

## **Agenda Submitted by PEF/encon as of Sept. 16, 2004 for:**

### **STATEWIDE PEF/NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION LABOR/MANAGEMENT COMMITTEE MEETING September 23, 2004**

Attendance:

#### **PEF:**

David Persson, LM Chair  
Karl Berger, Albany LM Co-Chair  
Katy Murphy, Region 1  
George Stadnik, Region 2  
Densford Escarpeta, Region 3  
Andy Marcuccio, Region 4  
Les Eggleton, Region 5  
Frank Flack, Region 6  
Terry Tyoe, Region 6  
Tara Blum, Region 7  
James Kersten, Region 9  
Kevin Hintz, Region 9  
Mike Keenan, Albany  
Wayne Bayer, Albany  
Holly Clark, Albany  
James Trossbach, Albany  
Pamela Swanigan, Albany  
Bill Wurster, Albany  
Tim LeBarron, Albany  
John Donlon, Albany  
Jim Kemenash, PEF

#### ***Management:***

Joseph Lattanzio, DEC Director of Employee Relations  
Carole LaVigna, DEC Director of Personnel  
Gail Balluff, DEC Employee Relations  
Marie Furlong, DEC Employee Relations

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

*Management's responses are in italics.*

**I. New Business:**

**1. Budget**

- a. Please provide Strategic Planning Update.**

*Management's response:*

- b. Please provide a summary of the budget changes in the budget passed by Legislature?**

*Management's response:*

- c. How many employees who work for DEC under the \$19,366,000 personal services contracts (e.g. Environmental Facilities Corporation, NYSERDA, New England Interstate Water Pollution Control Commission(25), SUNY Research Foundation, Natural Heritage Trust(21), and computer consultants? How many received a 3% raise for FY 2004-2005?**

*Management's response:*

- d. What is the projected date for the Region 4 move to the industrial park? 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:*

- e.(1) What is the status of the additional 28,000 square feet at the New Paltz office? Is the schedule to start construction project still November 2004? PEF is concerned about space for storing files, parking and the traffic and pedestrian safety management on South Putt Corners Road.**

*Management's response:*

- e.(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:*

- f. The Tire Bill authorizes a tire management fee to be used for various purposes including DEC administration of the program, but does not specify any particular staffing. What is the amount spent on outside contractors to date for this bill?**

*Management's response:*

- g. Can the funding sources for Memoranda of Understanding with SUNY be used for civil servants?**

*Management's response:*

## **2. Civil Service**

- a. How many positions are filled? How many waiver requests are pending at DOB?**

*Management's response:*

- b. Did Civil Service approve Job Classification Standards with professional titles of Biologist, Chemist, and Engineering Geologist?**

*Management's response:*

- c. Identify the titles and FY 2004-2005 schedule for 18 promotion examinations? Are any DEC promotion examinations scheduled in 2004 that will only use the Promotion Test Battery.**

*Management's response:*

- d. Doesn't recruitment and retention(14 vacancies) justify Management and Budget's submission of the Division of Fish, Wildlife, and Marine Resources fiscal impact forms that request increased hiring rate for the 13 Biologist 1 and Biologist 2 (all parentheses) for appointments in Regions 1 and 2? PEF requested information on the actual funding amount involved.**

*Management's response:*

- e. Did the work group compare organizational charts and review the Fish and Wildlife report to address fiscal issues management and support salary grade parity between the career ladders of the Natural Resources and Quality divisions? The only title series that the**

**workgroup appears to have analyzed is the Biologist series. This needs to be broadened to include other titles and a better justification of salary parity between the EQ and the Natural Resources divisions.**

*Management's response:*

- f. Division of Budget approved waivers for 21 Environmental Engineer 2 positions in June. Why haven't these positions been filled? The Commissioner has still not answered our April 7, 2003 and October 16, 2003 letters on the subject. There are 67 EE1s currently on the EE2 promotional to backfill the 46 EE2 positions vacated due to the retirement incentive and backfilling EE3 positions. The engineers on the EE2 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:*

- g. How will DEC recruit candidates for the Associate Bacteriologist (Marine) position if there is no Senior Bacteriologist (Marine) title to provide a pool of qualified candidates? Very soon DEC will have no Bacteriologists (Marine) left in any level position. This leaves no one to run the only laboratory in NYS that is approved by the FDA to examine water samples for year-round monitoring of the sanitary conditions of shellfish harvest areas and supporting NY's shellfish industry.**

*Management's response:*

- h. When are exams scheduled for provisionally filled positions, such as Sanitary Construction Inspector III, Citizen Participation Specialist II, and Biologist I ?**

*Management's response:*

### **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.**

**3.(a) PEF/encon requests an electronic copy of the Emergency Preparedness Response Plan.**

**3.(b) 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 employees who are required to be available for immediate recall and who must be prepared to return to duty within a limited period of time.**

**3.(c) When will 30 employees receive 160 hours of training to enter imminently dangerous to life and health weapons of mass destruction environments? What is the first responders'**

curriculum?

**3.(d) DEC employees are no longer eligible for the Safety Incentive Differential. PEF/encon asks DEC to request that Civil Service expand 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); or manage the cleanup of inactive hazardous waste sites.**

**3.(e) Did DEC modify the Division of Solid and Hazardous Materials Standard Operating Procedures (SOP) without PEF review?**

**3.(e) When will all DEC public buildings be equipped with AEDs? How many Regions have AEDs? PEF/Encon requests that DEC work to provide 100% training for staff in use of defibrillators.**

*Management's response:*

#### **4. Privatization**

**According to budget calculations, will the US Forest Service allocation continue to support DEC Foresters in the Bureau of Private Land Services Forest Stewardship program or will this too be contracted out to Cornell University or some other private group?**

*Management's response:*

**Why did Division of Environmental Remediation (DER) hire work traditionally performed by PS&T employees by approving contracts for standby contractors to perform long term monitoring and sampling of Class 4 Hazardous Waste Sites?**

**What are the plans for the pilot projects in Operations, Maintenance and Monitoring in Regions 3, 4 and 8?**

**Further PEF/encon does not believe this is a savings for taxpayers.**

*Management's response:*

**Why did DEC hire two NEIWPC Marine Biologists in Region 1 (East Setauket), work traditionally performed by PS&T employees?**

**Why doesn't DEC Division of Fish, Wildlife & Marine use state matching funds for the Sport Fishing Tax - Wallop-Breaux/Dingel - Johnson - Federal Grant money to fill vacant federally funded items? Did DEC request hiring freeze waivers for these positions?**

*Management's response:*

#### **5. Environmental Management Systems (EMSs)**

New York State Department of Environmental Conservation (DEC) Commissioner Erin M. Crotty announced a final DEC policy that sets forth how Environmental Management Systems (EMSs) and other environmental performance improvement tools will be incorporated into DEC programs.

The policy also seeks to test the use of EMSs at DEC facility operations. How will DEC demonstrate the application of these systems at its own operations?

If DEC is to develop and implement an EMS, has the 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?

*Management's response:*

## **6. Empire State Outdoors**

**What is the DEC budget for the contract to produce the Empire State Outdoors television program?**

**Is the 6th floor television studio at 625 Broadway being used in the production of Empire State Outdoors?**

**Does the Department still have in-house video production capability?**

**Is there a projected air date for the Empire State Outdoors television program?**

**Does DEC staff provide support to the contractor producing the Empire State Outdoors television program?**

*Management's response:*

## **7. Sustainability Initiative**

**Please provide a briefing regarding the sustainability initiative in which Commissioner Crotty directed managers to participate.**

*Management's response:*

## **8. Ernest Trad Award**

**PEF/Encon requests that Trad Award recognition be caught up to last awarding(2001).**

*Management's response:*

## **II. Old Business**

**1. Cultural Change**

**What is the status of funding for cultural change training to incorporate the concepts of systems thinking, creating learning organizations, and environmental sustainability throughout the everyday work of the organization?**

*Management's response:*

**2. Out-of-State Fire Crews**

**When will Commissioner Crotty and/or Regional Director Gerald Mikol respond to PEF's November 21, 2003 letter regarding DEC's policy with respect to employees participating in out-of state firefighting crews? Is there Federal reimbursement for time? Why are trained employees for prescribed burns, out-of-state fire crews and NYS fires not used when available to do the work?**

*Management's response:*

**3. iExpense**

**When will iExpense work? Is more or less professional work involved as compared to the previous system?**

*Management's response:*

**4. Continuing Education requirements for NYS Professional Engineers**

**Has DEC Education and Training established the review process State Education Department accreditation for seminar, workshop, and course PDH (Professional Development Hour) credit for all engineers? If DEC cannot provide the PDH credits for the Land Surveyors, DEC should see that training is provided by an outside source.**

**EE2s & EE3s on VRWS are treated no differently by DEC with respect to assignment responsibilities and professional training. Therefore, PEF requests that DEC acknowledge the EE2s & EE3s on VRWS that work exclusively for DEC are indeed "full-time" state employees with respect to the PE licensing exemption.**

**Employees in the VRWS program should be exempted from the continuing education requirements. The VRWS program is a State-wide program that applies to all State employees in the Professional, Scientific and Technical Services bargaining unit which are represented by PEF. The terms of the program are contained in the PEF/State collective bargaining unit.**

*Management's response:*

**5. Environmental Monitors**

**How will DEC implement the Albany Supreme Court's Decision re Towpath monitor. Will the Commissioner reinstate original draft permit condition making monitor DEC employee funded by facility OR reopen permit hearing to receive public comment on new condition for 3rd party monitor? Has DEC developed a new policy to embody Organization and Delegation Memo #92-10. How many independent environmental monitors has DEC caused to be hired? PEF request all current information on the hiring of third party monitors. What is the environmental monitor policy of the Department?**

*Management's response:*

**A 1998 Memorandum of Agreement (MOA) between the Eastman Kodak Company and DEC committed Kodak to funding of Environmental Monitors under their Part -373 Permit upon issuance. Contrary to the MOA, Kodak recently made public comment objecting to the inclusion of a monitor provision in their Part- 373 permit. Environmental groups made comment on the same permit condition suggesting additional monitors are needed at Kodak Park. Management indicated in previous L/M discussions that the Department does not plan to eliminate existing DEC environmental monitors. How does management intend to address the need for environmental monitors at Kodak Park?**

*Management's response:*

**6. Boards and Commissions**

**PEF requests that the topic be dropped.**

*Management's response:*

**7. 625 Broadway**

**7.(a) PEF/encon objects to the unilateral decision by management to remove previously existing doorstops which allowed increased handicapped mobility and access by disabled staff and citizens. When will management complete installation of compliant hold open devices for Vinny's cafeteria, Jerry's News, EAP, mail rooms, nurse's office and library?**

*Management's response:*

**7.(b) PEF requests a copy of the air quality report for 625 Broadway.**

*Management's response:*

**7.(c) PEF/encon requests that pedestrian crossing signs be installed on Water Street?**

*Management's response:*

**7.(d) Were all compost containers replaced with tall white trash top loaders?**

**7.(e) Please provide cost to Divisions to move staff from the 8th floor at 625 Broadway in wake of OGS decision to take away NYSDEC space.**

## 8. Pre-Tax Transportation Program

PEF understands that all employees in NYC will be included in the mass transit pilot. This program is being rolled out in phases. Part 1 is the NYC mass transit piece. Part 2 is mass transit elsewhere in the State, and Part 3 is the pre-tax account for qualified parking expenses.

The State has selected a vendor (Wageworks) and is in the process of finalizing the contract with enrollment to begin this fall.

*Management's response:*

## 9. 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 final draft.

*Management's response:*

## 10. Failure to Provide Travel Advances

When will Fiscal Bulletin 354 for Travel Advances and other Fiscal Bulletins 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. PEF asked if employees could be given meal advances, such as is the practice in other agencies.

*Management's response:*

## 11. Contracting Out Computer Services

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. Are revenues increasing? Will each year have a different color license? What checks and balances exist to prevent multiple licenses to same individual? What is the impact of Patriot Plan section 14 to the Conservation Fund? At current license sales level, when will the fund require another increase in the cost

**of a license or general fund bailout?**

*Management response:*

**12. 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:*

**13. Labor/Management Training**

**PEF/encon requests that joint LM Training be tabled.**

*Management's response:*

**14. Scheduling of L/M Meetings**

**The next Labor/Management meeting is December 1, 2004. PEF requests that Commissioner Crotty attend. A Commissioner last attended a meeting June 15, 1995, over 9 years ago!**

*Management's response:*

**15. 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 reapproved 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.**

**When will management respond to PEF's June 9, 2004 position paper on telecommuting, compressed pay period, carpooling, and transit subsidy programs?**

*Management's response:*

**16. Laboratory Consolidation**

**Will DEC build a heavy duty Automotive Emissions Laboratory (AEL) in Malta with funding from the Clean Water/Clean Air Bond Act under NYSERDA?**

*Management's response:*

**17. Acting Positions – Still pending**

**Albany**

**Solid & Hazardous Materials**

**Is the Pesticide Reporting Section Chief filled?**

*Management's response:*

**REGION 2    In the DOB approved staffing plan, what is the Civil Service title of the Regional Solid Waste Engineer?**

*Management's response:*

**PEF requests that waivers be submitted for the vacant positions and that they in fact be filled.**

*Management's response:*