

**STATEWIDE PEF/NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL  
CONSERVATION LABOR/MANAGEMENT – Meeting Minutes**

**December 5, 2013**

Attendance:

**PEF:**

Alexander Becker, Region 2  
George Stadnik, Region 2, Exec. Board (Regions 1-4)  
Keith Browne, Region 3, Div. 169 Leader  
Joseph Battista, Region 3, Div. 169 Secretary  
Christopher O'Neill, Region 4  
Frank Flack, Region 6, Exec. Board (Regions 5-9)  
Rich Coriale, Region 6  
Don Nelson, Region 7  
James Sacco, Region 9  
Mike Calaban, Albany  
Holly Clark, Albany  
Denise Hobson, Albany, Div. 169 Treasurer  
Bruce Giddings, Albany  
Timothy LeBarron, Albany  
Rob McDonough, Albany, LM Co-Chair, Exec. Board (Central Office)  
Antoinette Norfleet, Albany  
Sharon Parker, PEF  
Debra Greenberg, PEF Field Representative

**Management:**

Mark Cadrette, DEC Director of Employee Relations  
Paula Laime, DEC Employee Relations  
Anne Reynolds, DEC Deputy Commissioner of Administration  
Robert Schick, Director, Division of Environmental Remediation  
Michael Ryan, Assistant Director, Division of Environmental Remediation  
Michelle Glover-Brown, DEC Director of Occupational Health and Safety  
Nina White, DEC Employee Relations  
Alison Crocker, Office of General Counsel

**PEF's questions and statements are in bold faced type. The information placed in [brackets] consists of issues from prior L/M meetings retained for additional discussion or for which a response is forthcoming.**

*Management's responses are in italics.*

**Agenda Discussion**

*Management said that they did not agree to PEF's agenda and distributed their own proposed*

agenda at the meeting. The agenda was not presented to management two weeks in advance and there are items on the agenda that have already been asked and answered. Other items like the health and safety (H&S) topics should not have been on the agenda and should be referred to the H&S Committee. Management said that there are H&S topics that get discussed here that have never appeared on the statewide H&S agenda. Specifically, PEF has not put committee representation on the agenda for the H&S committee. Management's position is that these issues should be addressed in a different forum. We should deal with things at the lowest level and when we cannot, we will move them to this level.

**PEF and management brought different agendas to the meeting. In regard to the H&S agenda change provided by Management less than 24 hours before the L/M meeting, PEF indicated that when issues have not been successfully negotiated in a lower forum, they will be discussed at this forum. If Management and PEF already disagree on the issues in a prior L/M meeting, it belongs in the L/M meeting to resolve or move to a higher level.**

### **1. PEF Labor Management Committee Issues**

**PEF proposed the following meeting dates for 2014:**

- 1. March 13 - Central Office**
- 2. June 12 - Central Office**
- 3. September 11 - Region (Stony Brook, Long Island City, or Syracuse)**
- 4. November 20 - Central Office**

*Management's response: Management agrees to the March 13 and June 12 dates. Management wants to have only two meetings during the upcoming year, the minimum number required in the PS&T contract. Management stated that the most recent labor/management agreement expired a number of years ago and absent a current L/M agreement feels the meeting frequency default should be the two annual meetings, the minimum number required in the PS&T contract. Management agreed to supply the PEF field representative with a copy of the expired agreement. The reasons for two meetings are efficiency, getting through the agenda, and getting minutes produced in a timely fashion.*

*Management feels that eliminating duplicative agenda items and/or addressing routine questions between meetings would eliminate the need for more than two formal meetings per year. Management stated that the frequency of meetings is already outlined in the contract, two meetings minimum, and is not aware of an open ended agreement. If there is an existing open agreement we will maintain that commitment. Management stated that they have approached PEF about a new labor/management agreement and have not heard anything.*

**PEF believes that four meetings are appropriate because many issues have not been addressed and due to the diverse topics that need to be addressed. PEF is not aware of the current labor/management agreement that Management is referring to and expects**

**management to produce a signed copy of this agreement. Until that time, PEF expects the existing agreement to be complied with in terms of four meetings per year. PEF stated that changes from current practice must be negotiated and not mandated by Management and that management is being disrespectful of the process. The PEF L/M co-chair shared that when he began work as co-chair he requested establishing an updated L/M agreement and Management was not interested. PEF wants to sit down and have a smaller meeting and discuss the two agreements (H&S and LM), but expects a discussion and not a mandate from management. The proposed meeting dates for September 11 and November 20 will remain until after the discussion.**

## **2. Fill Levels/Hiring/Waivers**

**Please describe the budget planning process in terms of addressing new program and staffing needs:**

### **During the fiscal year?**

*Management's response: Management answered this question during a previous meeting.*

**PEF's Response: It is a different question that specifically asks how the Department would request changes to the budget for hiring a large number of staff needed when a new program gets added and/or many additional staff are suddenly needed. This would be the case for responding to a new invasive species or to an activity like hydrofracking if it was allowed in NYS in the middle of the fiscal year. How would the requests for additional funding and staff be handled under the current budget constraints?**

*Management's response: Changes to fill level are addressed by the critical fill process.*

### **In preparation of the upcoming fiscal year?**

*Management's response: We are under pretty specific constraints. We received a budget request letter from the Division of Budget (DOB) stating it has to be a flat budget. Staff salaries are scheduled to increase by 2% in April, so we had to reduce costs elsewhere to offset the increase. The limitations in the budget are both the fill level and cash limit.*

*Management described the critical fill process. Not every vacant position will be re-filled. Some positions will be moved around to where they are most needed. For the last round of critical fills, we looked at the fill level and attrition rate and then we will make a case to budget after the projection. We have solicited fill requests and asked division and regional directors to prioritize. Division and regional directors develop a master list of fills. DEC has sent requests to DOB for more positions, but DOB has been unresponsive, maintaining that the budget must be flat.*

*Management gave further examples of these constraints such as with super storm Sandy, whereby much of the federal funds for restoration work go to the Army Corp. or to local municipalities and do not cover our workloads. Also, federal grants will be reduced by 5% next fiscal year. In addition, we have cash ceilings on certain state appropriations that are lower than the appropriations.*

**Is the General Fund funding level what is limiting the DEC fill levels?**

*Management's response: It is a combination of appropriation of funds and the cash ceiling. The cash ceiling limits us. With sequestration, federal grants have been reduced by 5% and they are on a lag. Federal grants are tighter than they were. Special Revenue accounts are way in the red. The Conservation Fund actually has money in it.*

**What is the current FTE fill level?**

*Management's response: Management said this question was asked and answered at the previous meeting. Here are the numbers: 2,899 current fill level, 22 unrestricted positions approved, 32 promotions approved.*

**It was stated that the DEC does not track the number of contract employees that work for the DEC or the number of contract employees who are provided with desks at DEC offices. Is the DEC required to track the costs of consultants/contractors working for the agency? If so, why wasn't this information provided at the last L/M meeting (please provide)? If not, how does the agency review and determine that programs are efficiently using funding for its mission?**

**[PEF had requested the number of contract staff who perform DEC work? Please specify the numbers of full-time and part-time contract employees. How many of these contract employees are provided with desks at DEC offices?]**

*Management's Response: This question has been previously asked and answered. The DEC does not track the cost of contracting and does not report contracting costs to the Legislature. Contract costs come out of the nonpersonal services budget, which is allocated by division. Division directors and their staff determine which work will be given to consultants and other contractors.*

**PEF continues to have concerns about the Biologist 1 exam scoring. Why does the department value and score higher a candidate with an advanced degree over one with significant work experience, sometimes experience gained directly in the Bio 1 job title, for an entry level job? The scoring process took over 18 months and both the Dept and Civil service did part of the scoring. This seems to cause confusion for the candidates. Why wasn't the information submitted by candidates to civil service (ex, academic transcripts)**

**shared with the DEC? How many other DEC titles are scored by 2 different agencies?**

*Management's response: This question was previously asked and answered. There are four parenthesis, including marine. The rating scale and criteria are confidential, but we can share that there was a cap of points given for each criterion. For example, professional level experience within the specific list of discipline areas is capped at 12 months. The criteria have a cap to ensure a fair rating scale. It's also our understanding that Civil Service has provided additional clarification on this issue directly to PEF HQ.*

**3. Environmental Monitor Policy – (Not discussed at Sept. 2013 L/M meeting due to time constraints)**

**PEF/encon received a copy of the revised, draft “Environmental Monitoring Services” policy on August 29, 2013. PEF will provide a complete review and response to the proposed policy at a later date. For the purposes of L/M discussions, PEF/encon requests information on the following:**

*The Division and Assistant Division Directors of the Division of Environmental Remediation participated in a question and answer conversation on this topic.*

**What is the purpose of the 4 categories “Types” of monitors?**

*Management's Response: DER cannot tell you how this was arrived at. Type I are Department employees. DER has 8 of them. Type II are non-for-profits or quasi-agency employees. Type III are contractors hired by the Department and Type IV are contractors hired by the facility being monitored.*

**Do the monitored facilities pay for the environmental monitors?**

*Management's Response: Yes*

**Was there a purpose for developing categories three and four, where private contractors are used as monitors?**

*Management's Response: Current DER management does not know and was not involved in the development of these categories. The manager who developed the policy has since retired from the DEC.*

**Could Type I monitors be used in most or all circumstances requiring environmental monitoring? Are there examples of when they cannot be used?**

*Management's response: The decision on whether to use DEC staff as environmental monitors is based on staff availability and the duration of each monitoring project. For example, DEC would not hire a state employee to monitor a short-term project. DER currently has eight environmental monitors.*

**PEF is concerned that contractors will be hired as environmental monitors only because the DEC cannot hire enough state employees because DOB won't increase the fill-level. Is budgeting driving the use of the non-state employees in categories 2, 3, and 4?**

*Management's response: Current DER management is not sure how the categories were developed. Short-term projects would use these categories because we do not have the staff to do it.*

**Who would review the work of contracted environmental monitors and what would that review involve?**

*Management's response: Each monitor reports to a DEC manager. The DEC manager signs off on the monitor's reports.*

**How would DER prevent conflicts of interest, confidentiality and ethics when using non-DEC monitors?**

*Management's response: It would have to be reviewed on a case by case basis. We have a conflict of interest check that has to happen before we would task a consultant with that role.*

**PEF is concerned we are going back to an abandoned policy from 2003.**

*Management's response: Current DER management was not involved in the development of the policy and does not have the background to answer that.*

**Why did DER transfer RCRA inspector training from in-house staff to a contractor? DEC employees who have experience in RCRA inspections would provide better training than a contractor at a cheaper cost (\$~10,000 in-house vs. AECOMM contract of ~\$200,000 which required substantial DEC staff time to complete)**

*Management's response: There were no formal in-house information and staff was not able to do this task so we reached out for research etc. There was very little documentation so the best way to do it was through a consultant. Consultants provided resources and they handed us what we told them to give us. They provided training documents for use in a future training program. This was a one-time effort and moving forward we will train employees with something that is tailored to our needs.*

**The State Superfund received its final appropriation in Fiscal Year ending (FYE) 3/31/2013. No new State Superfund money was included in the budget for FYE 3/31/2014 (usually approximately \$120 million is provided). How much unencumbered money remains in the State Superfund?**

*Management's response: Management recognizes the need \$200 to \$300 million dollars to keep it funded. How it gets funded is part of a broader discussion. We have ideas of what we like to*

*see and want to see this program continue.*

**PEF asked in terms of broader discussions there are opportunities where the union can assist in getting funding and so if there are any problems consider us to work with DER to get additional funding.**

**How much time remains before the unencumbered State Superfund money runs out?**

*Management's response: We have funding for this fiscal year and the next fiscal year.*

**Will new State Superfund money be included in the Governor's proposed budget for FYE 3/31/2015?**

*Management's response: Management does not know.*

#### **4. Health & Safety**

**PEF/encon representatives have historically been and continue to be advocates for DEC's Health & Safety issues and participants in local and agency level H&S meetings. Management has stated that PEF has too many representatives in joint, local-level L/M safety meetings in Central Office and Region 6. In recent local L/M H&S meetings, management has denied PEF representatives access to the meeting, by name and also by number of representatives. Recognizing that management has refused to meet on at least 2 occasions to discuss this since the last L/M meeting, PEF requests that management provide any factual basis for its unilateral decision in reducing PEF representation on the basis that additional PEF representation and participation reduces joint local-level H&S meetings productivity.**

*Management's response: Management wants this issue and other health and safety issues to be addressed in the local and statewide health and safety committee meetings. Health and safety issues should only be brought to this forum if they cannot be resolved in the health and safety committee meetings.*

**What is the current Health & Safety budget allocated for H & S needs and requests for fiscal year 2013-14? What is the current balance?**

*Management's response: Not discussed*

**For over a year, the Department has had a draft clothing policy to finalize and implement. What is the hold up?  
[When will the clothing policy (ie: protective and field work clothing) be released?]**

*Management's response: Management shared that a policy has been put together for the Commissioner's review. The policy has been drafted and presented to Executive Deputy Commissioner. He felt it was too generic and wanted loop holes closed, so management has taken another crack at it. PEF asked that Management provide PEF with a draft of the clothing policy.*

**PEF requests that local H & S meetings be returned to its prior functionality with 3 L/M co-chairs (Management, PEF & CSEA) running the joint, local-level L/M meeting and the influence of the Health & Safety Director in controlling the meetings be removed.**

*Not discussed*

**Is medical monitoring being refused for employees that once had medical monitoring in the past? If so, please describe the circumstances/justification for the refusal? [requested at prior meeting and no response was provided]**

*Not discussed*

**PEF/encon requests a Work Place Violence program report and any other information or criteria available to review the progress of the program and its implementation.**

*Management's response: We will be conducting an annual Department-wide review of the program this coming February. We will send a reminder note to the regional directors indicating it is time for them to meet with their committees to review risk assessment, recommend changes in training needs, workplace violence incident reports, etc. Regional directors will also report back with infrastructure needs and security issues, such as lighting and locks. In February, management will do an overall department review and discuss the department issues.*

*To augment the online training, we are likely to present some training on active shooters. The Albany Police Department provides the training. The training would be voluntary, as the videos are very graphic.*

## **5. Other**

**DEC Warehouse - OGS is taking over the DEC warehouse. DEC's entire inventory in the warehouse which consists of valuable records, program history and files, irreplaceable aerial photography, and other invaluable records that the Department cannot fit into 625 Broadway has been directed to be removed. Where will this information go, how will staff access it, and what is management doing to preserve these valuable and still relied upon and used resources? Who made this decision?**

*Management's response: Staff needs are very important considerations, but the warehouse materials need to be tagged in order to stay in the warehouse. DEC is being given a lot less*

space than we have now, but will still have some space. OGS told DEC to consolidate and share space with other agencies. DEC has a goal to reduce warehouse space. There was a good effort over the summer to remove materials from the warehouse. For example, excess furniture was sold on EBay. OGS came through again and said it wasn't good enough. OGS said no office supplies are to be stored in the warehouse and all records need to go to the records center. The new deadline is for OGS to re-inspect the space on January 6th. If we can tell OGS that we still need space for the critical documents being discussed, then we will do our best to keep them in the warehouse. A lot of records still need to be moved, and broken items need to be moved out. Divisions/Programs need to tag items as "important" if there is any chance of keeping those materials in the warehouse. Each Division has 2 days assigned to go through their stuff again. There is very little storage space at 625 Broadway since "re-stacking". The use of other facilities for DEC storage needs may be possible. DEC may also convert some documents into electronic format. An image management system is needed for DEC in order to save important documents, images, plans, etc.

**PEF asked for copies of all directives when they are issued. Providing these directives will enable stewards to field questions from our membership.**

*Management's response: Management agreed to this request. We should have provided PEF with a copy of the warehouse directive.*

**Telecommuting update?**

*Management's response: Management responded the Commissioner did say he would be interested in a task specific telecommuting program. A draft policy has been developed and is being reviewed by the Executive Deputy Commissioner. The draft policy will be shared with PEF before resubmission to the Commissioner. Management will provide PEF with a date that PEF should expect to receive the draft policy.*

**According to the T&A Manual, there are provisions for telecommuting for temporary situations like medical issues. There is a PEF Steward who has a torn Achilles and it would seem that he would be a prime candidate for a temporary telecommuting option. His request was rejected by management.**

*Management's response: In this particular case, the employee had a doctor's note indicating that he cannot work. If he cannot work, he is not allowed to work from home.*

**Parking - Is there any new information on parking in areas recently identified with inadequate parking for staff?**

**Region 2 office?**

*Management's response: A grievance has been submitted and is moving through the*

process.

**Region 6 - Utica office?**

*Management's response: We are unaware of any issues and have not received a grievance to data.*

**Central Office - are there any updates on parking for DEC staff in Central Office coming from OGS review or provided by the parking committee dealing with agency parking in Albany?**

*Management's response: No new information*

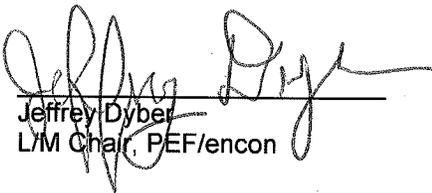
**PEF asked for an update on the lighting problems in the Water Street parking lot. PEF is concerned about the potential for injuries if employees cannot see icy pavement due to poor lighting. PEF appreciates the quick response to this issue.**

*Management's response: Information on this issue was circulated to staff. However, we don't know why this happens every day at 5:00 p.m.*



Mark Cadrette  
Director of Employee Relations  
Department of Environmental Conservation

Date: 7/23/2014



Jeffrey Dyber  
L/M Chair, PEF/encon

Date 7/23/2014