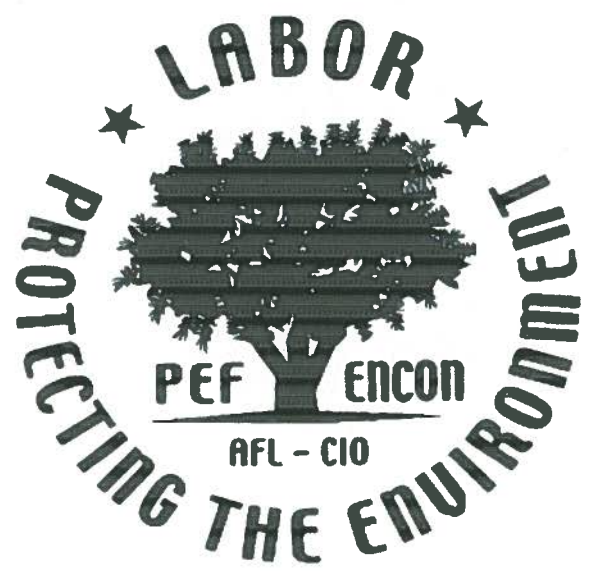


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PEF/encon



**Comments by Wayne Bayer for the January 29, 2014 DEC Joint Fiscal Committees Budget Hearing**

Good Afternoon Everyone! I am speaking in my role as a representative of Division 169 (PEF/encon) of the NYS Public Employees Federation, AFL/CIO steward council, representing the Professional, Scientific and Technical Staff at DEC—which includes approximately 1800 of the remaining 2917 employees at DEC. DEC is down by 539 positions from the 3-31-10 staffing level as indicated in the Joint Fiscal Committee's Staff Analysis of the Executive Budget. And it is down by over a thousand employees since its high point in the early

1990's. As other presenters have indicated, we are cut to the bone and a shadow of what we once were, doing far more with far less.

Preparing for today's presentation, I was struck by how relevant the presentation I made on behalf of our Steward Council to this committee in 2011 - (this testimony, by the way, can be found on the [www.perencon.info](http://www.perencon.info) web site in its entirety). For example of its relevance- DEC is still not the agency that it was when established under Governor Rockefeller; our staffing level is still 1/4 to 1/3 what it was in the early 1990's; we are still contracting out work that DEC staff use to do and could do with the citizens of the state of New York having confidence that most DEC staff were competitively hired under the all-but forgotten, and increasingly marginalized, NYS Civil Service System. Equally important, NYS Citizens would know that civil service employees are covered by the public officers law and are not beholden to a contractor's management for an end of year bonus.

Every year since DEC was created there are new regulatory and statutory responsibilities established by either NYS or the federal government. DEC, like most other state agencies and NYS programs and services are still drastically underfunded and getting worse by more proposed tax cuts and the growing inequality in income between the top 5% and everyone else in NYS. As many of you know, I hope, the worst documented income inequality in any state in the country exists in NYS. It's still hard to comprehend why more elected officials are not conscious of the decline of the middle class and working poor.

Surely you are aware of the cuts in state programs and services because of federal tax cuts and politically conscious decisions not to provide the money the federal government formerly provided under federal revenue sharing programs. There still seems to be little historical knowledge and recognition of how much federal and state taxes have been cut since the 1950's. For example, under Republican President Eisenhower- with a Republican Senate and a Republican Congress - the top individual income tax rate was 92% and the top capital gains rate was also 92%!

One of the very few positive things proposed in this year's DEC budget, is the third attempt to try and make the State brown fields program less of a corporate welfare boondoggle than the infamous IDA programs! The brown fields tax credits going not only for investigation and remediation costs but for other development costs is extremely outrageous. Many of the early brown fields site grants, as PER/encon has mentioned in previous testimony, have gone to sites in prime geographical locations that would probably have been developed anyway because of a high probability of a high return on investment. Too much of the environmental remediation staff time is devoted to overseeing brown fields sites, to the detriment of doing more investigation of suspected hazardous waste site and the long neglected recommendation to do a statistically relevant research and sampling of old abandoned dry cleaning sites.

In previous years' presentations, PER/encon warned about staffing shortages in the Dam Safety Program and the oversight of concentrated area feed lots. Shortly afterwards, NYS had a major contamination of the Black River with an enormous fish kill and a dam collapse causing major problems and controversy. We also warned about DEC being very far behind in developing Unit Management Plans for surveying and preparing for public utilization the thousands of green acres purchased in the Adirondacks and elsewhere. And we warned about NYS losing income

" Staff are needed to implement many of the Recommendations. Estimates range from five to eight permanent staff, with numerous opportunities to use interns as well. Annual costs for personal service and related expenses such as travel, supplies and equipment are estimated between \$450,000 and \$800,000."

DEC has only two staff for the whole invasive species unit, down from the 4 it had before the increased responsibilities established by task forces recommendations.

1-see summary of some reasons why the legislature should be concerned at the end of my remarks in item 1.

[http://www.dec.ny.gov/docs/lands\\_forests\\_pdf/ismgmtstrategy.pdf](http://www.dec.ny.gov/docs/lands_forests_pdf/ismgmtstrategy.pdf)

see page 15 - 16 re staffing - recommends 2 additional staff for DEC (beyond the 4 the unit had at the time). It also recommended 4 in Dept of Ag and Markets to move forward with regulating and prohibiting invasive species.

In closing, I would be remiss in not mentioning two things of great concern to the PEF/encon steward council concerning DEC Management (maybe under order from the Governor's Office of Employee Relations, the Division of the Budget, or Civil Service Department):

The first concern is managerial opposition to proceeding with a successful jointly developed DEC labor management recommendation for telecommuting and compressed pay period programs:

Both of these would:

-be good for agency morale (not insignificant with dwindling promotional opportunities, increased workloads and 3 years of pay freezes).

-help enormously with recruitment and retention of agency staff that have second jobs, child care and/or elder care responsibilities;

-reduce air pollution, energy use (oil and gas consumption), traffic congestion, wear and tear and maintenance of roads, parking lots and garages.

The opposition and reluctance to proceed with this is mind-boggling to the staff of an agency charged with reducing air pollution and fossil fuel energy usage. As much of a critic some of us were with President George Bush, he directed many federal agencies to proceed with both telecommuting and compressed pay periods. I think it would be embarrassing, would it not, for Governor Cuomo to be perceived as less of an environmentalist than President Bush!

The second concern is the increased meddling of agency management with shop stewards access to their membership and ability to adequately and professionally implement the PEF collective bargaining agreement with NYS. For example, stewards are increasingly harassed and restricted from their ability to respond to and prepare for health and safety responsibilities/obligations of the agency. PEF/encon has long contended that the past

revenue for DEC not being able to fully monitor and survey the huge lumber-harvesting producing areas under DEC control. We also warned about the USFDA taking away NYS's delegated responsibility for monitoring and inspecting shell producing areas off shore in Long Island because of staffing shortages in PS& T staff and in ECO's. Up-staters should not be complacent, because there are not enough staff to adequately monitor the major seafood distribution centers upstate. Think about that the next time you order seafood.

While those staffing problems continue to exist, we would like to mention 2 others the legislature should be very concerned about. These 2 represent dangerous and costly shortages in the invasive species program and in the emergency spills response unit. The latter is especially worrisome in light of the drastic increases in rail transportation throughout NYS populated areas carrying Bakken crude oil shipments and proposed Tar Sands Oil. The people of Albany, as many of you know, are quite concerned about this. Particularly in light of the plans for the heating and off loading of tar sands oil in the Port of Albany as indicated in the great series of articles the Albany Times Union has had in recent weeks.

The legislature and public should know that the average number of spill responders in each DEC regional office is about 2 !! Why? There is no authorized back-filling of positions for retirements, transfers and promotions (as rare as these opportunities are in the new DEC). The Spills unit in DEC, like so many programs in DEC, is under micro-management by the Division of the Budget and the 2<sup>nd</sup> floor of the capitol building. It's a common belief that the DEC agency manager/appointees are given a budget total number that DEC has to meet, regardless of agency, statutory and regulatory requirements or the agency's published mission. As good as Commissioner Martens is (and I have had and still have tremendous respect for him since he long ago worked on the Ways and Means staff and wrote an important analysis and history of DEC in the mid-1980's) he would be somewhat careless to not remember what happened to one of his predecessors, Pete Grannis who, courageously challenged DEC's short-staffing.

Turning briefly to the growing, very costly problem of invasive species—the legislature should know that the DEC staff is woefully understaffed, in spite of the task force recommendations. As the veterans on this committee know, Governor Pataki in 2003, in response to the growing problem of invasive species at that time, signed legislation sponsored by Senator Marcellino and Assemblyman DiNapoli—Chapter 324 of the Laws of New York of 2003—which called for an Invasive Species Task Force to explore the invasive species issue and to provide recommendations to the Governor and the Legislature by November 2005. Those reports were done and Task Forces created and many of their recommendations implemented, except for the most critical—increased staffing for DEC. Please see the following for documentation and more information:

[http://www.dec.ny.gov/docs/lands\\_forests\\_pdf/ismgmtstrategy.pdf](http://www.dec.ny.gov/docs/lands_forests_pdf/ismgmtstrategy.pdf)

see page 15 - 16 re staffing - recommends 2 additional staff for DEC (beyond the 4 the unit had at the time). It also recommended 4 in Dept of Ag and Markets to move forward with regulating and prohibiting invasive species.

Also see:

[http://www.dec.ny.gov/docs/wildlife\\_pdf/istfreport1105pdf](http://www.dec.ny.gov/docs/wildlife_pdf/istfreport1105pdf)

In particular, note page 100 that states this about staffing:

cooperation with DEC management has helped prevent numerous accidents and hazards to DEC staff—saving the agency and NYS the costs of lost sick time, workers compensation claims and serious injuries or loss of life. The legislature would find it hard to think of more than one or two agencies that have a greater diversity of job titles and job responsibilities. DEC is a lot of work in remote and urban congested areas with work on air, land and sea. We contend that prior managerial cooperation and attention to health and safety has been enormously successful and we are quite aggravated by new managerial staff and upper level management for hindering this past success and professional cooperation we have had in labor relations in previous years.

PEF/encon thanks you for the opportunity to present these comments and observations. I will be happy to attempt to respond to any questions you may have now or in the future as will my colleagues at PEF/encon.

Submitted by Wayne Bayer on behalf of the PEF/encon Division 169 Steward Council

Currently PEF Vice President (for identification purposes)

1. "Early in the twentieth century, Chestnut Blight arrived in North America and, within a couple of decades, killed virtually all American chestnuts, one of the most valuable trees in New York's forest. Zebra Mussels arrived here from their native Caspian Sea in the late twentieth century and have altered ecosystems, clogged pipes, and ruined bathing beaches in some of our largest waters. Near the start of the present century, West Nile Virus came here from Africa and has sickened and even killed both birds and humans. Asian Long-horned Beetle arrived within the lumber used for packing crates and has forced us to cut down thousands of prized shade trees in our cities and suburbs - in the hope that it does not spread to our forests. Swede Midge, discovered in recent surveys, could decimate our broccoli and cabbage crops. Chronic Wasting Disease has been moving eastward from its origins in Rocky Mountain elk and mule deer. It could harm our white-tailed deer now that it has entered New York. Eurasian Watermilfoil and Water Chestnut choke many of our waters, impeding boating and swimming and crowding out our native species. On land, two invasive milkweeds - both Black Swallowwort and Pale Swallowwort - are smothering plant communities. Although numerous agencies and organizations across New York are combating the threats posed by these invasive species, our State does not yet have a fully coordinated or comprehensive defense against them."

Those not yet aware should note the huge danger from the Asian Carp if it gets into the Great Lakes, Canals and NYS waterways to the NYS Fishing Industry and its revenues from the tourist industry. Also alarming is the growing threat from the rapidly spreading \_\_\_\_\_ weed that hampers/restricts boating, fishing and water intake and outflow pipes in rivers, streams and lakes. A recent national estimate of the costs to the United States was \$ \_\_\_\_\_.