



March 7, 2003

Legislative Environmental Alert

Dear Honorable Legislator:

Commissioner Erin Crotty is initiating a new practice in the way that the Department of Environmental Conservation (DEC) will conduct environmental monitoring and enforcement actions. Because of this, seventy six (76) Environmental Monitor positions are being jeopardized by privatizing the important work they do safeguarding public health. We are calling on you to intercede and act swiftly to prevent this proposal from being implemented, because not only will it seriously threaten DEC's ability to protect the environment, it will lose the State money.

It is important to understand that the present Environmental Monitoring program doesn't cost the State a dime and is in fact bringing revenues into DEC. This is because the monitored companies are assessed the monitor's salary, fringe benefits and administrative overhead cost.

On February 10, 2003, Commissioner Crotty issued a hearing decision that revised a permit condition to allow the Waste Management Corporation to hire its own private contractor to monitor compliance, ensure public health, and protect the environment. This action conflicts with past practice wherein a DEC employee, answerable to a State agency rather than a profit motivated corporation, would have overseen compliance at the facility. The Commissioner also failed to provide public notice in advance of making this dramatic change in long standing public policy. PEF/encon strongly disagrees with characterizing this change as "non substantive."

Unfortunately, by removing daily on-site DEC staff oversight, the State's ability to initiate enforcement actions and subsequently levy fines will be hindered. In addition, sales and income tax revenues will be diminished, because many engineering/consulting firms are based out-of-state and do not employ New York State residents on staff. Therefore, Commissioner Crotty's privatization plan will not only jeopardize public health, it will lose New York State jobs and revenue at the very time it crucially needs both.

DEC's Environmental Monitors currently provide independent oversight of either: facilities, contractors, sites or regulated activities that have the potential to cause damage to the public health and/or the environment if not properly constructed, operated or implemented; or those facilities that have been found to be in significant violation by the Department during routine or complaint inspections. Examples of facilities with Environmental Monitors are landfills and incinerators which due to their size or other circumstances of concern justify the presence of an Environmental Monitor. All of DEC's Environmental Monitors are highly trained professionals that protect our land, air and water by implementing Environmental Conservation Law.

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Environmental Monitors oversee construction and waste disposal operations; review and approve construction certifications on behalf of the Department; review permit applications and modifications, operation & maintenance manuals, landfill closure reports, and Phase I and II reports. They provide case referrals for Notices of Violation and provide expert testimony on behalf of the Department at administrative, civil and criminal proceedings. They develop Orders on Consent and approve field changes to plans and reports. They issue approvals for each solid and/or hazardous waste stream that is to be accepted at a facility, as well as maintain and facilitate communication between DEC and the company. In addition to providing these oversight responsibilities, the Monitors answer phone calls from the public and respond to complaints regarding these sites in order to "enhance the health, safety and welfare of the people of the State and their overall economic and social well being."

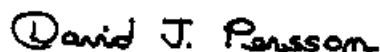
Currently, DEC's Environmental Monitor positions are funded by the facility where the Environmental Monitor works. DEC's new initiative on Environmental Monitors will allow the applicant to procure a "third party" (e.g., an environmental consulting/engineering firm) to arrange for or perform the environmental monitoring services. DEC staff would be relegated to oversight of the monitoring services provided by the third party firm.

But who will guard the guards? Environmental Monitoring requires oversight and proper management. The DEC watchdogs are answerable to the public and their elected representatives. DEC's new policy will reduce the consistency and accountability of the environmental monitors. Will these third party "watchdogs" bite the hand that feeds them? The Enron and Worldcom scandals would indicate the answer is probably not.

DEC's mission is to protect the public health of its citizens and the environment of New York State. This "Towpath" ruling will in no way serve the best interests of the citizens of New York State or the environment. Facilities will now be monitored by private companies paid directly by them with no allegiance to the public and no responsibility to protect the health and welfare of the citizens of New York.

PEF/encon Division 169 represents the Professional, Scientific and Technical employees within the New York State Department of Environmental Conservation. Our union leadership is prepared to discuss this important issue with you at any time.

Sincerely,



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