



**PEF/encon**



## **Comments As Delivered by Wayne Bayer for the 2-8-11 DEC Joint Fiscal Committees Budget Hearing**

Good Afternoon Everyone! I am speaking in my role as an Executive Board Representative of Division 169 (PEF/encon) of the NYS Public Employees Federation, AFL/CIO, representing the Professional, Scientific and Technical Staff at DEC—which includes approximately 1800 of the remaining 3003 employees at DEC. This is down by 451 from the 3-31-10 staffing level as indicated in the Joint Fiscal Committee's Staff Analysis of the Executive Budget. As other presenters have indicated, we are cut to the bone and a shadow of what we once were, operating by triage management and performing less than desired oversight in fulfilling our regulatory functions.

How did we get to this point? Members of this Committee are much too young to remember Dwight David Eisenhower as President. However, you all were undoubtedly good students of American History and recall that the top individual income tax rate in 1953 was 92%. The Capital Gains Tax Rates were not treated differently then—the top rate was also 92%. Today the top rates are 35% for federal income taxes and 15% for capital gains. The Eisenhower presidency corresponded with one of the greatest growth rates in the middle class, private home ownership and the number of high school students going on to college. In Ike's day, the combined tax burden on the typical median family was 20%; by 2003 it was 40%.

This year there is strong support in powerful circles (though not in the circles of the average Susie and Joe Citizen, if you believe polling data) for cutting the tax rates for the wealthy by eliminating the temporary surcharge on upper income tax levels. PEF opposes that tax cut because PEF believes that a big part of NYS's budget deficit problems stem from a revenue-- and not a spending problem.

For a number of years, PEF/encon has warned in this and other legislative forums about the uncapped Brown Fields tax credits creating significant negative downward economic pressures on NYS's budget. Yesterday, the Albany Times Union (with great research assistance by Alison Jenkins and her colleagues at EANY) had a front page story by Brian Nearing documenting the costs and minimal environmental benefit from this poorly written and then poorly amended legislation. An editorial in today's Daily Gazette voiced similar concern.

Focusing on one project discussed in the TU article--the \$550 million luxury Ritz Carlton Hotel, office and residential complex in White Plains. If you took just 13% of \$114 million in tax credits they received, you could have easily off-set the \$14.3 million reduction in adjusted appropriations in DEC's personal services budget and kept our staffing level higher. {Note for remark not included. The total uncapped liability for these tax credits could approach \$ 3 Billion!}

All of the concerns expressed in the now infamous Pete Grannis memo that reached the press in October are still operative and have been made worse by the layoffs that took place in December.

As usual, it's difficult in this time period to mention many specific problems with this budget.

Here are a few:

## **Fish Hatcheries**

Division of Fish, Wildlife and Marine Resources is primarily funded by the Conservation Fund which is presently in the black. Last year there was finally an increase in the sporting license fee that came with a promise of no reductions in fish stocking. However, fish production has already been cut:

1. Raquette Lake trout egg take was not conducted. This will result in no yearlings being available to be stocked in 2012.
2. The egg take of landlocked Atlantic salmon at Adirondack Hatchery was reduced and focused primarily on obtaining eggs from the captive broodstock. The reduced egg take will result in no fry being available to stock into Lake Champlain tribs in spring 2011.

## **Food and Drug Administration (FDA) Growing Concerns over Marine Resources**

PEF/encon thanks Senator Marcellino for his comments earlier today addressing the staffing shortages in DEC's Bureau of Marine Resources. We share the concern raised by the U.S. FDA's most recent annual evaluation of the NYS shellfish sanitation program where FDA evaluators continued to express concerns about:

The capacity of the "growing area classification element" to perform its primary task of conducting sanitary surveys (monitoring water quality) in nearly 1 million acres of certified shellfish harvest areas to assure they meet stringent NYS and national bacteriological standards; and,

The capacity of the "shellfish shipper (plant) inspection element" to conduct semi-annual sanitation and records inspections at more than 300 small businesses all around NYS to assure compliance with NYS and national shellfish sanitation program (NSSP) standards.

Both program elements perform personnel-intensive field work that directly protects the health of consumers of NYS shellfish products, within NY and in other states where NY shellfish are distributed in interstate commerce; and thereby provides direct support to the several hundred small businesses (harvesters and wholesale shellfish shippers & processors).

\*\*{See attached for more information}

## **Drilling for Natural Gas in the Marcellus and Utica Shale Formations with Hydrofracking**

If the revised GEIS was released tomorrow, NYS and DEC would still be unprepared to move ahead with new permits and drilling because there have not been the necessary statutory and regulatory changes made and DEC does not have more than a token number of staff to be assigned to this endeavor without dramatically reassigning overstretched resources from other critical tasks and missions. PEF/encon believes the extraction fee on the use of this valuable natural resource is too low in comparison to the industry rates in other states.

## **Article VII Bills**

PEF supports the TED Part (Q) authorizations for NYSERDA to finance DEC's Climate Change Program through a special assessment on gas and electric companies and PEF supports Part (S) which will make permanent the current time frames for review of pesticide production registration applications and pesticide product registration fees. Absent this bill there would be a loss of approximately \$7 million from the financial plan (with \$5 million to the EPF and the remaining fees to the Environmental Regulatory Account.

### **Belleayre Layoffs and Volunteers**

PEF/encon thanks Assemblyman Cahill for his strong support of Belleayre and the DEC employees laid off and forced to give up permanent status for seasonal employment status.

We are getting reports of the dedication of DEC staff committed to the work they do volunteering their time without pay, to help Belleayre with its staffing and operating needs in the face of reductions. There are also some recent central office retirees working on their own time to complete research and other projects that they started before retiring but are committed to finishing for the benefit of DEC and environmental programs.

### **Contracting Out/Consulting Services**

Analysis of the DEC Budget by PEF's central office staff indicates that DEC employs the equivalent of 3037 employees under consultant contracts in SFY 2010-2011 at a cost of \$33 million dollars. The estimate for SFY 2011-2012 is for the equivalent of 3025 consultants with the same cost of \$33 million

PEF/encon thanks you for the opportunity to present these comments and observations. I will be happy to attempt to respond to any questions you may have now or in the future as will my colleagues at PEF/encon.

Submitted by Wayne Bayer

PEF Executive Board Representative for DEC Central Office

\*\*Additional information from FDA report on problems with shell fishing in Long Island.

Excerpt from FDA cover letter to DEC Commissioner:

"FDA encourages the Department of Environmental Conservation to invest the necessary resources to keep the Growing Area Classification Program and Plant Inspection Program in compliance. As noted in the New or Emerging Problems/Issues Section of the enclosed report, **the FDA is specifically concerned with two issues: 1) the loss of staff in the Growing Area Classification Unit and Plant Inspection Unit; and 2) the state's new funding/procurement procedures which may delay vital purchases, thus seriously jeopardizing the program's ability to meet the sanitary survey requirements of the NSSP MO as well as maintaining the marine biotoxin monitoring program, both of which are critical in protecting public health.**"

Excerpts from FDA Annual Program Evaluation Report sent to DEC Commissioner:

Page 13 - **"Current staffing levels of Growing Area Classification Unit may have the unit stretched to its operating limits."**

Page 15 - **"FDA is concerned that staffing levels within the Shellfish Plant Inspection Unit is stretched beyond operating limits.** During FY2010, the Shellfish Plant Inspection Unit staffing included one Food Inspector 2 and three Food Inspector 1s. One Food Inspector 1 position remained vacant; however on January 12, 2011, a Food Inspector [in that Unit] passed away, leaving the Shellfish Plant Inspection Unit with a total of two (2) vacancies." As recently as Aug. 2008, that Unit had 4 Food Inspectors to conduct the required inspections throughout NYS.

Failure to meet the NSSP's requirements for sampling in shellfish harvesting areas or perform standardized inspections at wholesale shellfish shippers & processors at minimum frequencies specified by the NSSP, as verified by annual FDA evaluation of DEC's shellfish programs, can result in NYS shellfish products being banned from interstate commerce and would also diminish consumer confidence within NYS, with significant adverse economic impacts on several hundred small businesses that make up NY's shellfish industry.