

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

**June 27, 2013**

Attendance:

**PEF:**

Carl Fritz, Region 1  
George Stadnik, Region 2, Exec. Board (Regions 1-4)  
Keith Browne, Region 3, Div. 169 Council Leader  
Terry Tyoe, Region 6, Div. 169 Assistant Council Leader  
Christopher O'Neil, Region 4  
Richard Coriale, Region 6  
Frank Flack, Region 6, Exec. Board (Regions 5-9)  
Holly Clark, Albany  
Jeffrey Dyber, Albany, LM Co-Chair  
Bruce Giddings, Albany  
Kevin Hintz, Regional Coordinator, PEF Region 1  
Denise Hobson, Chief Shop Steward, Central Office  
Timothy LeBarron, Albany  
Rob McDonough, Albany, LM Co-Chair, Exec. Board (Central Office)  
Antoinette Norfleet, Albany  
William Wurster, Albany  
Sal Priore, Albany  
Debra Greenberg, PEF Field Representative  
Karen Conti, PEF Recorder

**Management:**

Mark Cadrette, DEC Director of Employee Relations  
Jennifer Brantigan, Office of General Counsel  
Marlene Agnew, Director of Personnel  
Nancy Lussier, Director Management & Budget  
Juan Abadia, Affirmative Action Administrator 3  
Alison Crocker, Deputy 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.**

**1. PEF Labor Management Committee Issues**

**Proposed dates for 2013:**

- **September 12 in Region 5? Possibly Lake George Area? We can make arrangements as the meeting gets closer.**
- **December 5?**

*Management's response: September 12 should work. Management indicated that December 5 should not be a problem, but they will check and confirm.*

**2. Environmental Monitor Policy**

**It is PEF/encon's understanding that a new/revised environmental monitor policy is being drafted. Does this policy address/incorporate the numerous public comments (including PEF's) when DEC noticed the draft monitor policy in 2004?**

*Management's response: The draft revised monitor policy was introduced at the DD/RD meeting on June 20, 2013. Dave Vitale is leading the internal review. Public notice is due in July – to be published in the ENB. Public comments will be received at that time.*

**PEF/encon requests to be involved with the workgroup drafting the policy. PEF always wants the opportunity to participate in workgroups and be involved in writing policy.**

*Management's response: The workgroup's work is complete and the draft has gone to the Division Directors and Regional Directors for review. Dave Vitale gave a brief summary in last RD/DD meeting. Internal comments are due back by July 10.*

**When is this policy expected to go to public notice? (PEF/encon requests to be notified when the public comment period starts) Can you provide PEF/encon with a copy of the policy? We would like to review the policy in more detail, as a change in this policy impacts programs, staffing levels and stakeholders. It is PEF/encon's position that there are significant issues with the proposed changes in the draft environmental monitoring policy that need to be addressed. PEF/encon will review and coordinate a response.**

*Management's response: The policy should be published in the July 10 issue of the ENB and that Dave Vitale can provide PEF with a copy of the policy. Management indicated that there are no significant changes to the policy.*

**3. Fill Levels/Hiring/Waivers**

**How many DEC positions are currently filled? Could you provide numbers on attrition, the ranger academy and expected waivers over the next quarter? Has the fill-level changed/what is it currently at?**

*Management's response: The Department has 2,920 full-time equivalent positions (FTE's) filled and has had 57 attritions year-to-date, which is more than the 23 that were anticipated. The Department's allowable fill level is unchanged at 2916 BFL's. IT personnel who have been moved to the Office of Information Technology Services (ITS) are no longer included in our fill level. The fill level is independent of funding source. Fifty positions were approved to conduct an academy for 18 rangers and 32 Environmental Conservation Officers (ECOs). Academy attendees can be replaced if they drop out within the first two weeks.*

*We expect to submit a critical fill package soon. 2919 FTE – BFL (max fill level established for agency) which includes monitors – contractors don't count against FTE's or BFL. BFL's represent all funding sources. BFL numbers are available on-line.*

*E-Licensing will take over DECAL in December. 74 OITS positions were taken out of our BFL which used to be 2983.*

**Seasonal Fills –**

**Total Intern Positions filled:**

**Total Seasonal Items filled:**

*Management's response: The Department has an estimated fill level of 1,200 hourly positions for the summer season. Interns are generally hourly positions and are not tracked separately. However, some interns are employed through a cooperative agreement with their schools.*

**Is there any update on exam dates for titles where position specific profiles had been established and used? Is there any information available on what will replace these outdated PSP's? Specifically, an update on the Environmental Engineer 3 (EE3), Environmental Engineer 4 (EE4), Biologist 2 and Biologist 3 exams. When will the exams be given? How will the new exams be different from the previous exams?**

*Management's response:* The Department has decided to wait a year to give the EE3 and EE4 exams to allow recently promoted EE2's the opportunity to take the exam. The Department of Civil Service (DCS) has not determined how the exams with position-specific profiles will change. DCS has been losing staff and has not been proactive in giving new exams.

**In planning for and during the interview process, describe how decisions are made between candidates when merit (testing, education, & experience) are considered along with affirmative action and protected class considerations or requirements?**

*Management's response:* The Department can only appoint candidates who are reachable on the civil service list for the position being filled. If a program manager recommends that a non-protected class candidate be appointed when protected class candidates are reachable on the civil service list, the manager must provide written justification for selecting the preferred candidate over the protected class candidate(s). The AAO reviews these justifications and can object if he does not agree. Also, DEC is using hourly jobs to increase diversity -- with a goal of 1 per 20 -- by increasing the sensitivity to increased diversity among interviewers provided some statistics about the percentage of protected class employees in State government and indicated that the percentages have not increased from 1995 to 2013 (reference made to a McCall report). Also, in 2001 less than 35% of professionals at DEC were female and today more than 53% of professionals at DEC are female. Article 5 of the N.Y.S. constitution governs the hiring process.

Provisional appointments are done by program based on management recommendation. As long as the provisional candidates are qualified, the best candidate is selected by program and the justification is sent to Personnel and the Office of Affirmative Action for approval. Any alleged violations of the process should be forwarded to Personnel.

#### **4. Budget**

**Requesting a budget update - any changes to the 2013-14 budget.**

*Management's response:* There have been no changes to the budget, as enacted. Allocations were given to the programs. There was no cash increase to the budget and all budget controls are in place. The budget can best be described as "flat." The enacted budget is available on Insite.

**In consideration of impacts following the federal budget sequestration on funding of DEC programs, can you provide information on how these cuts in federal funding are affecting DEC programs? Fill levels? PEF is also concerned that the change in federal fringe rates will impact our programs.**

*Management's response:* The Department has received little information from the Federal government. Management estimates the reductions at about 5% or \$1.9 million across EPA grants. The EPA has been pressing the Department to submit grant applications. Fish and Wildlife and Forestry grants are multi-year long-term grants, so they may not be affected this year – could take program hits in 2014-15 instead.

Management said that the federal fringe rate has increase from 50 to 58% because of insurance, retirement costs, etc. affecting SR accounts. This is an issue because it can impact the funds available from grants as well, reducing the number of employees that can be hired or funds available to get the same amount of work done.

#### **State Superfund - update**

**[The State Superfund received its final appropriation in Fiscal Year ending 3/31/2013. No new State Superfund money was included in the budget for Fiscal Year ending 3/31/2014 (usually approximately \$120 million is provided). How much unencumbered money remains in the State Superfund? How much time remains before the unencumbered State Superfund money runs out? What is the Department's plan to reauthorize the State Superfund and what steps have been taken to date?]**

*Management's response:* There were no new appropriations in the approved budget. The State Superfund has a balance of \$295 million of the original appropriation of \$1.2 billion, of which \$95 million has been encumbered. The fund allocates \$30 million per year for personnel. While there is appropriation authority available, reauthorization of Superfund does not have an immediate financial need.

**When will the Department inform Department staff via email that employees G22 and below do not have to change their schedules with less than 2 weeks notice to avoid payment of overtime? Please**

**add all PEF employees to this request.**

**PEF requested that the Department please explicitly inform all Divisions including Regional Directors, Bureau Directors and Section Chiefs on the AWS policy and make sure that overtime is being paid to OT eligible staff and that they are not being coerced into waiving overtime payment under the "being a team player" routine by adjusting work schedules to avoid payment of worked overtime. We have received confirmation that employees continue to be asked and expected to adjust their work schedules to avoid overtime payment with less than 2 weeks notice. PEF/encon will provide Mr. Cadrette with specific information regarding this issue. ]**

*Management's response: This issue will be addressed an upcoming division director/regional director (DD/RD) meeting and will issue correspondence after the meeting. Employee Relations has spoken with managers in the Division of Water, who do not agree that this problem is common in their division. Management wants specifics and asked for the document demand to be narrowed down to bureaus of concern.*

**5. Pollution and Energy Reduction Committee (PERC):**

**PEF requests that the subject of telecommuting be returned to the L/M process to be discussed in a manner that supports development and implementation of a telecommuting program in the Department. When will this occur?**

**[Prior item description- Under ECL, § 3-0301.1.gg effective on April 1, 1984 the Department was charged, in part with the development of a plan to maximize use of telecommuting to conserve energy otherwise used by the personnel of the department in commuting to their assigned workplace. A telecommuting program is necessary and an appropriate subject for labor management meetings. When will the plan to maximize telecommuting in the agency be addressed as required decades ago by the Legislature? This is a request for a response describing the Department's progress in the development of a telecommuting program in DEC, who is in charge of developing telecommuting in the Department, and when it will be brought into the L/M forum? If there has not been any progress, please provide information specific to why the program is not moving forward and who or what decisions are being made that are delaying or impeding the development of the program?]**

*Management's response: Management indicated that Commissioner Martens stated that he would bring the subject back to his executive circle. Management will seek an update from Deputy Executive Marc Gerstman.*

**In working with the EPAC committee, the department developed and considered a number of workforce programs designed at reducing emissions, traffic congestion and the overall environment while providing alternative schedules and commuting options to employees. The Department provided these steps to the public on "Green Your Commute" Day. Please elaborate on where each of these programs currently stand in terms of approval, additional development, or implementation within this agency? What are the Department's plans for these programs in the near future? Long term?**

*Management's response: The following EPAC recommendations were approved: alternate (remote) work locations and encouraging car pooling. Concern is that remote supervision needs to be worked out. A four day CPP work week is a non-starter. None of the other recommendations were approved.*

**Are there any improvements being made to allow for more flexibility to making changes to or appeals under the CPP program? If not, why not?**

*Management's response: Management will not be making any changes to this program. Management indicated that allowing for more flexibility would cause an administrative burden. There is interest in opening CPP to supervisors.*

**6. Parking:**

**Are there any updates on needed improvements to address the lack of parking for DEC staff at the Region 2 office? Also, the parking garage for the Region 6 office in Utica has been torn down? Will DEC provide replacement parking?**

*Management's response: Management indicated that, as has been reported at this meeting previously, the loss of the annex office space will result in a reduction in parking spaces. Management will look into the parking situation at the Utica office.*

**Are there any updates on 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 updates.

**7. Staff Communications with Public**

**Awaiting information requested below. Additionally, requesting training/assistance regarding the potential for media/press interaction when employees are performing job duties.**

**[Prior item - Many of our staff attend public meetings, hearings and other venues where they are expected to provide information to people relating to the programs, laws and regulations that our members professionally work in. Could you please provide all relevant existing policies that apply to DEC employees when representing the Department including speaking and written comments released or otherwise available to the public.]**

Management's response: The Department has no policy, except that no employees are authorized to speak with the press. The Department supports staff, who through the course of their duties, need to address the public in their official capacities.

**8. Health & Safety**

**Please provide any updates on medical monitoring, hearing tests, and fit testing.**

Management's response: No updates.

**9. DEC's Use of Contractors to Perform Agency Work**

**[Prior item description - The Department continues to pursue the use of contractors to fill job duties and positions previously filled through Civil Service titles within the DEC. The State has been operating under a hiring freeze yet, continues to pursue the outsourcing of jobs for permanent and continuous employment specific to existing civil service titles. Outsourcing DEC's work has been demonstrated to DEC Executive in this L/M forum to cost New York State taxpayers more and has been proven and backed in audits by the Office of the State Comptroller. With a hiring freeze in place, fiscal constraints, and the knowledge of the additional cost of outsourcing, why is the Department continuing to seek opportunities to outsource existing functionality of the State workforce?]**

**[Prior item description - As an example, instead of hiring more civil servants to do inspections under the RCRA program, the Department has entered into a \$200,000 contract with AECOM to develop training programs to train our staff in doing inspections. Our staff is currently training the contractor in how to do this. The contract itself replaces a function that already existed within the Department but, has been disrupted by "reorganization." Why are we contracting out existing functionality and training contractors in how to do our work? Considering that a hiring freeze has been in place, where is the analysis or supporting information containing specifications on the goods and services to be provided and an estimate of anticipated cost comparisons of the contractual work compared to doing the same work in-house?]**

**Management agreed to review this matter with DER. Please provide an update.**

Management's response: No update to provide.



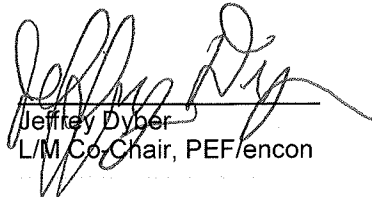
Mark Cadrette  
Director of Employee Relations  
Department of Environmental Conservation

Date: 3/4/2014



Rob McDonough  
L/M Co-Chair, PEF/encon

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