

South Carolina State Board of Environmental Certification

Board Meeting Minutes-January 8, 2008

The board held a regular scheduled meeting on January 8, 2008, at 110 Centerview Drive, Synergy Business Park, Columbia, South Carolina.

It was noted for the record that official notification of the meeting had been sent to the Offices of LLR-Public Information and LLR-General Counsel, appropriate newspapers and WIS-TV in compliance with Section 30-4-80 of the S. C. Freedom of Information Act.

Chairman, Mike Bailes called the meeting to order at 10:05 a.m. The invocation was given by Hank Rutland. Other members were William Armes, David Baize, Dwight Johnson, Drennan Park, and Hank Rutland. Dona Ferguson, Administrator, DeLeon Andrews, Investigator, and Theresa Garner, Board Staff.

Section 40-23-40

The purpose of this board is to protect the general public through the regulation of persons engaged in occupations appointed by the legislature for regulation by the board. These occupations are referred to in this chapter collectively as Environmental Systems Operators.

Chairman Bailes, congratulated, and informed everyone of Administrator, Dona Ferguson's recent marriage.

Where action is recorded below, it was taken in each case on motion duly made, seconded and carried.

Motion: Dwight Johnson moved, seconded by Hank Rutland, to approve the September 11th Board Minutes. **The motion carried. Approved.**

Application Hearing

Emerson Hunt-Bey-Certified Pool/Spa

Motion: Drennan Park moved, seconded by William Armes to deny approval of the application since Mr. Hunt-Bey was not present. **The motion carried. Denied.**

Board Meeting-January 8, 2008-Page 2

Mr. Hunt-Bey arrived at 10:30 a.m. **Motion:** William Armes moved, seconded by Dwight Johnson to place Mr. Hunt-Bey's request for consideration of a CPO/SPA application back on the Agenda. **The motion carried. Approved.**

Chairman, Mike Bailes called the application hearing to order. The purpose of the application hearing was to determine whether or not Mr. Hunt-Bey should be granted a CPO/SPA operator's license. Everyone was reminded that the proceedings were being recorded and all witnesses would be sworn in before testifying. All remarks would be directed to the chairman. Chairman Bailes asked Mrs. Ferguson to state the reason for the application hearing. Dona stated that because of the felony charges listed on Mr. Hunt-Bey's SLED report, the application could not be approved at the staff level. Mr. Bailes asked Mr. Hunt-Bey if he was represented by legal counsel, he stated no. Chairman Bailes asked if he waived his right to legal counsel, and was representing himself. He stated yes. Mr. Hunt-Bey was sworn in by Legal Counsel, Sharon Dantzler. **Sharon Dantzler, Legal Counsel**, asked in conjunction with his drug convictions; was he ever diagnosed as addicted to any drug or substance. Mr. Hunt-Bey said, no. **Ms. Dantzler** asked if he had any treatments. Mr. Hunt-Bey's response was, no. There were no other questions. Chairman Bailes stated Mr. Hunt-Bey's case would be taken under advisement.

Motion: At 11:20 a.m. Dwight Johnson moved, seconded by William Armes to go into executive session. **The motion carried. Approved. Motion:** William Armes moved, seconded by Dwight Johnson at 11:24 a.m. to come out of executive session. **The motion carried. Approved. It was noted for the record that no votes or motions were made while in executive session.**

Motion: William Armes moved, seconded by David Baize to accept Mr. Hunt-Bey's Certified Pool/Spa application. **The motion carried. Approved.**

Chairman Bailes stated the decisions being announced today expresses only the basic elements of the board's ruling in this case. Counsel or staff for the board will prepare a document which more fully expresses the board's conclusions, language and format which the board traditionally uses. The final and written decision must be approved by and signed by the chairman of the board and will be the final order in this matter.

Break: The board took a ten-minute break. The meeting reconvened at 11:35 a.m.

IRC Report

OIE Counsel, Dwight Hayes, asked the board members to accept the recommendations of the IRC. The report included (2) dismissals, and (6) formal complaints. **Motion:** At 10:11 a.m. William Armes moved, seconded by David Baize to go into executive session for

Board Meeting-January 8, 2008-Page 3

discussion. **The motion carried. Approved. Motion:** Dwight Johnson moved, seconded by William Armes to come out of executive session. **The motion carried. Approved. It was noted for the record that no votes or motions were made while in executive session.** The meeting reconvened at 10:50 a.m.

Motion: David Baize moved, seconded by Dwight Johnson to accept the recommendations of the IRC, and caveat that with the board members getting together with the IRC in the near future. The board will look at the IRC's review process and give them guidance as to what the board would like to see considered in the recommendations. **The motion carried. Approved.**

Consent Agreements

**Case No. OIE 205-020
Robert Faulkner –WD 402**

OIE Counsel, Dwight Hayes urged the board to adopt the consent agreement. **Motion:** David Baize moved, seconded by William Armes to accept. **The motion carried. Approved.**

**Case No. OIE 2005-0006 & 2005-032
James R. Darby, Jr.-WD 85**

OIE Counsel, Dwight Hayes urged the board to adopt the consent agreement. **Motion:** William Armes moved, seconded by Hank Rutland to accept. **The motion carried. Approved.**

Hearing Recommendations

**Case No. OIE 2005-0004
Randy L. McCracken-WD 1019**

OIE Counsel, Dwight Hayes urged the board to adopt the recommendation of the hearing officer. **Motion:** Drennan Park moved, seconded by William Armes to accept the recommendation. **The motion carried. Approved.**

**Case No. OIE 2003-56
Frederick A. Wrigley-BL 9654**

OIE Counsel, Dwight Hayes urged the board to adopt the recommendation of the hearing officer. **Motion:** William Armes moved, seconded by Dwight Johnson to cautiously accept the hearing officer's recommendation and caution more information from other

Board Meeting-January 8, 2008-Page 4

agency's that would be helpful in the determination in these matters. **The motion carried. Approved.**

CE Audit Report

Dona Ferguson stated as everyone knew, the board conducted a (2) year continuing education audit this year for the time period of July 1, 2005 through June 30, 2007. She asked for guidance regarding licensee's who did not get the required (12) hours, licensee's who did not respond to the audit, licensee's who did not provide proof of continuing education, and for licensee's who received (12) hours but did not receive any technical hours. She asked what the board's feelings were, and what would they like to do. She stated the audit was now complete, and that out of 300 licensees's who were audited, only (18) did not respond. She said she has (3) who did not receive the required (12) hours and probably about (20) who fall within the gray areas. She asked the board if they were going to enforce any penalties, or extend the time frame for obtaining the CE's and what are the parameters. **Legal Counsel, Sharon Dantzler**, passed around her "Cheat Sheet" that most of the LLR Board's use as guidelines for dealing with a CE Audit. Sharon gave an overview of the guidelines. **Motion:** Hank Rutland moved, seconded by William Armes to accept LLR's guidelines for continuing education audits. **The motion carried. Approved. Legal Counsel, Sharon Dantzler** said those licensees that have (12) hours today whether or not they received them in a timely manner, at most issue them a letter of caution for being late. Those who have not responded, should be mailed Cease and Desist letters as soon as possible. Those who responded but did not have (12) of anything, should be issued Cease and Desist letters. Those who responded but received the hours after the date they said yes, the board needs to tell Dwight Hayes, OIE, what kind of Consent Agreement they would like for him to draw up. Anyone that falls into any other category you will need to staff them and figure out what they really are. **Motion:** David Baize moved, seconded by William Armes to impart a penalty fine of \$250.00 for licensees who lied about receiving continuing education. **The motion carried. Approved. David Baize stated the law says you need (12) hours of relevant material and you can always try to figure out what relevant material is. Legal Counsel, Sharon Dantzler** stated the board has told the licensees that if they provide 6 and 6, the board will find those hours as relevant. . **Dona Ferguson** asked how the board should respond to licensee's calling in now. **Legal Counsel, Sharon Dantzler** said there will be no questions asked, if they comply with the 6 and 6.

Chairman Mike Bailes formed a CE Relevancy Committee appointing Hank Rutland as Chair. Also serving on the committee will be Joe DeVito, Chairman of the AWWA Water Distribution Committee, and Dee Bennett, City of Columbia.

Board Meeting-January 8, 2008-Page 5

Jim Matthews-Water Environment Association of S. C. Calculating Experience for Persons Working Less Than 40 Hours Per Week

Mr. Matthews said it was his understanding the board was going to determine whether or not to define a year as one year of a (30) hour work week by operator trainees, and operators trying to advance their certification. He asked the board to define what they would be voting on at this meeting.

Mr. Matthews asked that before the board voted; they might want to define what they are voting on so the association and the stake holders could have an input.

Paul Calamita-Legal Counsel for the Water Quality Association

- a. Education-Continuing Education Requirements**
- b. Lapse and Grace Periods for Renewals**

- a. Mr. Calamita stated the board's current rule is a three tier process, and the WQA thinks this system works. 1) Calendar year. 2) Operator-in-Charge has to certify that you have the experience. 3) The test. The WQA asked the board not to take action on this. However, if the board does decide to take action, the WQA feels the board is required to do so by regulation, which will determine who gets licenses and who does not.

Motion: Hank Rutland moved, seconded by William Armes to table the discussion for further investigation, and form a committee. **The motion carried. Approved. David Baize** suggested the board create a committee to resolve the issue. Chairman Mike Bailes appointed Hank Rutland as Chair, Jim Matthews, Patrick Jackson, and a DHEC representative.

Dona Ferguson stated for the record that she had received (2) letters opposing the (30) hour work week. One from the S. C. Chamber of Commerce, signed by Hunter Howard, and one from the S. C. Pulp and Paper Association, signed by Jackie Taylor. Dona stated she will be turning these letters over to Hank Rutland, and his committee.

Board Meeting-January 8, 2008-Page 6

- b. Mr. Calamita informed the board that the Water Quality Association has a Bill #H3543 pending in legislation; which would extend the renewal lapsed period for operators to (1) year. He said the association feels the operators need a longer lapse period that is more consistent with some of the other professions. The bill has passed the house, and is currently in the senate. Mr. Calamita addressed the subject of carrying over CE credits, and stated that most boards do allow some carry over of CE's. He asked the board to consider allowing carry over of credits, but stated this may require a rule change.

Committee Updates

Operator Development Committee

Elizabeth Williams reported on behalf of the Operator Development Committee. She said the committee has met, and added (3) new committee members. Danny Holliday from the S. C. Water Environment Association, Mike Caston from S. C. AWWA, and Patrick Jackson from S. C. Rural Water. She said the main purpose of the committee was to find new ways to recruit individuals to become operators. 1) Get recruitment flyers to be distributed to get the word out 2) Speaking with facilities that can provide internal training that can be used as work experience and can help people move up more quickly. 3) Operator Certificate Program that the board supports, this program has been successful so far. The first semester starts next week; since the fall enrollment there has been an increase of 60%.

There were no other committee updates.

Investigator's Report

65	Open Investigations (New Cases Included)
3	New Investigations
62	Old Investigations
15	Pending IRC
3	Closed Investigations
20	Legal

Motion: David Baize moved, seconded by Dwight Johnson to adjourn the meeting at 1:14 p.m.