

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

March 13, 2014

Attendance:

PEF:

Alexander Becker, Region 2
George Stadnik, Region 2, Exec. Board (Regions 1-4)
Joseph Battista, Region 3, Div. 169 Secretary
Rich Coriale, Region 6
Jeffrey Dyber, Albany, LM Co-Chair
Carl Fritz, Region 1
James Sacco, Region 9
Mike Calaban, Albany
Holly Clark, Albany
Denise Hobson, Albany, Div. 169 Treasurer
Bruce Giddings, Albany
Timothy LeBarron, Albany
Sharon Parker, PEF
Debra Greenberg, PEF Field Representative

Management:

Mark Cadrette, DEC Director of Employee Relations
Anne Reynolds, Deputy Commissioner of Administration
Paula Laine, DEC Employee Relations
Nina White, DEC Employee Relations
Rebecca Carr, DEC Employee Relations
Sherri Montross, DEC Personnel
Nanacy Lussier, DEC Director of Management and Budget Services
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.

1. PEF Labor Management Committee Issues

Proposed dates for 2014:

- 1. March 13 - Central Office – confirmed during 12/5/13 meeting**
- 2. June 12 - Central Office – confirmed during 12/5/13 meeting**
- 3. September 11 - Region (Stony Brook, Long Island City, or Syracuse)**

4. November 20 - Central Office

PEF has tasked our field representative to negotiate a labor/management agreement with DEC. Please update us on the status of the negotiations.

Management response: Management will meet with PEF representatives to discuss negotiating a labor-management agreement. Update: Management met with PEF on April 30th. PEF will propose a labor management agreement to management for their review, which will address PEF L/M meetings.

2. Budget

What is the current FTE fill level? How many new hires and new promotions have been approved, but have not been filled? FTE level for FY 2014-15?

Management's response: The current fill level is 2,906 FTE's and the maximum for the current fiscal year is 2,916 BFL. Currently, DEC has two restricted and 24 unrestricted waivers that have not been filled. The Governor's proposed budget increases the maximum fill level to 2,917 BFL. The new position is for e-licensing.

The DEC budget has been described as flat and remaining flat for 2014-15. The General Fund funding remains the same but, the number of employees supported by it has been reduced. Why?

Management's response: Because the General Fund is limited, DEC attempts to fund positions with federal grants and other funding sources. We have a zero based budget and DEC tries not to add onto the General Fund because there is a cash ceiling.

Could other money sources such as grants/EPF funds have been used to offset and prevent decreases in the General Fund staffing level? In consideration of the significant additional expense that contracting out costs the State (as has been demonstrated over and over to the Legislature and in this forum) in what interests of the Department and the public does it serve to continue to reduce the number of civil servants supported by the agencies General Fund and overall budget?

Management's response: The Environmental Protection Fund cannot be used to pay for staff salaries.

Please discuss how the Governor's proposed budget (including all updates) will affect PEF members at DEC. How many positions will each program gain or lose? Which programs

will have increased work/responsibility and which programs will have decreased work/responsibility? Will travel and supplies budgets increase or decrease? Provide details.

Management's response: As the budget request was flat, the DEC will have to absorb the 2% salary increase without a funding increase. Some expenses that were incurred last year will not repeat this year, such as development of the e-licensing system. Nonpersonal services budgets may be adjusted to balance the remaining effects of the salary increase.

DEC has requested replacement of 248 vehicles using capital funds. Management understands that vehicles are aging, but has a hard capital limit from which DEC can purchase new vehicles. Management will report back to PEF regarding the breakdown of vehicles by region and use.

How will changes in the Brownfields legislation affect staff? In particular, the legislation establishes a BCP EZ program, which allows the DEC to waive procedural requirements of the law. Will any staff review or oversight be waived as part of this new program?

Management's response: Management has little information to provide on this subject at this time. There is no change in the DER review process that management is aware of with the proposed legislation. Management agreed to set up a separate meeting with PEF to provide information on the proposed changes to the Brownfields law. The BCP EZ program is for entities who are interested in a liability release without the tangible tax credits. Once the budget is passed, we will know the final details of the program.

Which budget items that would affect DEC staff are likely to be altered by the legislature? Which portions of the DEC budget have encountered resistance from the legislature? Has the legislature challenged reauthorization of the State Superfund?

Management's response: The Governor's proposed budget includes \$100 million for one year of State Superfund money. The one-year appropriation avoids issues with the State's debt limit. The State Superfund has two additional years of unused allocations from previous budgets. The Assembly one-house budget includes multiple years of State Superfund funding. The Senate had not released a budget at the time of this meeting.

In early January, DEC approved a waiver (#47872) to hire an Assistant Land Surveyor 2 in the Division of Lands and Forests using the Hazardous Waste Remedial Fund. What role does the occupant of this position play in remediating hazardous waste sites? If none, is the DEC using Hazardous Waste Remedial Fund money to fund other programs?

Management's response: The occupant of this position will conduct surveying and access work needed for hazardous site remediation. The occupant's duties may not include work related to

the hazardous waste remediation program. DEC routinely funds positions that are unrelated to the funding source.

Management is using the critical fill process as part of succession planning. When an opening occurs, management will determine if that job will be filled or the item will be transferred to another function. Division directors were asked if they want to reorganize. Filling the top managerial jobs and hiring entry level employees are top priorities, as well as offering training opportunities. Continuous recruitment in some positions will help to fill openings with the right candidates. Management will send the draft succession plan to PEF when it becomes available.

3. Civil Service

PEF continues to have concerns about the Biologist 1 exam scoring. It has come to our attention that Biologist 3's scored the Biologist 1 profiles. This is a conflict of interest because the Biologist 3's also hire the candidates. How will the DEC resolve this conflict of interest?

Management's response: A small group of biologists scored the training and experience part of the exam, so there would be few instances when a manager would be hiring from a list that he or she was involved in scoring. DEC staff reviewed this part of the exam because of their knowledge of the field. Personnel staff subsequently reviewed the scoring to ensure consistency. Management felt that this process would benefit DEC more than using a written exam. The Department of Civil Service approved this process.

Management proposed ways to minimize conflicts of interest in the scoring process. Management agreed to maximize the anonymity of the candidates, such that the scorers will not know the names or any identifying information when reviewing the candidates' information. PEF agreed to provide Management with a written position statement on this issue and the use of position-specific profiles.

PEF has concerns about the most recent Biologist 2 position specific profiles. Because the profiles required at least a Master's degree for 20 points of the profile score, the list was broken and the positions are being filled provisionally. PEF considers this situation to be an abuse of the civil service system and requests that management rework the profile to allow permanent appointments for the positions.

Management's response: This list concerns positions in Long Island, which are difficult to fill. Candidates did not need a graduate degree to achieve a score of 100 on the exam. All but one of the candidates on the list declined the position. DEC then created a second position-specific profile, which yielded the same results. Once the second list was broken, DEC was given permission to fill the positions provisionally. Management has requested new exams for the

Biologist 2 and 3 titles. Management suggested PEF invite groups (personnel, etc.) to attend PEF meetings to educate their members regarding exam info.

When will management fill the three acting section chief positions in DER? Currently two EPS2's and one EE2 are supervising sections and are working out-of-title. By allowing these acting section chief assignments, DEC is violating Article 17 of the contract.

Management's response: DEC submits fill requests in semi-annual batches after negotiations with the Division of Budget. While management stresses the importance on filling acting positions, division and regional directors set their priorities for critical fill requests. Personnel does not support acting positions, and there is an avenue for addressing out-of-title situations through the grievance process. Management understands that employees may be entitled to OTW pay should they be appointed to acting positions.

4. Health & Safety

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

Management's response: The policy is still with the Executive Deputy Commissioner, who wants specific examples added to the policy. The policy will eliminate disparities between divisions and regions. Management believes that employees are currently getting the clothing that they need to perform their duties. PEF or the affected employees should alert management of any instances where employees are denied their clothing requests.

PEF/encon requests the results of the Work Place Violence program review that was conducted in February – PEF dropped this topic because the results have been provided to another committee.

Can DEC initiate an electronic mail listserv to notify employees of office closures? Employees could sign up for the listserv and would be notified about weather-related office closures as soon as they are announced. DEC currently operates other listservs that post notifications about training, hazardous waste sites and other topics. Many employees were not notified about office closures during the recent snow storm until after they had traveled to their offices, and the listserv could alleviate this problem.

Management Response: Management is looking into using automated alerts or another system, such as NY Alert. Management will get back to PEF after researching the options. Currently, GOER contacts DEC management if there are office closings. Although DEC OER is one of the DEC contacts for office closings, GOER did not contact DEC OER during the most recent

snowstorm. Hence, DEC OER did not have the closing information to relay to employees.

5. Pollution and Energy Reduction

Telecommuting update?

Management's response: The current draft of the telecommuting policy indicates that employees may be allowed to telecommute for short-term projects. Under the draft policy, telecommuting cannot be used for an employee's routine assignments. The supervisor and employee would enter into a telecommuting agreement. Telecommuting will be open to all salary grades within their normal work schedule. Employees who participate in Compressed Pay Period or Voluntary Reduction in Work Schedule would not be allowed to telecommute. Employees must also be in good standing, not on probation, have no counseling and/or discipline for a 2-year period, and a satisfactory performance program rating.

Management is concerned about computer security associated with telecommuting. There are limited laptops that could be used for telecommuting, so employees may need to use their home computers. There are risks involved with the use of home computers, including viruses. Employees who use home computers may be subject to discovery in the event of litigation. ITS concerns must be addressed prior to sending PEF a draft for review.

The Department's compressed pay period (CPP) policy provides an open enrollment period of January 15 to February 15. However, Region 4 employees and DER central office employees were given enrollment deadlines of February 7 and January 27, respectively. Please remind managers that employees are entitled to the full enrollment period for this program.

Management's response: Management will remind program and regional managers that employees are allowed the full enrollment period for this program.

During the meet and confer on February 6, PEF asked management to develop a written policy with specific procedures for the use of the License Event Notification System (LENS). PEF is concerned about protecting our members' privacy. Has management produced a draft policy? If so, please provide PEF with the draft, so we can begin negotiations on the policy.

Management's response: The procedures for using LENS will be included in the updated vehicle use policy. To date, management has found three instances of employees driving without a license. Management will have discussions with these employees and will try to work with staff if their job requires driving.

Has management ceased receiving LENS notifications other than suspensions and expirations? Also, please update us on which types of employees have been included in the LENS program.

Management's response: Management confirms that DEC has limited notifications to license suspensions, expirations and revocations. Management continues to add employees to the system. When we receive suspension, expiration and revocation notifications, we ask supervisors to reach out to employees to provide them with an opportunity to explain the circumstances surrounding their loss of license to ensure there is not an error from DMV.

During the meet and confer on February 6, management indicated that DEC will issue a revised vehicle use policy and that PEF will be provided with a draft of the policy. When will management provide PEF with this draft policy? PEF expects to negotiate the terms of this policy with management.

Management's response: Management will provide PEF with a copy of the policy before it is finalized. There is an 85% alignment between DEC's current policy and the new Executive policy, so few changes to the DEC policy are anticipated. DEC will continue to assign vehicles to some staff, including spill response, law enforcement and staff working on long-term field projects.

Management expects that DEC will continue to assign vehicles to employees under the new policy, although additional approvals may be required.

This year, the winner of the Trad award and one of the two winners of the Berle award were members of management. Giving these awards to management harms employee morale, as it gives the appearance that management only recognizes its own accomplishments. As DEC has few tools to encourage employee performance and affect morale, please consider limiting these awards to rank and file employees.

Management's response: Management notes PEF's concerns. The award can be given to any employee. Over the years recipients have been at all levels. A DEC committee reviews the applications and makes recommendations to management. Management selects the award winners based on submissions to the committee. Management recommends that PEF encourage their members to prepare submissions for awards when they are announced.

PEF has proposed applying for a Workforce Initiatives program grant to fund development and pilot testing of LGBT training and discussed the grant with management on February 6. PEF is waiting for conceptual approval of the grant from management before writing the grant application. Is management supportive of the grant?

Management Response: It appears likely that management will not move forward with this grant application. This subject may be covered in one of the twelve GOER mandated trainings for 2014. GOER provided all state agencies with templates for the mandated training, which must remain standard for all agencies. Management has provided PEF with the list of the twelve mandated training classes.

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

Region 2 office?

Management's response: Management confirmed that this issue has been grieved and continues through the grievance process.

Region 6 - Utica office?

Management's response: Management will inquire about this issue directly with the Region 6 PEF steward, Rich Coriale, and Regional Director, Judy Drabicki. The Regional Director has reached out to OGS regarding our concerns. Management is waiting for their response.

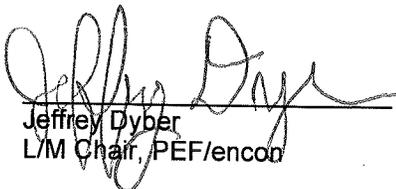
Central Office - are there any updates on parking for DEC staff in Central Office coming from OGS review or provided by the parking committee dealing with agency parking in Albany?

Management's response: At this time, no garage spots or other OGS parking spots in downtown Albany are being filled until the master plan is released from OGS. Management suggested that PEF/encon reach out to PEF to inquire about their presence on the downtown parking committee under Article 19.



Mark Cadrette
Director of Employee Relations
Department of Environmental Conservation

Date: 7/23/2014



Jeffrey Dyber
LM Chair, PEF/encon

Date 7/23/2014