

## MINUTES

Environmental Certification Board

Tuesday, May 3, 2011

110 Centerview Drive, Columbia, South Carolina 29210

### **Meeting Called to Order:**

Chairman, William Armes, called the regular scheduled meeting of the S. C. Environmental Certification Board to order at 10:14 a.m. Other Board members participating in this meeting included: David Baize, Vice-Chairman, of Columbia; Mitch Dew, of Latta; Dwight Johnson, of Jefferson; Jimmy Rodgers, of Greenwood; and Elizabeth Williams, of Sumter. Absent was Hank Rutland, of Orangeburg.

Staff members participating during the meeting included Lenora-Addison-Miles, Administrator; Christa Bell, General Counsel; Dean Griggs, Advice Counsel; Lillia Ann Gray, Hearing Attorney; and Theresa Garner, Program Assistant.

Others participating in the meeting included: Becky Dennis, Jim Matthews, Ken Spencer, Carl Shealy, Timothy Levi, Ben Wright, Jason Mantak, and Mark Ireland.

### **Public Notice**

Chairman Armes announced that public notice of this meeting was properly posted at the S. C. Board of Environmental Certification Office, Synergy Business Park, Kingstree Building, and provided to all requesting persons, organizations, and news media in compliance with Section 30-4-80 of the South Carolina Freedom of Information Act.

### **Pledge of Allegiance and Invocation**

The Pledge of Allegiance was led by Chairman Armes; the invocation was given by Mitch Dew.

### **Approval of the March 8, 2011 Meeting Minutes**

#### **MOTION:**

Dwight Johnson made a motion to approve the March 8, 2011, meeting minutes. Mitch Dew seconded the motion, which carried unanimously.

### **Hearing Officer's Recommendation**

Since Mr. Johnson was not properly notified of the board date, Lillia Ann Gray, LLR Litigation Attorney, asked for a continuance until the next board meeting on July 12, 2011.

**(These proceedings were recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.)**

### **Executive Session:**

All requests were heard, and a motion was made by Dwight Johnson to enter into executive session at 10:47 a.m. for legal advice. The motion was seconded by David Baize. The vote was unanimous.

### **Return to Public Session:**

A motion was made at 11:00 a.m. by Dwight Johnson to come out of executive session. Mitch Dew seconded the motion. The vote was unanimous. It was noted for the record that no votes were taken or any decisions made while in executive session.

### **Application Hearings:**

#### **Mark A. Ireland-Well Driller**

Chairman, William Armes, called the Application Hearing to Order, and reminded everyone that the proceedings were being recorded, all witnesses would be sworn in, and all remarks would be directed to the chairman. Mr. Ireland was sworn in for testimony, along with Mr. Jason Mantak, who testified on Mr. Ireland's behalf.

Because of the conviction charges on the SLED report, the application could not be approved at the staff level. Mr. Ireland was notified of the Application Hearing, and asked to be present to answer any questions the Board may have.

Mr. Ireland waived his right to legal counsel. He explained the circumstances surrounding the SLED report, and his 2004 felony conviction. He stated he should never have taken the law into his own hands, and that he has served 45 months for that incident, and since that time has not incurred any other charges or convictions. He asked the board to consider granting him a well driller's license.

Mr. Jason Mantak, Geologic Exploration, testified on Mr. Ireland's behalf. He stated his company was aware of Mr. Ireland's convictions and a little leery at first to hire him, but after checking out his work experience, and speaking with previous employers, the report came back overwhelming positive. He stated even though Mr. Ireland has only worked for him for nine or ten months, he has been a true asset, taking pride in his work, and getting along wonderfully with his clients. Mr. Mantak said, Mr. Ireland is exactly what their company is looking for in an employee.

**MOTION:**

David Baize made a motion to accept Mr. Ireland's request for a well driller's license, with the following conditions: The motion was seconded by Dwight Johnson. The vote was unanimous.

- 1) Applicant's license shall be in a probationary status for a period of three (3) years.
- 2) Applicant shall provide a SLED report, at his own expense by June 30<sup>th</sup> (renewal period) of each of the years (2012, 2013, and 2014).
- 3) Applicant shall notify the Environmental Certification Board in writing of any changes in employment, address, practice, and professional status.
- 4) Failure to comply with the terms and conditions may result in the license being temporarily suspended until further order of the Department.

**Kenneth T. Spencer-Physical/Chemical Wastewater**

Chairman, William Armes, called the Application Hearing to Order, and reminded everyone that the proceedings were being recorded, all witnesses would be sworn in, and all remarks would be directed to the chairman. Mr. Spencer was sworn in for testimony.

Because of the conviction charges on the SLED report, the application could not be approved at the staff level. Mr. Spencer was notified of the Application Hearing, and asked to be present to answer any questions the board may have.

Chairman Armes stated that he would preside over the hearing but because he works in a profession that regulates the industry that Mr. Spencer is seeking employment, and because of that reason, Chairman Armes recused himself from voting.

Mr. Spencer waived his right to legal counsel. He explained the circumstances regarding his convictions. He stated he had made some mistakes in the past that dealt with drug use, and at that time did not realize the ramifications of his actions.

Since that incident, he has had no further convictions or charges. He asked the board to consider his request for granting him a Physical/Chemical Wastewater license.

**MOTION:**

David Baize made a motion to accept Mr. Spencer's request for a Physical/Chemical Wastewater Treatment License with the following conditions: The motion was seconded by Dwight Johnson. The vote was unanimous.

- 1) Applicant's license shall be in a probationary status for a period of three (3) years.
- 2) Applicant by June 30<sup>th</sup> (renewal period) of each year (2012, 2013, and 2014) shall provide a SLED report at his own expense.
- 3) Applicant shall notify the Environmental Certification Board in writing of any changes in employment, address, practice or professional status or compliance with this Order.
- 4) Failure to comply may result in a temporary suspension of the license until further Order of the Department.

**Timothy M. Levi, II-Water Distribution**

Chairman, William Armes, called the Application Hearing to Order, and reminded everyone that the proceedings were being recorded, all witnesses would be sworn in, and all remarks would be directed to the chairman. Mr. Levi was sworn in for testimony, along with Mr. Benjamin Wright, who testified on Mr. Levi's behalf.

Because of the conviction charges on the SLED report, the application could not be approved at the staff level. Mr. Levi was notified of the Application Hearing, and asked to be present to answer any questions the board may have.

Mr. Levi waived his right to legal counsel. Mr. Levi stated that he works for the City of Cayce, and needs to have a Water Distribution License. The City of Cayce's policy requires their employee's to have the application in order to work in the department. Mr. Levi explained his 2006 conviction charges. He said he served (9) months in prison and was on probation for (5) years, he has a little over a year left on his probation, and he has not had any other charges or convictions since that incident.

Mr. Benjamin Wright, Utility Manager, City of Cayce, testified on Mr. Levi's behalf. He stated that Mr. Levi has been employed with them for about 2 ½ years. He said Mr. Levi is an honest and outstanding employee, the first person at work and the last to leave.

**MOTION:**

David Baize made a motion to accept Mr. Levi's request for a Water Distribution License with the following conditions: The motion was seconded by Dwight Johnson. The vote was unanimous. Chairman, William Armes, recused himself from the vote.

- 1) Applicant's license shall be in a probationary status for a period of three (3) years.
- 2) The Applicant shall by June 30<sup>th</sup> (renewal period) of each year of his probationary status (2012, 2013, 2014) provide a SLED report, at his own expense.
- 3) Applicant shall comply with all state and federal laws, including those governing his supervised probation with the S. C. Department of Probation, Pardon and Parole Services.
- 4) Applicant shall advise the Environmental Certification Board in writing of any changes in employment, address, practice, professional status, or compliance with this Order.
- 5) Failure to comply may result in the license being temporarily suspended until further Order of the Department.

**IRC REPORT:**

On behalf of Steve Freshley, Todd Bond presented the IRC report. Todd stated the Environmental Certification Board IRC met on April 21, 2011 to discuss Case #2010-11 Formal Complaint and a Letter of Caution for Case #2010-8.

**MOTION:**

Mitch Dew made a motion to accept the April 21, 2011 IRC report. Dwight Johnson seconded the motion. The vote was unanimous.

**Chairman's Remarks-William Armes**

Chairman Armes stated he was still waiting to be replaced since his term had expired. He said it was a real honor and privilege to be here, and he said he appreciated the working staff.

## **Administrator's Remarks-Lenora Addison-Miles**

### **Announcement of New Legal Advice Counsel**

Administrator, Lenora Miles, announced Sheridan Spoon will be ECB's Legal Advice Counsel, replacing Sharon Dantzler, who retired on March 31<sup>st</sup>. Sitting in for Mr. Spoon was Christa Bell.

### **Internal Re-organization**

Lenora said in March LLR had an internal re-organization that resulted in the return to the previous board structure. All of the licensing functions have been returned to the boards. The Office of Licensure and Compliance and the Customer Care Center have been dissolved, and the agency also had a reduction in force. The Board currently has a staff of three, Lenora Addison-Miles, Theresa Garner, and Joi Middleton, who previously worked for the board.

Administrator, Lenora Miles, asked the board what they thought about someone taking the same level exam and using it for CE purposes. Chairman Armes said he did not think that it was the board's intent. Jim Matthews stated he remembered years ago, former Director, Bill Moore, addressed that question and said operators could take the same level exams and if they passed the exam they could count it as continuing education. The consensus of the board was if anyone chooses this route to obtain continuing education, it will be allowed.

### **Licensing Report**

As of May 3, 2011, the board has 2,720 licensees that are current through 6/30/2012. The board had 2,189 licenses that have been renewed online, and there are still 6,501 licenses that are "Active in Renewal".

### **Exam Reviews**

Lenora informed the board she had contacted Megan Baker with ABC, regarding examination review. She said ABC will be willing to work with the board. Each board member will need to sign a non disclosure agreement, and the preferred method of reviewing the exam will be that ABC will provide the appropriate individuals with access to a password protected web base test that can be reviewed electronically, and access to the exam will be limited to an agreed upon time period.

### **Advisory Opinions, If Needed, Office of General Counsel:**

There were no advisory opinions given.

Legislative Updates, If Needed, Legislative Liaison Office:

There was no report given.

OIE Report-Office of Investigation and Enforcement

Mr. Bond gave an update on outstanding cases. Currently there are 3 cases, 2 are from 21 days ago, and the third is from 13 days ago.

OGC Report-General Counsel

Christa Bell reported there was only (1) pending case, which is the continuance, and (20) cases have been closed.

**Discussion Topics:**

David Baize gave an update on the status of the regulations. He stated the last he heard, it had gone through the Legislature was approved, and was on schedule. Lenora stated she had not received a recent report.

Chairman, William Armes, requested that Theresa Garner contact Patrick Jackson regarding forwarding the Water University Curriculum for the board's review.

**Committee Reports:**

Examination Committee

Elizabeth Williams reported on the Examination/Continuing Education Guideline Review. She said she has a few individuals that are providing her with information regarding guidelines that another board has used. Elizabeth stated that Lenora has contacted Megan Baker at ABC regarding the procedures for reviewing the exams. The Board members will review the appropriate exams for the groups they represent. She said finding out that the exams can be reviewed web based will be a big help. The following board members will review the following categories of exams: William Armes-Physical/Chemical Wastewater, Mitch Dew,-Biological Wastewater and Water Distribution, Hank Rutland-Water Treatment, and Jimmy Rodgers-Well Driller Exams.

**Public comments:**

Becky Dennis said she had heard a lot of discussion regarding two (2) year renewals, and asked why the board decided not to move forward with that decision. Administrator, Lenora Miles, stated the board was given a directive from "OLC" last year; it was never ECB's decision to go biennial. Lenora said it is easier to maintain the one (1) year license because of the 365 days that the operators have to renew.

**Adjournment:**

**MOTION:**

Dwight Johnson made a motion to adjourn the meeting. Mitch Dew seconded the motion. The meeting of the South Carolina Environmental Certification Board was adjourned at 11:30 a.m.