

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

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
Richard McDermott, 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
Kuldeep Gupta, Albany
Jim Kemenash, PEF

Management:

Joseph Lattanzio, DEC Director of Employee Relations
Carole LaVigna, DEC Director of Personnel
Everett Chamberlain, DEC Chief, Transportation Services Bureau
Carl Gonzalez, DEC Employee Relations
Gail Balluff, DEC Employee Relations
Ed Kucskar, DEC Health & Safety Unit
Marie Furlong, DEC Employee Relations

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

Management's responses are in italics.

At the beginning of the meeting, the Committee acknowledged the passing of DEC Region 4 employee Wendy DuBois on September 17, 2004.

I. New Business:

1. Budget

- a. Please provide Strategic Planning Update.** PEF noted that DEC has not updated the website since 2001.

Management's response: The Regional and Division Directors continue to meet approximately every six weeks. The next meeting is scheduled for early October. This is an internal Management exercise. Regional and Division Directors are free to share information with their staff.

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

Management's response: A summary is in the works. When available, it will be posted to the website and distributed.

- 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) received a 3% raise for FY 2004-2005?**

Management's response: Management has provided several of the MOUs. We are not prepared to provide any further information.

- 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: Management is in discussions with OGS and the landlord. In the short term, we will continue the current lease. When appropriate, the Regional Director has agreed to the formation of a group to share ideas and involve employees in the process. Update: On September 24, the NYS Office of General Services (OGS) began seeking proposals within Schenectady County from qualified landlords and developers interested in entering into a full-service lease agreement, pursuant to the New York State Public Buildings Law, for approximately 29,000 usable square feet of general office space. The proposal due date was October 25, 2004.

- 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: The Department has received the SPDES Stormwater Permit for the project. The Building Code Compliance Review by OGS and DEC's internal review of the

contract documents is scheduled to be completed by September 30, 2004. Based on this, the earliest Bid Date for the project will be late December 2004, with construction beginning in February 2005.

The project design provides for adequate file storage areas throughout the office space and in dedicated areas in the old and new portions of the structure. The site layout includes paved parking to accommodate an equal or greater number of vehicles that currently park at the facility. We are still negotiating for temporary off-site parking during construction. If a road crossing is required, it will be marked and signed in accordance with State and local safety standards.

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: 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.

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: The total amount paid from the Waste Tire account through 9/07/04 for contractual cleanup is \$398,276. Also, \$40,513 was paid to OGS for project oversight. Existing DEC staff is being utilized to manage this program.

g. Can the funding sources for Memoranda of Understanding with SUNY be used for civil servants? Is DEC hiring civil servants with these funds?

Management's response: Yes. Management to follow up on the second question. Update: At this time, DEC is not hiring civil servants with these funds. MOUs with SUNY generally provide us with students who work as interns while earning college credit.

2. Civil Service

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

Management's response: The Department has 3,219 filled positions as of 9/08/04. We have two (2) waiver requests pending at DOB. Management to provide the number of positions in the waiver request as an update. Update: The Department has 118 waivers pending approval at DOB, 55 of which are Superfund items.

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

Management's response: The classification standard for Biologist 1, including all four parentheses, was approved by Civil Service this month (September 2004). The Engineering

Geologist title series, as well as the standard for Environmental Chemist 1, are in the final review phase and should be approved very soon.

- 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: Citizen Participation Specialist 1 and 2 and Environmental Engineer 3 were announced this fiscal year. Conservation Operations Supervisor 2 and 3 and Senior Electronics Laboratory Engineer exams will be announced this fall. The Biologist 1 exams, the Environmental Engineering Technician 1, 2 and 3, the Fish & Wildlife Technician 1, 2 and 3, the Land Surveyor Series and the Environmental Program Specialist 2 and 3 exams are also among those planned for early 2005. The format of an examination is determined at a planning conference with Civil Service and must be kept confidential until the announcement is issued. The 2005-06 testing needs report should be sent to Civil Service by February 2005.

- 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. PEF also requests info on the Fish Culturist series package. Why the desk audits?**

Management's response: Statistical analysis does not support a geographic pay differential for all parentheses. The recruitment and retention problems are related to the Biologist (Marine) positions. However, this proposal is still under review. Update: The Traineeship leading to Fish Culturist 1, G-11, was approved by Civil Service and is now pending approval at DOB. The reallocation of the Fish Culturist 5 is still under review at Civil Service.

- 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: The Salary Parity Review has been broadened. The initial proposal prepared by Fish, Wildlife & Marine Resources did largely focus on the most populated title series: the Biologists. Work has now begun on a broader base of titles. Clarification of the objectives and support for the review has resulted in Lands & Forests also completing a proposal for salary parity. Management to follow up with information on the Fish Culturist package. Management to also provide a list of titles involved. Update: Regarding the titles included in the new broader base, additional titles now under review are Forester 3 and 4, the Forestry Technician Series, Cartographic Technicians, Real Estate Officer and Real Estate Specialist. The next meeting of the work group is scheduled for 10/09/04.

- 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. Are any of the waivers to fill the Environmental Engineer positions Superfund items? Promotions effected before October 1 entitle employees to the performance advance payment.

Management's response: 34 EE2 positions have in fact been approved this year. Three additional are pending at DOB. The Department has been very sensitive to the EE2 position issue. In fact, DEC did a waiver primarily for EE2s. We will continue to recruit and fill these positions as soon as practicable. In light of the Department's actions in this regard, we feel it is not necessary for the Commissioner to respond to the letter. Update: None of the waivers to fill the Environmental Engineer positions are Superfund items.

- 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: We currently have a filled Associate Bacteriologist (Marine), SG-23, position and a vacant Grade 14 Bacteriologist (Marine). A waiver has been requested to fill the vacancy.

- 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: The Biologist 1 exams have been scheduled for January 2005. The Citizen Participation Specialist 2 list was established on August 5, 2004. We have requested that Civil Service place the Sanitary Construction Inspector 3 title on our examination schedule for FY 2005-06, and will listed it as one of our exam priorities.

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? SOPs must be shared with PEF under Article 28. PEF has a role in the review of SOPs.

3.(f) 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.

3.(g) Why is DEC training for Level A?

Management's response: As stated previously at the last Statewide L/M meeting, this and all health and safety matters will be addressed via the Statewide Health & Safety Committee forum.

Update: J. Lattanzio reported that there is pending legislation on the placement of AEDs in all locations occupied by State employees. Guidelines will be issued by OGS. All Regional Directors have been encouraged to purchase AEDs. Cardiac Science is the model of AED we are currently recommending.

Regarding Level A training, technically all DEC staff who have completed the 40-hour HAZWOPER instruction and who are up to date with their 8-hour refresher course can perform Level A work. However, it remains the Department's position that no employee will be asked to respond to Level A incidents. G. Milstrey will attend the next Statewide Health & Safety Committee meeting to provide an update.

4. Privatization

4.(a) 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: We have not contracted out with any private group. Although future funding is undetermined at this time, it is expected to continue at the current level.

4.(b) 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.

Does DEC still require a cost benefit analysis?

Management's response: The Division of Environmental Remediation (DER) has historically used its standby contractors to perform remedial activities to supplement its staff when appropriate. Operations, Maintenance and Monitoring (OM&M) is one of those remedial activities we have assigned to our contractors via a work assignment (WA).

The "pilot projects" referred to in the question are OM&M activities for sites we have included in work assignments to our standby contractors. The plan is for the standby contractor to perform the scope of work outlined in the WA work plan. Management will follow up on the cost benefit analysis.

4.(c) 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: The Department has not as yet hired any such employees. The Department did request waivers for the most critical positions. Six (6) of these have recently been filled; ten (10) waivers are currently at DOB. Management will follow up to identify the six positions by title. Update: The six positions that were filed for FWMR with the last waiver round were: Environmental Chemist 2 [Hale Creek]; Biologist 1 (Aquatic) [Stony Brook]; Biologist 1 (Marine) [E. Steauket]; Biologist 2 (Wildlife) [Albany]; Biologist 2 (Aquatic) [Albany]; and Biologist 1 (Ecology) [Albany].

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?

PEF requests an invitation to the stakeholders meeting in October 2004.

Management's response: CP-34 required the Division of Operations, in consultation with the Pollution Prevention Unit, to develop a pilot program to demonstrate the use of EMSs at Department-operated facilities. A pilot program was started in July 2003 at the Godfrey Point Sign Shop in Region 6. As the pilot continues, Management systems and procedures are focusing on ways to prevent activities and conditions that may pose a threat to human health, safety and the environment. Being a pilot program, there is a certain amount of extra staff time that is spent evaluating and discussing different methods of operation. At this time, no additional staff is being used and the extra costs for staff time spent on the pilot have not been determined. Management to follow up on information regarding the stakeholders meeting.

6. Empire State Outdoors Television Program

6.(a) What is the DEC budget for the contract to produce the Empire State Outdoors television program? Is the funding source the Conservation Fund?

Management's response: The budget for this project is \$500,000. Management to follow up on the source of the funding. Update: The project is not funded by the Conservation Fund.

6.(b) Is the 6th floor television studio at 625 Broadway being used in the production of Empire State Outdoors?

Management's response: The 6th floor studio is not being used in the production of Empire State Outdoors.

6.(c) Does the Department still have in-house video production capability? PEF requests clarification on the definition of "some equipment resources."

Management's response: The Department has some equipment resources for in-house video capability but not full television capability.

6.(d) Is there a projected air date for the Empire State Outdoors television program?

Management's response: The projected air date is Fall 2005.

6.(e) Does DEC staff provide support to the contractor producing the Empire State Outdoors television program?

Management's response: DEC staff provides direction to the contractor in the form of guidance on DEC story lines and messages.

7. Sustainability Initiative

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

Management's response: This is an internal Management exercise. The Regional and Division Directors are free to share information with their staff.

8. Ernest Trad Award

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

Management's response: This effort is now back on track. The selection committee is now being established. The plan is to solicit nominations for award recipients. All recommendations will be reviewed. There is a possibility there will be a single award to cover a number of years.

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: The funding source is not known at this time.

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: Asked and answered at the last meeting. The Forest Ranger Division has developed protocols for making assignments to out-of-state fire crews. These protocols are designed to include and encourage appropriate Department employees, other agency employees and Department volunteers to participate in New York wildfires and prescribed fires and out-of-state fires. Those interested in being involved with wildfire incidents should discuss their interest with their supervisor and the regional Forest Ranger Captain. Management requests this topic be dropped from the agenda.

3. iExpense

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

Management's response: Asked and answered previously. Iexpense is working. Related training is ongoing and should alleviate most employee concerns/frustrations. Reminder: Travel advances can be submitted within two (2) weeks of travel.

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. DEC employees will need 13 points this year. Are any CEU courses available other than Smoke School?

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.

PEF considers the VRWS employees full time employees. The issue is whether the engineer needs the same CEU. VRWS does not reduce CEU.

Management's response: Management agrees. The Department will do what we can to insure providers are continuing education accredited. However, since obtaining the accreditation is up to the individual provider and our selection process for these programs is subject to OSC rules, we cannot guarantee this can always happen. Management to follow up with information on the Land Surveyors.

The exemption language specifically says "full-time employee." The Department interprets "full-time employee" to mean an employee who is working a full-time schedule. Employees on VRWS are in full-time positions; however, they are not full-time employees. Not only are they earning a less than full-time salary, but their annual leave personal leave, sick leave accruals and retirement service credit are all prorated and reduced, based on their VRWS percentage.

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: The Department has developed a draft policy document which will be formally noticed in the Environmental Notice Bulletin in the near future. In the meantime, the draft policy is available at www.dec.state.ny.us/website/about/oservmondraft.pdf.

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: Management is not able to respond while negotiations and the potential for hearings are still in process.

6. Boards and Commissions

PEF requests that the list of Boards and Commissions shared with PEF be posted on the web. PEF requests that the topic be dropped.

Management's response: Management agrees.

7. 625 Broadway

Unresolved topics

- 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?
- 7.(b) PEF requests a copy of the 2003 and 2004 air quality reports for 625 Broadway.
- 7.(c) PEF/encon requests that electronic pedestrian crossing button be installed on Water Street?
- 7.(d) Why 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. What agency is moving to the 8th floor?

Management's response: As stated previously at the last Statewide L/M meeting, this and all similar matters are addressed via the weekly Central Office Union Update Meetings.

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: Management also understands that all employees in New York City will be included in the pilot program. This will allow all State employees in New York City to have pre-tax dollars utilized for New York City transit (subway, buses, etc.). Part 1 has been confirmed; Parts 2 and 3 are still tentative. Wageworks has not as yet been confirmed as the vendor. It is expected that GOER will ultimately be making a formal announcement on the pilot program.

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: This handbook is now undergoing a final review. A copy of the draft will be made available when appropriate.

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. To date, Federal Aid Cost Center funded employees have not received their April travel expenses.

Management's response: Asked and answered previously. With the advent of the iExpense system, a complete review of all Fiscal Bulletins and the travel voucher process was initiated. When the review is complete, the Fiscal Bulletins will be reissued. Management to follow up on the non-payment of travel expenses. PEF to provide employee names.

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? What is the current annual cost of DECALS maintenance/operating costs including the Harvest Reporting System?

Management response: Revenue is at similar levels as in the past two years. Each year will not have a different color license. The appropriate checks and balances are integrated into the design of the system.

The Department is currently updating its revenue and expenditure projections. Accordingly, this question is not answerable at this time.

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: There has been no activity on this matter since the last meeting on March 11, 2003 at PERB. The last notice from PERB stated that this case would remain on hold (at PERB) until 3/19/04. No word from PERB since that notification. 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.

13. Labor/Management Training

PEF/encon requests that joint LM Training be tabled. Four years of Article 15 monies must be spent in two years.

Management's response: Management agrees.

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! Regions 1, 2 or 9 could be the site of the September 2005 meeting.

Management's response: Management will extend an invitation to the Commissioner.

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: A decision on both programs currently remains at the Executive level.

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: No new information to provide at this time. As stated previously, 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.

17. Acting Positions – Still pending

Albany

Solid & Hazardous Materials

Is the Pesticide Reporting Section Chief filled?

Management's response: The waiver request to fill this position is now being reviewed at DOB.

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

Management's response: We are not aware that DOB has "staffing plans;" however, each region typically has an Environmental Engineer 3, Grade 27, functioning as the Regional Solid & Hazardous Materials Engineer (RSWE).

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

Management's response: So noted.

DEC

PEF/ENCON

Joseph A. Lattanzio

David J. Persson

DATE December 2, 2004

December 2, 2004