



PEF/encon

**COMMENTS PREPARED BY WAYNE BAYER FOR  
NYSDEC BUDGET HEARING JANUARY 13, 2009**

Chairmen Farrell, Sweeney, Thompson and Honorable Members of the Joint Fiscal Committees

I am speaking on behalf of myself and the PEF/encon steward council representing 2000 Public Employees Federation Members of the NYS Department of Environmental Conservation..

Earlier today you heard Commissioner Grannis mention the significant reduction in DEC staff. For the record, this is a **decrease of 514 staff** from the FTE level in 1990. As the Commissioner also mentioned this reduction in staff has happened concurrently with the NYS Legislature, the US Congress and the Department substantially increasing the Department's regulatory and statutory responsibilities. Unfortunately, the DEC professional staff, while appreciative of the Commissioner's remarks that DEC has a very competent, professional and dedicated staff that will strive to fulfill the Agency's missions with even more cuts in staff positions and resources, PEF/encon is not optimistic that all of DEC's responsibilities can be met. These additional proposed cuts make DEC a shadow of what it once was and what it was envisioned to be 39 years ago at its conception. As we indicated in our 2007 testimony, DEC was then and is still operating with triage management and drive by inspections.

Chairman Sweeney and Commissioner Grannis had a discussion earlier about DEC reducing the number of contract employees at DEC where the Commissioner indicated DEC was actively proceeding to reduce the number of contractors. Unfortunately, there is some discrepancy between the rhetoric of intentions and the reality. In spite of NYS's fiscal crisis, DEC continues to rely on costly consultants to perform work that could be done by in-house staff. Two examples:

1. The Division of Environmental Remediation recently issued a work assignment to Camp Dresser McKee (CDM) to assist in the inspection of approximately 1,200 federally regulated bulk storage facilities over the next two years. This work is funded under a grant from the EPA to meet EPA requirements under federal law. **CDM, typically bills for services at rates between 30-80 percent higher than the cost of a state employee (including benefits).**

**2. According to the Executive Budget, DEC expects to employ 175 consultant employees, an increase of 14 from the previous fiscal year at an average of \$198,800 per consultant employee.** Members of this joint committee should ask DEC to justify why they are hiring these consultants and why they are substantially under reporting the number of consultants at DEC in apparent violation of the Procurement Stewardship Act of 2006. The June 2008 Joint labor management committee minutes reported that DEC had close to \$71 million dollars in previously unreported contractors. Why?

## **Short Staffing Causing Some Hazardous Problems in Marine Fisheries**

The November 2008 Federal Food and Drug Administration (FDA) annual report said that DEC's shellfish program is now **staffed at the lowest level it has been at since 1986**. Of the 31 full-time positions in the shell fisheries section, 11 are now vacant—two more than FDA reported.. "These staff reductions will jeopardize the unit's capacity to meet the sanitary survey requirements ... and adequately protect public health." Moreover, the FDA report indicates that **lack of environmental staff threatens New York's ability to ensure that shellfish harvested or sold in NYS are safe to eat**. How much does the DEC and the legislature care about shellfish safety?

Lack of adequate staffing at DEC also hurts employment in the private sector and damages NYS's ability to compete in the shellfish industry. According to the FDA report, **lack of staffing led the DEC to suspend its conditional certification program this year**, shutting out baymen and shellfish wholesalers from 6,000 to 7,000 acres of historically productive shellfish beds accessed when water conditions permit. The suspension frustrated some who make their living on the water. One local Long Island trustee indicated that hiring just one more biologist could employ 200 people to harvest and sell shell fish.

More importantly, the FDA report highlighted another program that could be jeopardized by staff cuts: one that protects consumers from a potentially deadly shellfish toxin detected in Northport waters in 2006 and 2008. "To administer this program, DEC must collect numerous shellfish meat samples and plankton ... throughout Long Island," the FDA said, adding that "understaffing" could limit its effectiveness.

## **Continuing Problems in Lands and Forests**

PEF/encon has testified previously about massive staffing shortages in Lands and Forests that deprive NYS of revenues from environmentally productive sales of lumber and forest products. Those shortages have become worse. How can NYS and DEC deprive taxpayers of a revenue stream that creates \$3 for every dollar invested? What legislator would turn down a 3-1 return on their investment? With NYS's deficit budget, DEC should not ignore that revenue stream.

DEC has still not surveyed huge parcels of land acquired by NYS nor has it surveyed the huge number of acres with environmental easements under DEC alleged management. DEC is still way behind in developing unit management plans for state lands and DEC can not truthfully tell the legislature that all parcels of land under DEC jurisdiction are adequately managed and protected. Perhaps the legislature should consider a draconian ban on the purchase of any more state lands as some Senators earlier suggested, until such time as an independent auditor can assure the lands we presently own and are allegedly responsible for is adequately managed! Not doing so, is approaching fraud, by giving the taxpayers the impression that their land acquisitions and natural resources are being adequately protected and preserved.

DEC is still way behind other states in devoting staff to protecting our forests from invasive species.

PEF/encon and PEF would like to add it's support to the proposed recreational salt water fishing license for the Bigger, Better, Bottle Bill and for other environmental regulatory fee increases.

I must comment briefly on two issues that have raised considerable interest in earlier testimonies and follow-up questions:

First, regarding the decision to close the Reynolds Pheasant Farm. PEF/encon has 3 comments:

1. In addition to the sporting organizations and sporting communities not being consulted prior to the decision to close the farm, we would like to say that the professional career staff was also not consulted.

2. We don't know if the agency's cost benefit analysis of the savings to be achieved factored into the equation the loss of revenues from in state and out of state bird hunters using local lodging, food, service stations and other commercial entities. We are not sure if the analysis of the offset of bird hunting licenses and permits was adequately calculated.

3. Some of the career civil servants at DEC (who remember the merger of the old Conservation Department with some state health department programs in 1970) wonder if DEC is still committed to the promises made to the continuation of and support of traditional wildlife and conservation programs. They raise the issue that if the Division of the Budget and DEC can get away with the closure of one pheasant farm this year, what is to say that next year it won't be fish hatcheries? And the year after that will it be public and state campgrounds??

Second, Brownfields.

There have been a number of questions about the viability of the state's Brownfields program, and the uncapped tax credits drain on the state treasury. PEF/encon urged the legislature at previous year's budget testimony to reexamine this program and limit the tax credits because of the potential abuse and unlimited tax credits. There were some changes made in the Brownfields revisions last year, with input from many of the architects of the original program that didn't cross the "t's" and dot the "I's on the original bill. Well, the tax credits are still too high and the vagueness of language in the legislation is causing enormous delays in Brownfields applications, investigations and remediations. So much so, that DEC is experiencing rejection from the courts. Should the same people involved in the 2 earlier iterations of the Brownfields program be given a third chance to make more mistakes?

The final comment is that many DEC professionals working in the environmental remediation program believe that the Brownfields program is diverting too many agency resources to sites that have marginal contamination and would have been economically viable for investors and developers to clean up anyway. These diversions are at the cost of doing more serious investigations and remediations of more heavily contaminated sites. For example, many un-investigated old dry cleaning establishments.

Thank you for the opportunity to provide this information. I will be happy to attempt to respond to any questions you may have now or in the future as will many other PEF/encon representatives.