

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

September 21, 2006

Attendance:

PEF:

David Persson, LM Chair
Karl Berger, Albany LM Co-Chair
Katy Murphy, Region 1
Chris Spies, Region 1
George Stadnik, Region 2
Joseph Battista, Region 3
Terry Tyoe, Region 6
Tara Blum, Region 7
Kevin Hintz, Region 9
Wayne Bayer, Albany
Denise Stephens, Albany
Robert McDonough, Albany
Kuldeep Gupta, Albany
Holly Clark, Albany
Dylan Keenan, Albany
William Wurster, Albany
Jim Kemenash, PEF
Margaret Messer, PEF
Michele Routi, PEF
Josephine Rice, PEF

Management:

Jack McKeon, DEC Assistant Commissioner for Administration
Joseph Lattanzio, DEC Director of Employee Relations
Marline Agnew, Personnel, Central Office
Mark Cadrette, Health and Safety, Central Office
Christy Spadaro, Executive, Central Office
Peter Scully, Region 1 Director
Gail Balluff, DEC Employee Relations
Marie Furlong, DEC Employee Relations [Minutes]

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

Management's responses are in italics.

It was mutually agreed that the minutes would be finalized within 30 days of the meeting.
Updates to be forwarded when available.

Peter Scully gave a presentation on Region 1's characteristics and current projects.

I. New Business:

A. Discussion

1. Privatization

As of June 19, 2006, what are the number of contracts for consulting services, value of contracts, the number of contract employees performing such consulting services, types of services provided by such contract employees, the number of hours they work and their total compensation under the contract, at the Department of Environmental Conservation?

A contract for consulting services means any contract entered into by DEC for analysis, evaluation, research, training, data processing, computer programming, engineering, environmental health and mental health services, accounting, auditing, paralegal, legal, or similar services.

What were the appropriations, including re-appropriations made for FYOS-06 and recommended for FYO6-07 for contracts for consulting services?

Management's response:

DEC will comply with the Chapter 10 requirements. Contractors make more than civil servants. DEC is actively filling jobs and recruiting. DEC is already at target for this year with 3,371 which includes 36 new jobs. There will be 8-9 people above target in the next pay period. There is no commitment to providing greater detail than what has been given in the past. J. McKeon: The state has been slow on keeping up with IT. If going back into budget next year, we will ask for more items. DIS target has increased by six or seven. Chapter 10 would be quite a workload. Wayne: Is the resistance from you or Nancy? J. McKeon: On me. Requirements for the Chapter start from June 19, 2006. People for contracts executed, going forward or RFPs, we have to report how many staff will be used, compared with how many state workers. Information needs to be on actual basis at the end of year. Actual numbers used by state fiscal year needs to be reported.

Contracting Out Computer Services

What were the expenditures by vendor for SFY 2005-06, budget costs, and purpose of contracted out computer support?

Do Information Technology (IT) contracts with consultants cost between 53 percent and 62 percent more than the cost to use public employees (including benefits)?

Does Keane subcontract employees in India that cost \$94/hour under contract? Does DEC pay its employees an average annual pay less (including benefits) than supervised CMA consultants?

What is cost savings if DEC filled vacant IT positions and relied on those employees, instead of consultants?

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42726	23	DATA BASE PGM MR AN I

PEF received the last report in March 2004. PEF Treasurer is meeting with OER for a response to the survey on IT services. Registration for software is included for contractors, but not state workers.

Management response :J. McKeon: The state has been slow on keeping up with IT. If going back into budget next year, we will ask for more items. DIS target has increased by six or seven. An estimated \$1.4 million was spent last year on computer services for application development, maintenance and infrastructure support, mostly from the capital budget. Appropriations were a little over \$3 million over the next three years to building an off-site back-up data center. This is unique to DEC, not shared with other agencies.

PEF requests an update on the DECALS and Verizon remaining sportsman education application responsibilities and OSC approval of the five (5) year contract extension? When will DFW&MR take over operational responsibility for application?

Management's response:

Presentation postponed to early October. There was a one-year contract extension with Verizon. Currently we are developing proposals for expected services. Following the presentation, DEC will internally review its options and commence actions. DFW&MR will continue operational responsibilities for managing the DECALS system. We are seeking a contract extension.

2. Work Schedule Flexibility

a. What is status of CPP policy and survey?

Management's response:

An agreement was reached and survey will be issued Monday. A draft policy should be out by the end of the calendar year. J. Kemenash: Seniority prevents supervisors from making preferential decisions. J. McKeon: With the survey, I was interested in two elements: people who don't have a desire to do compressed and how many people would go on it if provided. There is a set of issues depending on interest. J. Kemenash: There are advantages to management in situations where a worker has a longer workday and has to travel. J. McKeon: We can still do it without this agreement. J. Kemenash: Work is supposed to drive that, but many supervisors aren't seeing it that way. J. McKeon: It varies. Division of Operations uses it routinely. Joe L: If properly managed, it should provide a 50-hour workweek. J. Kemenash: We can offer training. Karl B: What percentage of the agency could you allow to participate? J. McKeon: A situation in the Central Office where a person is being chosen for a job offer and uses the compressed work week as leverage to persuade that person. Karl B: The reality is it can be used as a recruitment and retention tool. It's a great selling factor, and worth money to people. It also puts pressure on managers to manage their staff. J. McKeon: I met with directors from the biggest divisions. Of 70 people, five were in the program. Assumed it was negative, didn't allow it, nature of the

work, staff didn't want to go forward. Putting added pressure on managers doesn't make for a good situation. Dave: Would the PERC committee have joint ownership of the results and opportunity to discuss it? J. McKeon: We will make results available.

3. Diversity

Diversity of the workforce includes as age, race, creed, color, national origin, sexual orientation, military status, sex, disability, genetic predisposition or carrier status, or marital status. How does DEC propose to increase diversity?

Karl Berger, Kevin Hintz, John Donlon Jim Kersten are PEF/encon's Diversity subcommittee representatives.

Has DEC completed edit of the June 2, 1997 Affirmative Action Plan?

What are DEC's specific goals and timetables for the prompt achievement of full and equal employment opportunity for minorities, women, disabled persons and Vietnam era veterans?

Management's response: Diversity and Promotional Ladder Together

PEF teams were appointed. Management will appoint their representatives within the next two weeks. The Personnel Office mostly drives it. Juan Abadia is working on an affirmative action plan to be completed by early 2007. We provide pure numbers every year without updating the main plan.

ACTION:

J. Kemenash: PEF requests a copy of the most recent annual report. J. McKeon: If we can share that we will. If we have to break out something, that's fine. The document is outdated. We will have to work on that. By October 15th we will have two committees formed to look into those two individual issues. A comparison chart was provided. Fish and Wildlife wanted to move ahead with the entire package. There is no fiscal approval at this time. J. McKeon: I'm speaking to Ruth Moore. Upgrading that part of the agency will be difficult. Conservation Fund is not in great shape being further hit by judgments for the law enforcement people. It will be structural and should take certain items clearly unfair and move them title-by-title. Gerry Barnhart was adamant to do the whole thing. From a budgetary standpoint we need a decision to do by positions or entire package. Generally, we are able to hire. From a recruitment standpoint, that's something Civil Service looks at. Environmental Engineers for a while had items we wanted to fill. Karl B: Fiscally, not ordered cost to do a package. J. McKeon: Don't know. We have a package. Will proceed on it. Some things are listed at certain levels. It will not be quick or easy.

2.b We had discussions on best approach. Some are of the opinion EPS has gone too far. Don't want people to get into positions where they can't move up. J. Kemenash: Because of diverse tasks, duties and responsibilities, different people in the same title are doing different jobs. Going out-of-title because of different technical skills a person brings to the agency. Generally, it's a problem especially in technical areas. Rather than title, DEC should work on skill requirements.

4. Promotional Ladders – See Above

- a. Please provide the updated table Comparison of Environmental Quality and Natural Resources Allocations? When is the next meeting scheduled?

Will individual Natural Resources staff be reallocated for parity with Environmental Quality?

Management's response:

DEC should make Yusuf Burgess, the seasonal employee in charge of that permanent.

Karl Berger, Joe Battista, Terry Tyoe, & Tara Blum are PEF/encon's Promotional Opportunities subcommittee representatives.

- b. How can specialty job duties and responsibilities be used instead of supervisory responsibilities in job descriptions for titles above SG-18?
Would DEC consider any title consolidations for development of parallel career tracks based on the job duties and responsibilities for master professional titles of Chemist, Engineering Geologist, Environmental Analyst, Environmental Radiation Specialist, Environmental Program Specialist and Foresters?

B. Information

1. Budget

- a. How many DEC positions are currently filled?
b. If an ERI is offered, how will the agency determine titles eligible for participation?

Management's response:

DEC is right on target with fills and 400 promotions this year. DEC is actively filling jobs and recruiting. DEC is already at target for this year with 3,371 which includes 36 new jobs. There will be 8-9 people above target in the next pay period.

b. ERI, seen nothing official. J. McKeon: We did a head count on the impact the 55/25 bill would have had if it had not been vetoed. Approximately 300, almost ten percent of the agency were eligible within that open period.

2. Civil Service

- a. Did DEC fill all waivers?

Management's response: We use every waiver we get. We will be above target during this next pay period. We have several standards pending. We follow up on them monthly. Environmental engineering technician and environmental analyst are still pending.

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

- c. Division of Fish, Wildlife & Marine Resources sent the downstate pay adjustment package to Management & Budget about 3 years ago. Was the submission of the of fiscal impact forms that request \$600,000 geographic pay differential for the Biologist 1 and Biologist 2 (Marine) for appointments in Region 1 and 2 approved?
Is the geographic pay differential approximately \$5000 to \$20,000 for Biologist (Marine)

Series for trainee levels G-13 & G-14, to G-18 (Biologist) and final at G-23 (Biologist 2)?

The “official” files/information that was assembled over several years by the Professional Compensation Work Group, in the Bureau of Fish, Wildlife and Marine Resources, to support desperately needed salary adjustments for Biologists used to be on \\co-nw-disl\shared. What drive are the files on?

Management’s response:

J. McKeon: I was not aware one was specifically for Region 1 and 2. Would they hire at job rate? You can request more than the geographical differential but cannot go above top of grade. George S: There is a retention problem. It’s been on the agenda for three years. If top of grade, you are hiring people. Requesting the hire rate. It’s not part of annual salary. Nurses receive it. It’s dependent on the funding source. J. McKeon: I will look at the geographic pay differential next week.

d. Acting Positions

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

Management’s response:

None were identified at this time. Exams were scheduled for the four provisionals at DEC.

e. Interns

Please provide the following information:

* Number of summer interns, broken out by program area;

* Cost of interns - total, and broken out by program area;

* What allocation or budget appropriation pays for interns?

* Who decides what programs get interns, and what drives their assignments to different program areas? Are program needs assessed before interns are hired, or are they hired first and then work is “found” for them? Which is it?

Management’s response:

J. McKeon: Interns are paid by Other Personal services. Many programs get them in federal grants, special revenue, and general funds. It’s also issued for overtime. College students mostly use that program. Division of Air gets other PS in federal grants. They are aggressive for hiring summer interns. It’s driven by the program needs. Assistants are hired before interns. Money for hiring staff is PS.

3. Laboratory Consolidation

Where is DEC planning to relocate the DEC SUNY East labs? Will the labs be consolidated with other DEC divisions or Agencies at the new site? Will the new location result in expanded lab space and/or additional DEC staff?

Management's response:

We are going through a process to determine the easiest way to have it. Representatives from interested parties met. Fish and Wildlife didn't want to participate. Lands and Forests have been involved. We have been looking at it for 25 years and worked with OGS. They have a consultant who specializes in lab work. A report was submitted to our Divisions. It will be located in the Albany area. Scope to absorb size and get what's needed. Bill Wurster: Trying to get Executive to tie in. Getting Division Directors in on the meeting.

SUNY East will move into more than twice the current space. They are looking to build for future needs. Looking at a diesel lab and an academy building. Those are the three major projects. Contractor has submitted 35% of the design drawings for the diesel lab in upstate NY.

Does DEC have sufficient staff and expertise to staff the heavy duty Automotive Emissions Laboratory (AEL) at NYSERDA's Saratoga Technology & Energy Park (STEP)?

Management's response:

5. Scheduling of L/M Meetings

Management's response:

The next meeting is scheduled for November 16, 2006 in Albany.

C. Unresolved Topics

1. Environmental Monitors

Will DEC prepare an Environmental Impact Statement for the proposed Commissioner Policy to replace Organization and Delegation Memo #92-10? In response to PEF's March 2004 request, has the Department assembled information regarding how many independent environmental monitors the Department has caused to be hired?

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?

Management's response: No further update. PEF stated the comments were two years old.

2. Health & Safety

Specific updates and actions on all outstanding H&S agenda items are itemized within the Statewide Health & Safety Labor/Management Committee meeting minutes which are available on the OER website and through the respective union representatives.

- a. PEF/encon requests written description of the NYS Threat Levels and security enhancements as implemented by the agency and Region. 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.

- b. 18 DEC employees are now 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); investigate and/or manage the cleanup of inactive hazardous waste sites.
- c. 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:

- b. Perhaps enhanced hazard duty pay can be negotiated in next contract.
- c. No indication as to when the AED program will be approved. Asking for 700 AED's units over the course of the plan. Feedback has been positive. Sizeable number of units will go into police and rangers. The plan was submitted last November with campgrounds being a high priority at a cost of slightly over \$2 million, which includes training and maintenance. This will involve full time jobs for about 5 people to maintain the 1400 volunteers if two people are trained for every unit.
- d. What is DEC doing to prepare for potential avian flu epidemic or pandemic? Will meetings and/or fieldwork be suspended to safeguard staff health? What provisions are being made to allow staff to work from home? Will DEC provided anti-viral medications to "essential" staff that will be required to work and exposed to avian flu and to family members of "essential" staff being required to work and exposed to avian flu?

Management's response:

DOH, SEMO, and GOER are addressing issues of how to identify critical functions and issue work. Administrative constraints would have to be overcome. CSEA cannot participate in any form of telecommuting. It's still in the planning stages. J. Lattanzio: There has been a mass vaccination exercise. Two more are planned for this fall. Karl B: Continuity of operations is an issue. Once response coordination is pulled into the meeting, they will discuss those issues. How to work from home and access data. Wayne: More Divisions are moving towards electronic filing. Proposal was received for starting the back up center.

- e. Right-to-Know (RTK): On December 12, 2003, PEF filed a statewide complaint with the Attorney General. On December 14, 2005 the Office of the Attorney General asked how DEC plans to identify the specific toxic substances to which employees are routinely exposed. Has DEC compiled the list of toxic substances that employees are routinely exposed to provide appropriate training material?

Management's response:

Under active investigation. We are in touch with the AG continuously and keep big PEF informed. Dave Persson: A letter was sent back to the department on Monday. Do you want a copy of it? Wayne: There are issues beyond the specific case regarding training. Joe Lattanzio: All those areas are being discussed in context of one response. At some point, it will spill over into other agencies. We believe we are doing far and above what any other agency was planning to do. Wayne: Conceptual planning, thinking discussion entering tier structure. People will be required to go through OSHA training. Joe Lattanzio: Those decisions have not been made yet. Working with AG attorney assigned and by PEF H & S. The problem is in interpretation of the language in the law and how it can be applied. Dave Persson offered another conference call. Joe Lattanzio expects that to happen few more times.

3. 625 Broadway

- a. PEF/encon requests that an electronic pedestrian crossing button be installed on Water Street.

Karl B: Part of a number of issues attempted on the local level but unresolved for a considerable amount of time. We would like to get operations people and building management in those meetings. Joe Lattanzio: Many of these things have to be accommodated through OGS. The city has refused to do cones on Orange and Columbia Streets.

- b. Will DEC promote the Web-based bulletin board of people seeking car pool partners, <http://www.commuter-register.or2>

Extension of wellness program. J. McKeon: as long as it's not prohibited, would support it conceptually. He will ask the web people about including it on an internal page. Wayne: understand they can do it. Joe Lattanzio: We ran one where at Wolf Road where only 5-6 people enrolled.

4. Office Moves

Region 4 is going well. Hope by end of this year. Joint L/M quality of life. Not a large issue.

- b. New Paltz will be up for bid by November. We are using the same architects that designed and oversaw construction of the Warrensburg office. Region 3 Director has agreed to form a group to share ideas and will involve employees in that process. Will the Region 2 office be relocated to the WTC site? Management didn't know.

PEF questioned the liability for not doing fire drills. Management's position has been that the drills are needed and the evacuations should be posted. PEF pointed out that the old plan is posted on the web page.

Region 4 issues were raised, including swipe cards. J. McKeon: The committee is a good group.