



STATE OF NEW YORK  
OFFICE OF THE STATE INSPECTOR GENERAL  
**Final Report**  
**February 27, 2012**

## SUMMARY OF FINDINGS/RECOMMENDATIONS

The Inspector General determined that Department of Environmental Conservation (DEC) employee Jennifer Peyser engaged in substantial time abuse over an extended period, resulting in her improper receipt of more than \$3,940 in salary for hours she did not work. The Inspector General also found that DEC management was not diligent in its response to internal complaints regarding Peyser's time and attendance. Had DEC management responded promptly and appropriately to these complaints, Peyser's misconduct could have been addressed months earlier.

As a result of the Inspector General's findings, DEC suspended Peyser for 20 days without pay and required that she forfeit 150 hours of vacation leave.

In addition, these findings regarding Peyser were referred to the Albany County District Attorney's Office, which declined to prosecute.

## ALLEGATION

On May 21, 2010, the Inspector General received an allegation that DEC employee Jennifer Peyser was engaging in time abuse that went unchecked by her supervisor despite repeated complaints from other DEC employees.

## SUMMARY OF INVESTIGATION

The New York State Department of Environmental Conservation (DEC) was created in 1970 to combine in a single agency all state programs designed to conserve, improve and protect New York's natural resources and environment and to prevent, abate and control water, land and air pollution. In 2007, Governor Eliot Spitzer appointed Alexander "Pete" Grannis as Commissioner of DEC. Shortly thereafter, Basil Anastassiou was hired as DEC's Director of Public Communications, and supervised Web site design and all publications, including the *Conservationist*, an environmental magazine published by DEC.

Jennifer Peyser commenced employment with DEC in July 2005 as an Artist Designer in the Bureau of Publications and Internet. In May 2009, then-Commissioner Grannis asked Anastassiou to help modernize DEC's image. To that end, Anastassiou was tasked with updating the *Conservationist*. Under Anastassiou's direction, Peyser and several other employees were removed from the Bureau of Publications and Internet and placed in the newly created Creative Services Unit, a four-person team engaged in media and graphic projects for DEC. Peyser was responsible for layout and design for the *Conservationist*. Jack McKeon, then Director of Administration, related that this restructuring created some animosity between Anastassiou and the magazine staff who were unhappy about having less autonomy over the content of the *Conservationist*. Therefore, when allegations of time abuse by Peyser were reported by staff members and supervisors, as discussed below, McKeon tended to discount the allegations against Peyser, believing that they were motivated by the personal agendas of disgruntled employees.

DEC's Time and Attendance Policy states that employees in the Central Office must work 37.5 hours per week, 7.5 hours days, with daily half-hour meal breaks and two 15-minute work breaks. State employees submit bi-weekly time records to their supervisors for approval and attest to their accuracy. The time records that Peyser submitted indicated that she varied her work schedule from 8:30 a.m. to 4:30 p.m. or, at times, 9 a.m. to 5 p.m.

In March 2009, Peyser's supervisors became aware of staff complaints about Peyser's attendance. As a result, one supervisor sent Peyser an e-mail asking her to post her schedule on the office weekly calendar so that management could be aware of her days off and daily work hours. Peyser complied with this request for a short while. Then, in June 2009, after Peyser had been transferred to the Creative Services Unit and began reporting directly to Anastassiou, Peyser requested that she be removed from the unit calendar because she now reported directly to Anastassiou and not those supervisors. A supervisor responded that since Peyser worked collaboratively with the rest of the office staff, it was important that Peyser's schedule be accessible to them. Notwithstanding this, shortly thereafter, Anastassiou sent a supervisor an e-mail stating that Peyser was no longer required to input her schedule on the unit calendar. With the new structure, Anastassiou was now responsible for approving Peyser's bi-weekly time records.

Anastassiou explained to the Inspector General that although his office was located on the 14<sup>th</sup> floor of the DEC building and the Creative Services Unit employees were located on the second floor, he trusted his staff members to accurately record their time. According to Anastassiou, Peyser is a fulltime employee and is not authorized to work from home or outside the office. Anastassiou asserted that he keeps track of Peyser's time and attendance by e-mail and requires notification of all absences, even extended lunches. Anastassiou claimed to the Inspector General that he has checked on staff in the past and verified the accuracy of their time records.

Anastassiou reported that he was aware of a standing complaint concerning Peyser being absent from her desk for long periods of the workday. Anastassiou further explained that he had spoken to Peyser in the past about her time and attendance and that she had assured him that her time records were accurate. Anastassiou reiterated that he

was confident that Peyser was charging her time appropriately. Nevertheless, Anastassiou admitted that while he did require Peyser to advise him of her time off via e-mail, he did not always compare the e-mail to the time records submitted by Peyser. Anastassiou told investigators that he has had several conversations with other DEC employees regarding Peyser's time and attendance but expressed doubt that other employees could accurately judge Peyser's time and attendance when they were not Peyser's direct supervisor. In addition, Anastassiou felt that certain staff members were resentful of the reorganization in which Peyser was reassigned to the Creative Services Unit. As a result of these issues, Anastassiou stated, he discounted complaints he received from other employees regarding Peyser's time and attendance.

Despite Anastassiou's claims, in August 2009, supervisors became aware from staff that Peyser was continuing to arrive late, leave early and take extended lunch breaks in violation of agency policy, and that management was not taking any steps to correct the problem. Peyser's alleged time abuse was reported to Anastassiou and McKeon.

After continuing to observe Peyser's delinquency, on March 26, 2010, a supervisor sent an e-mail directly to Anastassiou inquiring if Peyser was in part-time work status. Anastassiou responded that Peyser was a full-time employee. The supervisor then advised Anastassiou that Peyser was not working a full day and questioned whether Peyser was charging her time appropriately. Anastassiou responded that all of Peyser's time had been charged appropriately and that his response should resolve the need for any more inquiries into the matter. With regard to this e-mail exchange, Anastassiou explained to the Inspector General that based on a history of differences between Peyser and this supervisor, he chose not to respond to future complaints regarding Peyser's time and attendance, stating: "As a result I didn't respond . . . it was a choice I made to close down what I thought was a continued attempt to raise the same issue that I had addressed."

On March 29, 2010, certain DEC supervisors met with Director of Labor Relations Joe Lattanzio and presented him with documentation of observations of Peyser's alleged time abuse. Lattanzio examined Peyser's time records and determined that several discrepancies existed between the observations of the supervisory staff and Peyser's submitted time records. Lattanzio advised the supervisors to continue to keep records of Peyser's time and attendance and forward them to his office. On April 2, 2010, Lattanzio informed the supervisors that he had reported Peyser's activities to Deputy Commissioner McKeon, and that McKeon was going to speak to Anastassiou about the matter. Of note, Anastassiou later informed the Inspector General that McKeon only briefly mentioned the matter to him, and that he represented to McKeon that Peyser did not have a time and attendance problem. McKeon reported to the Inspector General that he spoke to Anastassiou on two occasions regarding Peyser's time and attendance and was assured by Anastassiou that everything was in order. Anastassiou related to the Inspector General that he told McKeon that he was aware of Peyser's comings and goings through phone and e-mail contact with her. McKeon subsequently asked for an example of these e-mails and Anastassiou sent him a recent e-mail from Peyser asking for time off. McKeon further noted that Anastassiou had informed him that Peyser was a talented employee and that there was no problem with her work. McKeon added that he did not ask Anastassiou to take any further action and did not look into the matter any further.

After Peyser's time and attendance did not improve and because DEC management appeared to be ignoring the issue, Lattanzio recommended that the supervisors report their complaints to the Inspector General. These employees informed the Inspector General that no action was taken by DEC managers after they reported Peyser's alleged misconduct.

The Inspector General initially obtained the recorded observations of Peyser's time and attendance that had been submitted to Lattanzio, as well as e-mails related to the case. This information, when compared to Peyser's time records, revealed a pattern of significant time abuse. The Inspector General then conducted independent surveillance of Peyser over an approximately three-month period. A representative sample of the surveillance of Peyser is revealing: on August 10, 2010, at 4:18 p.m., investigators observed Peyser at the Stewarts shop in Castleton, a 20-minute drive from the DEC office, although her time record for that day indicated that she began work at 8:30 a.m. and finished at 4:30 p.m.; on October 7, 2010, investigators observed Peyser arrive at work at 9:18 a.m., although the time record she submitted for that day indicated that she arrived at work at 8:30 a.m. and left at 4:30 p.m. In addition, further investigation reflected that on multiple occasions Peyser purchased items at a supermarket (which was a 15-minute drive from the DEC office) during times that Peyser's time records indicated she was at work.

Based on this investigation, the Inspector General determined that between October 2009 and October 2010, Peyser did not work 77 hours she claimed to have worked and for which she was paid \$1,877.26 in unearned salary.<sup>1</sup> In addition, the DEC supervisors' observations, which occurred from March to October 2010, detected 84.75 hours of questionable absences valued at \$2,066.20. In total, Peyser received unearned pay of at least \$3,943.46 for the period reviewed.

The Inspector General reported these findings to DEC for appropriate action. As a result, Peyser was disciplined and received 20 days suspension without pay and was required to forfeit 150 hours of vacation time as a form of restitution for the hours she had previously not claimed on her bi-weekly time records.

## FINDINGS AND RECOMMENDATIONS

The Inspector General determined that DEC employee Jennifer Peyser engaged in substantial time abuse over an extended period, resulting in her improper receipt of more than \$3,940 in salary for hours she did not work. The Inspector General also found that DEC management was not diligent in its response to internal complaints regarding Peyser's time and attendance. Had DEC management responded promptly and appropriately to these complaints, Peyser's misconduct could have been addressed months earlier.

As a result of the Inspector General's findings, DEC imposed discipline on Peyser, suspending her without pay for 20 days and requiring her forfeiture of 150 hours of annual leave. The Inspector General notes that the executive management employees involved in this matter no longer are employed by DEC. The Inspector General

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<sup>1</sup> This is based on Peyser's annual salary, which was \$47,545 during the relevant period.

recommends that DEC take steps to ensure that complaints of employee misconduct are appropriately addressed.

In addition, these findings regarding Peyser were referred to the Albany County District Attorney's Office for consideration of potential criminal charges. The District Attorney's Office declined to prosecute.

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In response to the Inspector General's report, DEC advised that it reorganized the management of the work being conducted by Peyser. The Creative Services Unit was dissolved, and Peyser is now part of the *Conservationist* magazine staff in the Division of Public Affairs and reports to a supervisor located near her work station.