

SOUTH CAROLINA DEPARTMENT OF LABOR, LICENSING AND  
REGULATION BEFORE THE BOARD OF ENVIRONMENTAL  
CERTIFICATION

BOARD MEETING

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Tuesday, May 8, 2012  
10:00 a.m. - 10:28 a.m.

The South Carolina Board of Environmental Certification board meeting was taken at Synergy Business Park, Kingstree Building, 110 Centerview Drive, Columbia, South Carolina, on the 8th day of May, 2012 before Alexandra A. Patrick, Court Reporter and Notary Public in and for the State of South Carolina.

APPEARANCES:

BOARD MEMBERS:

William Armes, Chairman  
David Baize, Vice-Chairman  
David Dew  
Dwight Johnson  
James Rodgers  
Henry Rutland  
Elizabeth Williams

ADVISING THE BOARD:

Sara McCartha Esquire

Also Present:

Lenora Addison-Miles, Board Administrator  
Theresa Garner, Program Assistant

Sharon Wolfe, Office of Investigations and Enforcement  
John Young, Chairman of ECBA Liaison Committee  
Corey Watts, SCDHEC  
Chris Saul, SCDHEC

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EXHIBITS

(No exhibits were marked during the meeting.)

STIPULATIONS

It is stipulated and agreed that this hearing is being taken pursuant to the Administrative Procedures Act, the Practice Act and Regulations of the Board. CALL TO ORDER AND STATEMENT OF PUBLIC NOTICE

MR. CHAIRMAN: I will call this meeting to order.

I'm William Armes, the chairman of the bottled water certification board. Public notice of this meeting was properly posted at the South Carolina Environmental Board of 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. At this time, Hank, would you mind giving us an invocation if everyone will stand and remain standing for the Pledge of Allegiance please.

MR. RUTLTAND: Let us pray. Guidance and leadership as we discuss the matters concerning the Environmental Certification Board. It is in your holy name we pray, Amen.

MR. CHAIRMAN: Amen and thank you. If you will join me in the Pledge of Allegiance?

GROUP: I pledge allegiance to the flag of the United States of America and to the republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

#### STATEMENT OF PURPOSE AND APPROVAL OF JANUARY 10, 2012 MINUTES

MR. CHAIRMAN: Thank you, have a seat please. I appreciate all of you board members attending and the public participation. I believe we have some guests from DHEC that we'll recognize later on in the agenda. The other thing I would like to go ahead and do is state the purpose of the board in accordance with Section 40-23-40. The purpose of the Environmental Certification Board is to protect the general public through the regulation of persons engaged in occupations appointed by the legislature for regulation by the board. Occupations are referred to and according to in 40-22-40 and throughout the law that collectively, as the environmental system operators. With that, I think the first thing on the agenda is approval of January 10, 2012, minutes. Did all members, have all these members had a chance to review these minutes?

#### MOTION:

MR. JOHNSON: Chairman, I make a motion to approve the January 10 minutes.

MR. CHAIRMAN: Do we have a second?

MR. RUTLAND: Second.

MR. CHAIRMAN: Thank you. In favor say aye.

(AYES WERE HEARD)

MR. CHAIRMAN: Any opposition? None. Thank you, so moved. Next thing on the agenda is bottled water exam. I would like to open up the floor for discussion. At this time David, would you help us lead discussion in this matter? I know we have a couple of guests we would like to take advantage of.

#### BOTTLED WATER EXAM

MR. BAIZE: Thank you, Mr. Chairman. I guess as I understand it maybe from LLR's perspective there was a test developed years ago and it was never really implemented. So there has been, I guess, no licenses issued for bottled water operators.

MS. MILES: No, we have issued.

MR. BAIZE: That's right.

MR. BAIZE: Without an exam.

MS. MILES: Okay. They've been issued without an exam today. And when we got a copy of the draft, asked a couple of, DHEC does regulate bottled water in a couple ways. And so I asked the folks that do that to look at that exam and then also come today and explain a little bit about what we do and our process and who they are and that sort of thing. So if you guys just want to ---

MR. CHAIRMAN: I would like to invite you up if you would like to approach the Board, we would appreciate it. And it pleases the Board to receive comment from these gentleman. If you don't mind letting us know who you are and something about what you do?

MR. WATTS: Corey Watts, I'm in drinking water permitting. I've been there since '96. Before that I was in facilities planning with DHEC in the waste water program.

MR. CHAIRMAN: Thank you.

MR. SAUL: Chris Saul, I work on the dairy foods, soft drink and bottled water protection program. I've been there for -- in this division for 11 years. Prior to that I worked in the Aiken County Environmental Health Office, so I've been with the Agency about 21 years.

MR. CHAIRMAN: Okay. Very good. And if you'll tell us something about where is DHEC currently with this issue as far as it -- what is it that DHEC is going to address?

MR. WATTS: Well, I can give you a little background, just a little quick synopsis on this, the bottled water and what we, at our program, offered for the vending machine. In the state, if you vend water, treat water and vend it like you see at the Earth Fare, Wal-Mart, what have you, those are classified as a public water system and they have to have an operator. And the same with a bottled water plant. If they treat water then put it in a bottle, they have to have an operator. Now, back in the mid to late '90s, kind of when I came into the water program, we only had a couple of vending stations in the state and at

that time they were required to have a C grade operator. And a C grade operator, you know, you had to serve as a D grade, a trainee, or what have you so it may take you a year or two to get certified for C grade. But that's what we had in the program. A lot of vending -- we saw a lot of increase in vending machine companies wanting to come into the state and they may have been operating in, you know, Arizona for 25 years and they had technicians that knew their machines backwards and forwards and they wanted their people to service their machines, but they ran into a snag with our program because they couldn't get their people certified for, you know, a length of time. So, then that's when we at DHEC started talking with LLR to kind of come up with something that would allow them to, to get certified but then also to ensure the state and the people of the state that they were proficient with what they were working on. And I have in my books there, I tend to keep a lot of stuff and I have some actual paperwork that in the early stages we, at least at DHEC, were referring to this as a vending machine license. But then also we had the bottled water plants that are very similar in their treatment. And that's when, I guess in the early, early part of the 2000s, you know, the program was implemented here and you had a license program but no examination. And then a period of time had lapsed, and I don't know if the real intent is for the license to really cover the vending machines or are they to cover the bottled water plants. And we have about eight bottled water plants and we have about 145 operating vending machines in the state. And the vending machines we're seeing more and more every day. The bottled water plants, we've had a couple go off line the last year or two. So, I don't know if maybe we want to have two exams, the bottled water plant and vending machine or try to combine them. There are a lot of differences between the two. That's kind of ---

MR. CHAIRMAN: Let me ask you this in the terms of vending machines, where in the regulations is specifically the citing that if when you load a vending machine, for example, if you load a vending machine, that act is a licensed act therefore, it's going to fall under some certification. And is that, I guess what I'm really asking, is that necessary? That someone is -- if it's already bottled, then someone is placing ---

MR. WATTS: Oh no, these are not bottled. This is vending machines like you take your own jug and you go to Earth Fare.

MR. CHAIRMAN: Got it.

MR. WATTS: You take your own jug and they -- it really should be good water coming out because they are required by the drinking water regulations to tie on to an already approved source. So, they should already meet minimum state and federal standards. But then they enhance the water. But you don't want somebody putting together an old garden hose and running it through. That would degrade the water. So, we do look it over from a treatment standpoint. But what's coming out, you know, you fill your jug. Now, if it's bottled, it has to go through an actual bottling operation. That's where ---

MR. CHAIRMAN: So, the vending is strictly if someone has a machine set up and it may be taking and filtering by some method, water and someone brings their own or maybe purchases the receiving jug or whatever you call that.

MR. WATTS: You're right. A bottle.

MR. CHAIRMAN: Okay. And that makes sense. So that's totally separate from any other type of vending. All right. Well, that helps.

MR. SAULS: And that's what I wanted to clarify to the board, is my side deals with manufactured grade. So, I'm actually the one that's in a facility that manufactures bottled water. I have to deal, I still deal with Corey, and I want the board to understand that DHEC still, you know, a bottled water plant, not a vending machine, but vending machines are strictly handled through Corey and his group. I don't even get involved in that. But if you get involved in the manufacturing side of it, I work under FDA regulations for manufacturing aspects of it. My source water has to either come from an approved municipal source which has been approved through Corey's group already to meet EPA regulations or if they have an on-site source such as a well or a spring still has to go through water permitting to be approved. So, in essence, if you actually manufacture bottled water in this state you hold two permits. You hold one from me and you hold one from Corey and his group as well. So, we wanted to clarify that. So, from a vending aspect, I won't get involved. And I think initially on, like Corey explained, that's what the intent of the exam was. And it's kind of got skewered over the years, but it's up to the

board to decide whether we want to try and combine. Corey and I went through this thing about a month ago and we spent, two and a half hours probably and made it through about 70 questions. We found that a lot of the things have changed over the years. That some of them are not applicable any more. Or if it is somebody who is strictly doing vending, wouldn't have a clue about the manufacturing bottled water aspects of it or vice versa. Somebody is doing, you know, bottled water from the manufacturing side might not understand the vending side of it either. So ...

MR. BAIZE: It's really under FDA. Bottled water is really a product like Coke. It's a food grade product and it's a dual license. And my, you know, my suggestion that I might put out to the board is to form a committee like we often do on these things to be able to look at it in more detail and these gentlemen have agreed to participate since they're the knowledge base for us, and so, you know, if one or two other people from the board would like to delve into this a little bit more and then maybe they could come back with a recommendation as to two separate licenses and tests or one license or test, because it does seem like that's very different skill and knowledge sets that would be required and just, you know, come up with a recommendation to be able to have to ---

MR. CHAIRMAN: Thank you, David. If you can hang with us just one more minute. From the staff, Lenora and Teresa, how -- I think this would be very helpful.

MS. MILES: Oh yes, originally, it was intended, as you said, strictly for vending. That's all we were supposed to be administering exams for, vending machines. So, that would be at the discretion of the board if they wanted to do that. But ours were strictly vending machines.

MR. BAIZE: Right. I guess you could make the assumption that they've -- I don't know. I guess they should look at it in more detail, but on the bottled side there's already operators there at the facility when it's bottled so it might be redundant, and maybe it really -- that part needs to be removed and only focus on vending, but I don't know.

MR. DEW: Excuse me. Vending, wouldn't you have to look at the purveyor of the water because they're doing nothing there at the machine but sticking a jug in there and putting a dollar getting a gallon of water. If the water comes from the system ---

MR. CHAIRMAN: Distribution would be responsible.

MR. DEW: Yeah, distribution would be responsible.

MR. BAIZE: Right.

MR. CHAIRMAN: Which is already under license, which kind of surprises me that bottled water doesn't fit a little bit closer to water distribution, but I understand the difference. Given that there appears to be so many regulations, and that there maybe needs to be some clarity brought to the gray zones of our regulation, not only our regulation, but enabling Act, that committee sounds in order. If the board approves it, I think that is the way we will go. And you gentlemen would be willing to serve on the committee? Okay, we will appreciate that. And Elizabeth, you have some expertise in testing and so forth, is this something you can work in ---

MS. WILLIAMS: Absolutely.

MR. CHAIRMAN: --- And chair for us? Okay. And Mitch, you ---

MR. DEW: Yes.

MR. CHAIRMAN: And David as you see fit?

MR. BAIZE: These guys know more about it than I do.

MR. CHAIRMAN: All right. So three board members and the two gentleman from DHEC with Elizabeth agree others into your committee and possibly have a preliminary report or findings at the next meeting? Not necessarily a recommendation unless you have one ready. Thank you for being here. You've been informative and we look forward to what comes out of the mix.

MR. SAULS: Thank you.

MR. WATTS: Thank you.

#### CHAIRMAN'S REMARKS

MR. CHAIRMAN: All right. Other than that we're going to move on to the Chairman comments. New year, new look, new job. I'll try to be brief because I figured we'd be out of here in less than an hour, but I've retired from NUBA Water Resources in April and I'm now working for Cousin, McCormick and Lawless, so that's a little change. The other thing I wanted to mention is I have not received comments update, any reaction regarding the LLR 2012 Annual Report, which included the recommendation to dissolve this board. As the board is aware on behalf of the board, on the consensus of the board, I wrote a letter to the governor. The specifics of that letter was politely asking input from this board, from the regulated community or the operators and the professional associations before any action be taken in favor of dissolving the board. If the action

is to leave the board alone, then, okay, fine. And again, we'll see what happens. There's been some press attention to this. I will tell you I will not speak to the press as your chairman without the consensus of the board. So, if anybody says anything otherwise, that's not me. As an individual, I'll still try my best not to say anything. But, you as board members and citizens of the state of South Carolina, obviously you have the right as a citizen to give input and speak as you so wish. With that, any comments? I'll open it up for just a second. Anybody heard anything that we need to be aware of? Any concerns at this point? Okay. Very good. Appreciate that. That's all I have to say today. Other than thank you for being here. The administrator's remarks. Lenora, would you like to ---

#### ADMINISTRATOR'S REMARKS

MS. MILES: Yes, I'll be very brief. The ABC Testing Service Agreement for 2012 has been renewed and the examinations increased to \$97; they were \$95. As of today, we've had 2,125 licenses renewed online. There's still 6,636 licenses active in renewal. The March 2012 cash balance report reflects \$41,616.34.

MR. CHAIRMAN: Okay. Thank you.

MS. WILLIAMS: I have a question. The exams, when will that \$97 become effective?

MS. MILES: It's effective now.

MR. CHAIRMAN: All right. Any legislative updates? Do we have anyone here to speak in terms of the changes? OIE reports?

MR. CHAIRMAN: Great.

MS. WOLFE: Good morning. I'm Sharon Wolf.

MR. CHAIRMAN: I'm sorry I didn't recognize you earlier.

#### OIE REPORT:

MS. WOLFE: I'm Sharon Wolfe. I've taken Steve's place who retired. And we have a brief report. We have one active investigation at the moment and we have two cases that are pending approval of the board.

MR. CHAIRMAN: So, how many active cases?

MS. WOLFE: One active case.

MR. CHAIRMAN: One active and how many pending?

MS. WOLFE: Two pending the board's approval.

MR. CHAIRMAN: All right. And do we have a report to approve? Does everyone see this, the IRC report? Basically just have, and as you know, we're basically stating that we acknowledge that investigations are going on and certain action has occurred without going into details of the case itself. The case, 2011-4, looks

like destruction of an environmental well for water consumption. This is a suspension matter where coliform bacteria entered the well and the water table. Revisit the issue and sufficient evidence and 2012-1 the investigator contacted the former well driller and water services about devices for the board to formally prepare for the ALC, which is the ALC, the law court.

MS. MCCARTHA: Administrative Law Court.

MR. CHAIRMAN: They are a board or a court?

MS. MCCARTHA: Yes, they are -- the practice act, is this a board that doesn't have disciplinary ...

MR. CHAIRMAN: We can discipline.

MS. MILES: That's why I'm a little confused as to why it's going to the ALC.

MR. CHAIRMAN: That's part of the reason I'm asking.

MS. WOLFE: It's already been revoked.

MS. MCCARTHA: So he's appealing? So it's a

MS. WILLIAMS: He's continued to work.

MR. CHAIRMAN: We've already taken our action and he's apparently ignoring us and so we'll let the administrative law judge -- okay. Do I have a motion to approve this report?

MOTION:

MR. DEW: So moved.

MR. JOHNSON: Second.

MR. CHAIRMAN: Do we need any discussion? All in favor say aye.

(AYES WERE HEARD)

MR. CHAIRMAN: Any opposition? Okay. And we have, pretty much, is that going to wrap up? So we don't have OJC today? Just to comment, just a general comment, one of the criticisms of the 2012 report from LLR was this board not taking a lot of actions, like 22 cases and letters that got dismissed, but don't hold me to that. That's off the top of my head. We're somewhat limited by what cases come before us and I'm just going to throw out before this board that if you see unlicensed practice or if there's something out there that you know of, let our administrator know, is probably the best way to approach it and we would hope that it would be investigated in a pretty timely manner. My concern is, there's a chance of unlicensed practice and some other things going on and we're just not seeing the cases. And that's not a criticism, that is more a case of hoping that we have sufficient staff in the field investigating and that we have sufficient understanding by other operators in the profession, environmental profession as far as the environmental operators that, it's in their

interest. It's in their interest as a professional to make sure that everyone is following the rules and regs. We really don't need unlicensed practice. And I just feel like it's appropriate to say that today. And I would hope the next LLR, the 2013 report I guess would be the next one, would be, maybe show us a little more active. And again, I think we're doing really well with what we're given and if it takes a little nudge from us, then so be it. Okay. Thank you. And I think in committees we pretty well wrapped everything up in the past committees. At this point I think we're ready for public comment. John, you want to approach us?

**PUBLIC COMMENTS:**

**MR. YOUNG:** Sure. I just have a couple comments.

First of all, I'm speaking as the chairman of the board of environmental associations -- environmental certification board liaison committee chairman and I'd like to start out with a compliment. The staff has been wonderful. Very responsive. Just really great working with. I really do like the partnership way of getting things done rather than the adversarial role deal. In the 2012 environmental, the report, the LLR report, I have quite a deal of issues with that. Let me make a quick analogy, that if you have a speeding enforcement policy that works and you don't have anybody speeding on the road and your number of traffic citations goes down, is that a negative reflection? That's a positive reflection and that's the way you should look at this. It think that, I don't see how they can make a negative out of a positive. Thank you.

**MR. CHAIRMAN:** Now John, make sure you tell everyone I did not set that up for you. All right. Go ahead. We're not working together.

**MR. YOUNG:** Well, actually we have been working together and quite well. And you have been much better than 10 years ago. It was a train wreck.

**MR. CHAIRMAN:** Fantastic.

**MR. YOUNG:** It was not good and we have, since y'all have done a complete turn around.

**MR. CHAIRMAN:** Thank you. Any further comments from the board? Anybody? Good. Got your assignments? Thank you Elizabeth. All right.

**ADJOURNMENT:**

**MR. CHAIRMAN:** Motion to adjourn?

**MOTION:**

**MR. DEW:** So moved.

MR. CHAIRMAN: Second?

MR. RUTLAND: Second.

MR. CHAIRMAN: All in favor say aye.

(AYES WERE HEARD)

MR. CHAIRMAN: Then I think we are so moved. The  
next meeting is July 10th.

(There being nothing further, the meeting was  
adjourned at 10:28 a.m.)