

MINUTES

Environmental Certification Board

Tuesday, July 12, 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 10:15 a.m. Other Board members participating in this meeting included: David Baize, Vice-Chairman, of Columbia; Mitch Dew, of Latta; Jimmy Rodgers, of Greenwood; Hank Rutland, of Orangeburg; and Elizabeth Williams, of Sumter. Absence was excused for Board Member, Dwight Johnson, of Jefferson.

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

Others participating in the meeting included: Richard Johnson, Robert Britts, Carlton Shealy, David Clark, John Young, Jim Matthews, and Patrick Jackson.

Public Notice

Chairman Armes announced that public notice of this meeting was properly posted at the S. C. Board 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.

Invocation and Pledge of Allegiance

The invocation was given by Hank Rutland, followed by the Pledge of Allegiance, which was led by Chairman Armes.

Approval of the May 3, 2011 Meeting Minutes

MOTION:

Mitch Dew made a motion to approve the May 3, 2011, meeting minutes. David Baize seconded the motion, which carried unanimously.

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

Hearing Officer's Recommendation

a. Richard E. Johnson

Chairman, William Armes, called the Final Order 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. Johnson was sworn in for testimony.

Litigation Attorney, Lillia Ann Gray, stated that a hearing was held on February 17, 2011 giving Mr. Johnson an opportunity to question all the state's witnesses and to ask any questions he might have regarding the complaints against him. Ms. Gray said, based on the evidence that was presented, the hearing officer found that Mr. Johnson was a licensed well driller, and had contracted with Morris Turner whose license had been revoked. The hearing officer in his conclusions of law made specific findings of fact and conclusions, and found that Mr. Johnson had violated the practice act. Ms. Gray asked that the board adopt the hearing officer's recommendations as the final order and impose the sanctions as recommended.

Mr. Johnson waived his right to legal counsel, and did not present any witnesses for testimony on his behalf. He stated that the Notice of Intent (1903 form) that he submitted to DHEC, shows that he signed the form as the well driller who drilled the well. He said the homeowner testified that she never saw him drill the well. Mr. Johnson stated that he was only responsible for the drilling and grouting of the hole, not the installation of the pump.

Chairman Armes, stated the board had received Mr. Johnson's comments and would take them under advisement, and render a decision.

MOTION:

David Baize made a motion to accept the Hearing Officer's recommendations with the following modifications: 1.) The probationary status will be reduced from three years to one year 2.) There will be no fine imposed. The motion was seconded by Hank Rutland. The vote was unanimous.

Application Hearings:

David W. Clark-Biological Wastewater #14354

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. Clark 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. Clark was notified of the Application Hearing, and asked to be present to answer any questions the Board may have regarding the charges.

Mr. Clark waived his right to legal counsel, and did not present any witnesses on his behalf. He stated he is currently enrolled in CCTC's two year associate program for Environmental Engineering, and is employed by Pilgrim's Pride in the wastewater pretreatment plant; he is looking forward to making this his career. He said he regrets the choices he made regarding driving under suspension, but asked the board to consider his work ethics and work history. Mr. Clark asked the board to consider granting him an extension on his permit.

Chairman Armes asked the status of his charges. Mr. Clark stated he is waiting to go before the Magistrate to request a jury trial.

Advice Counsel, Dean Griggs, asked Mr. Clark if his license was still suspended, and if he has made arrangements for transportation. Mr. Clark's response to both questions was, yes. Mr. Griggs also asked the status of the other prior incidents. Mr. Clark said he has met the requirements and responsibilities for each of the other charges.

Chairman Armes stated the board had received Mr. Clark's comments and would take them under advisement, and render a decision.

MOTION:

Hank Rutland made a motion to accept Mr. Clark's request for a Biological Wastewater Trainee Permit Extension with the following conditions: 1.) Mr. Clark's license will be placed on probation for a period of three years. 2.) He will be required at his own expense, to submit an annual SLED Report at each renewal period. The motion was seconded by Jimmy Rodgers. The vote was unanimous.

Break

The board took a ten minute break at 10:57 a.m. The meeting reconvened at 11:10 a.m.

Renewal Application Hearing

William D. Moore-Biological Wastewater #10082, P/C Wastewater #4287, Water Treatment #6581

Chairman, William Armes, called the Renewal 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. Moore was not present.

Because of the conviction charges on the SLED report, the renewal applications for Biological Wastewater, P/C Wastewater, and Water Treatment could not be approved at the staff level. Mr. Moore was notified of the Renewal Application Hearing, and asked to be present to answer any questions the Board may have regarding the charges.

MOTION:

David Baize made a motion to deny Mr. Moore's renewal applications since the applicant was not present to present his qualifications. The motion was seconded by Hank Rutland. The vote was unanimous.

Executive Session:

MOTION:

David Baize made a motion at 11:34 a.m. to enter into executive session for legal advice. The motion was seconded by Hank Rutland. The vote was unanimous.

Return to Public Session:

MOTION:

Hank Rutland made a motion at 12:07 a.m. to come out of executive session. The motion was seconded by Mitch Dew. The vote was unanimous. It was noted for the record that no votes were taken or any decisions made while in executive session.

ELECTION OF OFFICERS

NOMINATION

David Baize nominated William Armes as Chairman. Hank Rutland seconded the nomination. Mr. Armes was re-elected as Chairman by acclamation.

NOMINATION

Mitch Dew nominated David Baize as Vice-Chairman. Hank Rutland seconded the nomination. Mr. Baize was re-elected as Vice-Chairman by acclamation.

Chairman's Remarks-William Armes

There was no report given.

Administrator's Remarks-Lenora Addison-Miles

Administrator, Lenora Miles stated ECB's legislation had passed. Chairman Armes commented that the statutes and regulations should now be in agreement. Mrs. Miles said the current number of Active licensee's as of 7/12/2011, were 9,530.

She stated the renewal period ended 6/30/11 but licensees have 365 days to pay late renewals along with the penalty fees. The board had 5,807 licenses that were renewed online, and there are still 820 who have not renewed. Lenora said she had been communicating with ABC's Project Manager, Megan Baker regarding the examination reviews. The standardized exams are ready and the well driller exams should be ready in about two weeks. She said ABC needs to know ECB's time frame for reviewing the exams online.

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 Investigations and Enforcement

Steve Freshly informed board members that in 2011, OIE opened (4) cases and they are still opened. The two oldest cases are 90 days old, the third case is 82 days old and the fourth case is 19 days old. The investigations are complete on the (3) oldest cases, OIE is waiting for the IRC to meet on August the 24th.

OGC Report-Office of General Counsel

There was no report given.

Discussion Topics:

Patrick Jackson, RWA-Curriculum for Water University Certification Program

Mr. Jackson said this is a web based self study program, and the reason for offering the course is to help operators transition into supervisory or management positions. Mr. Jackson proposed that this course be used as a basis, and he mandated that these individuals be allowed some experience credit. This would include a combination of the self study, and 8 to 10 hours per module of attendance in a classroom, and passing a well based exam. NRW mandates for someone to qualify for enrollment in the program, they must have 100 points. The course is through National Rural Water Association but is written by Texas Rural Water, Colorado Rural Water, and Kentucky Rural Water. Mr. Jackson stated this course was primarily an avenue to advance people within their professions and give them an incentive to help expedite their licenses in a nontraditional way.

Chairman Armes asked if this course was accredited by a university or college. Mr. Jackson said, no. Chairman Armes asked Mr. Jackson if he could provide accreditation from the National Rural Water Association backing up the course criteria. Chairman Armes said if he understood correctly, Mr. Jackson was asking the board to consider this as part of the operator's continuing education, and for this course to be considered equivalent to six months or one year of experience time. Mr. Jackson said that was correct and that he should be able to provide the board with the information they were requesting. Chairman Armes said the board had heard Mr. Jackson's request and would take it under advisement. This item was tabled for further discussion.

Committee Reports:

Continuing Education Committee

Elizabeth Williams asked the board members if they recalled Sue Schneider from Spartanburg Water, appearing before the board in September of 2009 asking for approval for a registered apprenticeship program for operator advancement. Ms. Schneider asked that this apply to Biological, Water Distribution and Water Treatment. Elizabeth stated a company in the upstate, Palmetto Plating, is asking for the same approval for Physical/Chemical Wastewater. It will have a minimum of 144 hours of education each year, and incorporate the ABC "Need to Know" criteria and the program will be registered with the Department of Labor.

MOTION:

The CE Committee's motion is that the board accepts the registered apprenticeship program for Physical/Chemical Wastewater which meets the equivalent criteria, and will apply only to "A" and "B" Industries. The motion was seconded by Mitch Dew. The vote was unanimous.

David Baize said the bond for well drillers is a process for a driller who performs sub standard work to be able to fix that work. Presently the wording of the bond reads that it can be accessed either by DHEC or LLR. Recently DHEC had a case where that process was started and because of the wording of the bond made it difficult for DHEC to call in the bond; since the bond named the agency as the one that would receive the money. In essence the agency was the damaged party. Mr. Baize suggested DHEC, and LLR's attorney's look at how the bond is worded and see if there is a better way the bond can be accessed to take care of the problems. Chairman Armes asked David Baize to Chair a subcommittee for revision of the well drilling bond.

Public Comments

There were no public comments.

Adjournment:

MOTION:

Mitch Dew made a motion to adjourn the meeting. Jimmy Rodgers seconded the motion. The meeting of the South Carolina Environmental Certification Board was adjourned at 12:21 p.m.