

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

September 12, 2013

Attendance:

PEF:

Katy Murphy, Region 1
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'Neil, Region 4
Nicholas McKay, Region 5
Frank Flack, Region 6, Exec. Board (Regions 5-9)
Terry Tyoe, Region 6, Div. 169 Assistant Leader
Rich Coriale, Region 6
Mike Calaban, Albany
Holly Clark, Albany
Denise Hobson, Albany, Div. 169 Treasurer
Jeffrey Dyber, Albany, LM Co-Chair
Bruce Giddings, Albany
Timothy LeBarron, Albany
Rob McDonough, Albany, LM Co-Chair, Exec. Board (Central Office)
Antoinette Norfleet, Albany
William Wurster, Albany
Debra Greenberg, PEF Field Representative
Wayne Bayer, PEF Vice President

Management:

Mark Cadrette, DEC Director of Employee Relations
Paula Laime, DEC Employee Relations
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.

1. PEF Labor Management Committee Issues

Proposed dates for 2013:

Prior Meetings held

1. April 4 - Central Office
2. June 27 - Central Office

Scheduled meetings

1. September 12 - Region 5 (Warrensburg)
2. December 5 - Central Office/PEF Headquarters

Proposed dates for 2014: To be decided at December meeting

2. Fill Levels/Hiring/Waivers

Please describe the process that the DEC follows to provide DOB with the necessary FTE fill levels needed for this agency to maintain the mission of DEC and support its statutory and regulatory requirements each year.

Management's response: The DEC does not recommend full-time equivalent (FTE) levels to DOB. DOB sets the funding level that DEC will receive.

How many FTE's did the DEC recommend to DOB, as described above, for fiscal year 2013-14? Proposing for fiscal year 2014-15?

Management's response: The DEC does not recommend FTE levels to DOB. Although budget planning for the upcoming fiscal year has not begun, management expects no budget increase for the 2014-2015 fiscal year.

What is the total FTE (civil service) staff and contract staff that work for the DEC in fiscal year 2013-14? How many contract staff 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: The current fill level is 2899 and our limit is 2916 BFL's. A waiver package was just approved with 22 unrestricted positions and 32 promotions. 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.

PEF – How could the Department not know how many contractors work at the Department and not know how much they cost? PEF is concerned that the fill levels are being arbitrarily established and resulting in outsourcing of DEC jobs for any needs beyond established DOB fill-levels.

Management's response: This information may be tracked at the program level.

The Position Profile Form for 35-315 – Promotion Exam for Environmental Engineer 4 used an EE4 list that was established for position #0039170. The EE4 list consists of 28 candidates. Of the 28 candidates, at least 25% have either retired or are deceased and another 39% have already been promoted to EE4 or higher positions. Only 10 of the original 28 promotional list candidates are active employees in an EE3 title. How long has it been since the EE4 list has been updated? How long do lists usually remain active before a new list is generated? When will it be updated? If unknown, how does DEC get the EE4 list, and any other outdated lists updated?

Management's response: Management said that the EE3 and EE4 lists are five years old. New exams for these titles have been postponed until the 2014-2015 fiscal year. The age of the lists have no effect on the hiring process.

PEF objects to the use of position-specific profiles in the Environmental Engineer and Biologist series. We are concerned that this may lead to favoritism. PEF requests that these exams be modified to eliminate the potential for favoritism and that the new exams be administered as soon as possible.

Management's response: Management notes PEF's concerns and will relay them to appropriate staff.

PEF has concerns about the results of the Biologist 1 exam. It appears that employees who worked for the DEC for several years as seasonal employees did not receive credit for their experience. PEF requests that the scoring criteria of the Biologist 1 exam be provided to PEF.

Management's response: Management will investigate this issue.

Since 2010, when the Division of Solid and Hazardous Materials (DSHM) was merged with the Division of Environmental Remediation (DER), it has been observed that the members of the dissolved division have received very few of the promotional opportunities within DER, including opportunities within the dissolved division's sections. Approximately, 20 of 25 promotions within the recently merged division consist of prior DER staff and not former DSHM staff. Is there a hiring inequity that needs to be addressed/corrected?

Management's response: Management detailed the procedures that DER used to promote staff and indicated that DER

did not exhibit bias against the former DSHM staff.

Postings do not have job duties/descriptions on them? Why aren't these being provided?

Management's response: Management questioned why this was necessary.

The DEC Commissioner and high-level executive staff are encouraged to attend the labor/management meetings. Commissioners and assistant commissioners regularly attend labor/management meetings for other agencies.

Management's response: Management will continue to invite the commissioner and executive staff to the labor/management meetings.

3. 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. PEF/encon representatives have recently faced resistance from the Department in various forms from negative comments toward PEF/encon representatives to an attempt to reduce PEF's participation in DEC's local health & safety meetings throughout the State. Additionally, negative comments have been directed towards PEF's participants during local H & S meetings. What is the source of this observed bias against PEF/encon representatives in the H&S process and what will be done to resolve the problem?

Management's response: Management has concerns about PEF's level of participation in local and agency health and safety meetings. Management believes that too many representatives from PEF attend the meetings and that other unions do not want to attend because PEF dominates the meetings. Management also believes that not enough gets accomplished at the meetings to justify the current levels of participation. To remedy these problems, management plans to limit the number of PEF representatives at the health and safety meetings to a more reasonable number. Management argued that the process needs to be changed to increase participation by including other DEC staff other than those strictly representing Labor or Management.

Why is the Health & Safety Director running local H & S meetings, when this is typically the role of the current H & S Committee management chairs?

Management's response: Management has tasked the Health and Safety Director with improving the health and safety committee meetings. Management invited the PEF labor/management chair to sit in on the health and safety committee meetings. Management noted that PEF has previously requested that the H&S Director attend these meetings.

When will the clothing policy (ie:protective and field work clothing) be released?

Management's response: The clothing policy is under Executive review, but there is no timetable for release. Management will provide a list of OSHA-mandated clothing, but the clothing policy is intended to go beyond the OSHA requirements.

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: Management will provide this information to PEF as part of the annual review process.

4. Environmental Monitor Policy – Not discussed during 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:

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: Not discussed due to time constraints

What is the purpose or benefit to the Department for developing the category of Type II monitors? Why are Type II monitors needed when those monitoring needs can be filled with Type I monitors, with no cost to the Department?

Management's response: Not discussed due to time constraints

Using Type III monitors creates redundancy in administrative costs and program review while creating the burden of requiring additional exclusive confidentiality, avoiding conflicts of interests, and maintaining ethical requirements equivalent to that of a state civil servant. Why are Type III monitors needed when the DEC's monitoring needs can be filled with Type I monitors, with no cost to the Department?

Management's response: Not discussed due to time constraints

Using Type IV monitors creates redundancy in administrative costs and program review while creating the burden of requiring additional exclusive confidentiality, avoiding conflicts of interests, and maintaining ethical requirements equivalent to that of a state civil servant. Why are Type IV monitors needed when the DEC's monitoring needs can be filled with Type I monitors, with no cost to the Department?

Management's response: Not discussed due to time constraints

5. Budget

Please provide an update on DEC vehicle purchases in 2013-14 with total vehicles by program and region if possible. Do we know what our 2014-15 vehicle allocation will be?

Management's response: The Department obtained approval to purchase 85 replacement vehicles late in FY 12/13. Therefore, in March & April, 85 vehicles were ordered for delivery and payment in FY 13/14. The breakout by Region and Non-Regionalized Program is attached to these minutes. We have received and issued 35 of the vehicles. Several more are expected in over the next few months. The delivery of the F-250 3/4 Ton Pick-Up trucks has been delayed, but we expect delivery in late Oct. or early Nov. as 2014 model year vehicles. All Law Enforcement vehicles are being outfitted with emergency lighting by the vendor prior to delivery.

At this time we do not know what our vehicle allocation for FY14/15 will be. However, a "draft" business case has been written requesting purchase approval of 200 replacement vehicles in FY 14/15. This is currently under review by DEC Executive staff prior to forwarding through OGS & DOB to the Gov's Office for review and (hopefully) approval.

Are there any updates regarding the federal sequester, specifically from EPA on these cuts? [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?]

Management's response: No new information

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?

Has there been any movement on the Department's behalf to push for reauthorization of/ funding of the State Superfund program?

Management's response: No new information

PEF/encon is requesting that the Department inform all 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.

[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.]

Management's response: Management is finalizing the message to employees, which will notify them about their contractual rights.

6. Pollution and Energy Reduction Committee (PERC):

Despite an encouraging meeting with the Commissioner in June regarding telecommuting, there has been no communication or progress since. PEF/encon continues to request 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: Not discussed due to time constraints

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 additional development or implementation as well as the reason(s) for disapproval within this agency. What are the Department's plans for the following programs:

Improved flexibility in individual daily work schedules. The program has received preliminary approval from Executive. Please provide details on any progress in this effort.

Management's response: Management is considering allowing staggered work hours.

CPP 4 day/wk was not approved as an option. Why - please provide details?

Management's response: Management will determine why this option was not approved and will report back to PEF.

Encouraging VRWS was not approved as an option. Why - please provide details?

Management's response: DEC currently has VRWS and it is the employee's responsibility to request it. Management is not going to push participation.

Developing a campaign for car-pooling. What is the progress of this option?

Management's response: The Office of General Services (OGS) is not issuing any new parking permits until restacking is complete. OGS may propose to open all parking lots to all State employees.

Currently, the CPP program does not allow for the flexibility for employees to be added to the program or make changes to a CPP schedule at any other time of the year, or to appeal denial under the CPP program? Please explain why the Department is not capable of making such changes to the program at any time of the year.

Management's response: Management indicated that allowing increased flexibility for the CPP program would create too much work for staff.

7. Parking

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

Management's response: No new information

Region 2 office?

Management's response: Management will follow up on this issue and report back to PEF.

Region 6 - Utica office?

Management's response: Management will follow up on this issue and report back to PEF.

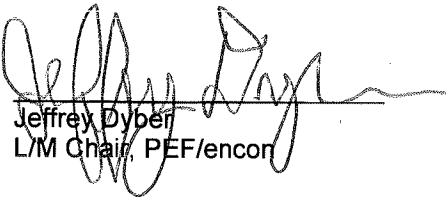
Are there any updates on parking for DEC staff in Central Office coming from OGS review or provided by the parking committee dealing with agency parking in Albany?

Management's response: No updates



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

Vehicle Purchase Plan

Region 1	3	Law Enforcement	20
Region 2	1	Fire Control	9
Region 3	4	Spills	<u>4</u>
Region 4	4	Subtotal	33
Region 5	8		
		Commissioner	0
Region 6	5		
		FW & MR	4
Region 7	5		
		Public Affairs	1
Region 8	5		
		Air Division	1
Region 9	5		
C.O. Pool	6	Subtotal	6
Subtotal	46		

TOTAL = 85