this extension, the Department has enrolled an additional 27 employees through the medical monitoring program. We were recently notified by GOER that enrollment in this program will not be extended past November 1, 2003. Accordingly, we are hoping to convince as many additional employees who qualify for the program to enroll before that time. A notice to all employees on this subject was sent on 10/01/03.

4. LATS

When will the dual T&A recordkeeping trial end?

Management's response: Because of auditing considerations, those employees on the pilot will remain on the program until the full system rollout. The purpose of the pilot is to ensure that we will recoup our payroll costs from the Federal Government and other third party entities. We now have three months of data from Solid & Hazardous Materials for comparison.

5. Emergencies

PEF/encon asks DEC to provide the union with a list of those job titles in each Division which are deemed "essential". This list should include the names of those employees in those job titles who must remain and/or report to work. Such list can be updated as employees leave the agency. This will eliminate employees having to report for work on those days when only "essentials" are required.

Management's response: Management assumes this question pertains to directed early departures as authorized by GOER. As far as determining who is an essential employee, that determination is left up to each Division or Regional Director at the time a particular situation arises. Management stated that unless you have been designated and informed that you are an "essential" employee, employees should assume that they are not.

6. Continuing Education requirements for NYS Professional Engineers

PEF/encon desires that DEC Education and Training certify and offer CEU course for affected engineers as is currently done by DEC for attorneys.

Management's response: Training and Organizational Development has just received a copy of the regulations from the State Education Department and is working with the Personnel Office to assess the impact on current and future employees, both PEs and Surveyors. Simultaneously, we are investigating what we would have to do to obtain CEU accreditation for our courses. A copy of the regulations can be found at: <http://www.op.nysed.gov/article145.htm#7211a>.

II. Old Business

1. Privatization and Organizational Development

Why isn't the Personnel Office apprized of contracting out by Divisions and programs?

Management's response: Vendor employees are not employees of the Department and not subject to Civil Service Rules & Regulations.

Why did DEC hire contract work traditionally performed by PS&T employees to a \$20 million contract to the Institute for the Application of Geospacial Technology (IAGT)? (Also known as RACNE.)

Did DEC request hiring freeze waivers to use Federal Funds?

Management's response: The NYSDEC does not have a contract with the IAGT. The NYSDEC has a formal Memorandum of Understanding (MOU) and workplan agreement with the Cayuga Community College/Regional Application Center North East (RACNE). The RACNE is a not-for-profit arm of the Cayuga Community College (CCC). The CCC is a part of our sister agency the State University of New York (SUNY). The MOU allows a sub-allocation of funds to go from the NYSDEC to SUNY/CCC and for the NYSDEC to pay bills that are submitted by the RACNE.

In the MOU, SUNY has agreed to assist the NYSDEC/DOW with various water resources program areas of mutual concern and interest, including flood plain mapping. SUNY (CCC) has hired RACNE staff and agreed to "post" these staff in an Intergovernmental Personnel Act (IPA) capacity to work with NYSDEC staff in furthering these programs.

Federal waivers were included in the last two packages.

Why did DEC hire work traditionally performed by PS&T employees by approving contracts over \$3 million State Wildlife Grants for wildlife conservation projects?

Did DEC request hiring freeze waivers to use Federal Funds?

Management's response: The Division of Fish, Wildlife & Marine Resources was asked to respond to this question. We will follow up and provide a response in the minutes.

Federal waivers were included in the last two packages.

2. Environmental Monitors

**Is there a new policy to replace Organization and Delegation Memo #92-10?
PEF requests copies of the cost benefit analysis to change this policy.
How many third party DEC environmental monitors have been hired?**

Management's response: Asked and answered at the last meeting. The Department is developing a policy document to be used in place of the dated O&D Memo 92-10. As it will be neither a substantive change nor a rule, a public hearing is not required. Existing staff will not be affected.

3. Boards and Commissions

On September 19, 2002, PEF/encon submitted a FOIL. When will the Office of Legislative Affairs provide a complete membership list for all Department boards and commissions, and a list of all Department personnel approved to represent the Department on all non-Department appointed boards, commissions, or other similar panels? Such lists should include names, addresses, and expiration terms of members. PEF requests that the roster include the titles for personnel.

Management's response: This question has been previously asked and answered. Please refer to the minutes of the March 13, 2003 meeting. Every Division affected by this listing is making an effort to update the information and then the request will be honored. Management's current list is internal, incomplete and inappropriate for distribution. Management suggests PEF follow up with the FOIL Officer on their request.

4. 625 Broadway

The DEC Albany office needs convenient and easily operable means of entry into and exit from 625 Broadway, as well as full accessibility to rest rooms, mail rooms, nurse's office and training rooms for the physically disabled throughout the building. PEF/encon requests that DEC urge Picotte management to use some of their \$3,339,737.50 Green Building Tax Credit savings to finance the necessary renovations to upgrade the building for full accessibility. Door openers should be installed and threshold lips corrected. PEF offered to work with management.

Management's response: These matters continue to be raised and addressed via the local Central Office Health & Safety Committee. Plans are underway to retrofit all the rest rooms to accommodate the physically disabled. Management to provide an update info at the weekly union meeting.

Despite the fact that nearly 2000 DEC employees have been at the 625 Broadway offices for over 2 years, neither the City of Albany and/or the State of New York have yet to install a sidewalk from the most northern-most section of the Water Street parking lot nor has a legal crosswalk been marked on the pavement across Water Street for individuals to use who pay NYS OGS to park there. PEF has met with everyone from OGS, DEC, Mayor of Albany and all we have gotten is "we'll look into it." This is unacceptable. As an egress road from Interstate 787, Water Street is heavily trafficked and, despite being posted for 30 MPH, is traveled at highway speeds.

What improvements for pedestrians coming from the Water Street parking lots to 625 Broadway will be made this construction season and when will the work begin?

Management's response: These issues continue to be addressed by a committee composed of representatives from the City of Albany and various State agencies. Updates from these discussions have been and will continue to be provided to PEF at the weekly Update Meetings and at the local Central Office Health & Safety Committee meetings.

5. Pre-Tax Transportation Program

Due to the cancellation of the New York City pre-tax transit pilot program and the negotiations currently taking place to implement a new program, PEF requests that DEC support a fully implemented Statewide pre-tax transit program. PEF believes that DEC should support a fully implemented Statewide program because this program is congruent with the Department's mission. If the current negotiations result in a plan for a pilot program limited to New York City, will DEC request that GOER include DEC employees, especially since the cost of public transportation has recently increased by 25 to 33%.

Management's response: PEF asked that this issue be tabled at the last meeting, and Management agreed. We have no new information to provide. The Department has no plans to consider this program at this time. Management will follow up with GOER. Management to follow up on whether DEC will request inclusion in the pilot program.

6. Employee Time and Attendance Handbook

PEF believes it is incumbent upon DEC to provide timely and accurate information to its employees. Various sections of DEC's Employee Time and Attendance Handbook have been superseded by later documents such as the Fair Labor Standards Act, PEF Contract, Office of State Comptroller (OSC) Bulletin # G-180, OSC Travel Manual (10/98) & OSC Traveler's Guide (10/98). For example, Section 5.1.6 conflicts with federal and state laws and regulations concerning time worked and should be corrected to read as follows: "Time spent by employees for actual travel and/or service performed while traveling is compensable work time provided that the travel is between the employee's residence and a work site other than their official station." PEF/encon provided errata concerning other discrepancies to management at the November 29, 2001 Labor Management meeting. When will Management and Budget distribute a revised edition of the Employee Time and Attendance Handbook, which has not been updated since January 3, 1994? PEF requests a one month review of the draft.

Management's response: The draft document is still incomplete. When appropriate, the Department has agreed to share the draft handbook with PEF for review and comment.

7. Failure to Provide Travel Advances

When will Fiscal Bulletin 354 for Travel Advances be updated?

During the State Fair, what steps did DEC take to ensure that travel advances continue and not on a first come, first serve basis? This method is still unacceptable to PEF. We request that you increase the monies available. PEF requests that management stop urging employees to subsidize NYS by not providing travel advances for scheduled field work involving overnight status.

Management's response: Fiscal Bulletin 354 is still not ready for issuance. OSC wants the Department to discontinue its travel advance account, and we may not have an option. DEC does not urge employees to subsidize the State. We do urge the use of corporate credit cards which are backed up by the State. Management encourages the union to support the use of the credit cards by its members. PEF will not support the use of credit cards as they do not cover every instance as a travel advance does. PEF believes that to unilaterally withdraw the option of travel advances would be the basis for an Improper Practice. This answer has been previously provided. The conditions will not change. We request that this item be removed from future agendas.

8.(a) Contracting Out Computer Services

What are the actual itemized listing of expenditures by vendor for SFY 2002-03, budget costs, and purpose of contracted out computer support for SFY 2003-2004?

Management's response: Please see Attachment A. The purpose of contracted IT services for FY 2003-04 are to provide specialized services necessary to support DEC projects and programs. Management to follow up on a projected amount for SFY 2003-04 contracted out computer services. PEF requests program specific information on the services to be provided.

8.(b) PEF requests an update on DECALS and MCI (WorldCom) remaining five (5) DECALS applications including the internet sales application, the ad hoc query application and the sportsman education application responsibilities and OSC approval of the contract amendment.

Management's response: On August 18th sales for the upcoming hunting season began. The system has been performing effectively with over \$20 million in sales. DEC continues to work with MCI on correcting defects and to set priorities on the remaining five (5) DECALS applications. Tax & Finance continues to handle phone sales that exceed MCI's capacity. Management to follow up on whether a copy of the contract is available.

9. Internet Acceptable Use Policy

PEF's improper practice charge alleged that EnCon violated the Taylor Law when it unilaterally issued an Internet Acceptable Use policy in October, 1997. Will a revised policy be issued by the Governor's Office for Technology on personal use of the internet?

Management's response: There has been no activity on this matter since the last meeting on March 11, 2003 at PERB. We still have not received any notice from the Governor's Office for Technology on the issuance of a policy addressing personal use of State Internet services. This matter remains on hold at PERB until 10/31/03.

10. Labor/Management Training

PEF/EnCon requests that joint LM Training be tabled.

Management's response: Management agrees.

11. Scheduling of L/M Meetings

The next Labor/Management meeting is December 3, 2003. PEF requests that Commissioner Crotty attend. A Commissioner last attended a meeting June 15, 1995, over 8 years ago! PEF has suggested March 11, June 9 (in Rochester), September 23 and December 1 for next year's meetings.

Management's response: Management is agreeable to the suggested meeting dates for 2004. Executive Deputy Denise Sheehan attended the June 2003 meeting on behalf of the Commissioner. We will extend PEF's invitation to Commissioner Crotty to attend the next meeting.

12. Pollution and Energy Reduction Committee (PERC)

Has the Executive approved the nine (9) out of ten (10) days compressed work schedule as a permanent offering in the Central Office and transmitted the request to the Department of Civil Service for formal approval of the program in the DEC Central Office? Has the Executive reappraised the telecommuting expansion in the Central Office which was put in abeyance in Nov. 2002?

The full implementation of these two programs in the central and regional offices would reduce pollution across the State and concurrently improve employee morale and productivity. Thus, PEF requests that the CPP and telecommuting programs be offered to all regions without delay.

Management's response: A decision on both programs currently remains at the Executive level.

13. Laboratory Consolidation

Will DEC build the \$25 M three bay light duty Automotive Emissions Laboratory (AEL) with funding from the Clean Water/Clean Air Bond Act under NYSERDA?

Management's response: No new information to provide at this time. As stated during the last meeting, SUNY East is no longer the designated site for this laboratory. It was determined that the available (SUNY East) land was unsuitable for this purpose. The Department is now in the process of determining whether or not to build this laboratory somewhere else. If a determination is made to build on an alternate site, the Department will work with OGS toward this end.

14. Acting Positions

Albany

Water

Is the Director of the Bureau of Water Assessment and Management filled?

Management's response: Yes.

Solid & Hazardous Materials

Is the Pesticide Reporting Section Chief filled?

Management's response: No.

REGION 1 Regional Spills Engineer position filled?

Management's response: No.

REGION 3 Regional Water Engineer position filled?

Management's response: Yes.

Is the Regional Hazardous Materials Engineer (G-27) position filled?

Management's response: Yes.

PEF acknowledges Management efforts to improve the acting position issue. PEF requests that waivers be submitted for the two vacant positions and that they in fact be filled.

Management's response: So noted.

©David J. Pennington

DATE

ANNUAL CONSULTANT COSTS BY VENDOR FOR 2002-2003

Provided to PEF at 10/02/03 Statewide L/M Committee Meeting

Annese and Associates, Inc.: Consultant Services (\$14,000)	
Annese and Associates, Inc.: Consultant Services (\$48,000)	
Annese and Associates, Inc.: Consultant Services (\$5,000)	
Annese and Associates, Inc.: Consultant Services (\$59,990)	
Annese and Associates, Inc.: Consultant Services (\$11,000)	
Annese and Associates, Inc.: Consultant Services (\$10,000)	\$ 147,990.00
CMA Consulting: Consultant Services (\$60,960)	
CMA Consulting: Consulting Services (\$155,520)	
CMA Consulting: Consulting Services (\$74,200)	\$ 290,680.00
DynTEK: Consultant Services (\$94,400)	
DynTEK: Consultant Services (\$163,500)	
DynTEK: Consultant Services (\$69,760)	
DynTEK: Consultant Services (\$11,000)	
DynTEK: Consultant Services (\$72,000)	
TekInsight Services: Consultant Services (\$26,115.88)	
TekInsight Services: Consulting Services (\$2,847)	
TekInsight Services: Consulting Services (\$79,638.75)	\$ 519,261.63
Genesys Consulting Services, Inc.: Consulting Services (\$48,025)	\$ 48,025.00
IMG: Consultant Services (\$298,792)	\$ 298,792.00
Keane, Inc.: Consulting Services (\$10,950)	
Keane, Inc.: Consulting Services (\$102,977)	\$
113,927.00	
Phoenix Solutions: Consultant Services (\$156,000)	\$ 156,000.00
Raytheon Company: Consultant Services (\$15,000)	\$ 15,000.00
Sybase: Consultant Services (\$5,390.08)	\$
5,390.08	
TRC: Consulting Services (\$6,050)	\$ 6,050.00
Windsor Solutions, Inc.: Consultant Services/Travel (\$126,407.78)	<u>\$ 126,407.78</u>
TOTAL:	\$1,727,523.49