

MINUTES

Environmental Certification Board
Tuesday, March 12, 2013
110 Centerview Drive, Room 108
Columbia, South Carolina 29210

The invocation was given by Mitch Dew, followed by the Pledge of Allegiance.

Meeting Called to Order:

William Armes, Chairman, of Simpsonville, called the regular scheduled meeting of the S. C. Environmental Certification Board to order at 10:04 a.m. Other board members participating in the meeting included Vice-Chair, Elizabeth Williams, of Sumter; Mitch Dew, of Latta; Dwight Johnson, of Jefferson, and Jimmy Rodgers, of Greenwood.

Staff members participating during the meeting included: Lenora Addison-Miles, Administrator; Georgia Lewis, Advice Counsel; Kristina Baker, General Counsel; Sharon Wolfe, OIE, and Theresa Garner, Program Assistant.

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.

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 Chapter 23 collectively as Environmental Systems Operators.

Excused Absences

MOTION

Mitch Dew made a motion to approve the excused absences of board members, David Baize, and Hank Rutland. Dwight Johnson seconded the motion which carried unanimously.

Approval of the January 8, 2013 Minutes

MOTION

Dwight Johnson made a motion to approve the January 8, 2013 meeting minutes. Jimmy Rodgers seconded the motion which carried unanimously.

Chairman's Remarks-William Armes

Mr. Armes stated at 10:30 he was going to recess the board for a brief moment because he had an obligation regarding board business.

He said the board would be addressing a couple of items today:

- 1) Executive Order from the Governor
- 2) Trying to attract young professionals into this profession
- 3) A report on Well Driller Examinations

IRC Report

Sharon Wolfe, Office of Investigations and Enforcement (OIE), presented the IRC report. The board issued two (2) Dismissals, four (4) Cease and Desist, and one (1) Letter of Caution, totaling 7 cases.

MOTION

Mitch Dew made a motion to accept the IRC report as presented. Dwight Johnson seconded the motion which carried unanimously.

Administrator's Remarks-Lenora Addison-Miles

Mrs. Miles reported the cash balance for January 2013 was \$149, 443.87. She reminded board members to electronically file their statement of economic interest forms with the states Ethic's Commission prior to April 15th. She also reminded them of the board member symposium at the S.C. Fire Academy on Friday, March the 15th from 9:00 a.m. until 12:00 p.m.

She informed board members that the Bottled Water Exam had been forwarded to ABC for implementation. They should have the exam ready and available to candidates in about three months. This includes the time they will need to prepare the exam in the proper format, and also get feedback from the board prior to having it available for the candidates.

Mrs. Miles provided board members with copies of suggested study materials for the Bottled Water Exams that need to be posted on the website. She stated that staff would like to be able to provide applicants with more detailed and specific information regarding certain areas, for example:

- 1) Basic Operation and Maintenance of Vended Water Machines
- 2) Water Quality
- 3) Safety

Mrs. Miles stated that staff needs to know if the board would like to leave it as it is, or would they like to be more specific, and provide more information.

Suggested Study Materials for Bottled (Vended) Water Examination

S. C. Department of Health and Environmental Control Website
Bureau of Water

State Primary Drinking Water Regulation R. 61-58

www.scdhec.gov

S. C. Environmental Certification Board Website

Code of Laws, Chapter 23, Title 40

Code of Regulations, Chapter 51

<http://www.llr.state.sc.us/POL/Environmental/index.asp?file=laws.htm>

Continuing Education for Bottled Water Operators

www.llr.state.sc.us/POL/Environmental/index.asp?file=ce.htm

Basic Operation and Maintenance of Vended Water Machines

Water Quality

Safety

Elizabeth Williams said she thought the first three were resources candidates could actually study, and maybe distinguish the last three, as topics to be familiar with.

Office of Investigation Enforcement

Sharon Wolfe, OIE, stated seven (7) cases were pending, and approved, currently the board has no active cases.

Office of General Counsel

Kristina Baker, General Counsel, presented the case load statistics report to board members. She stated there are currently two Open cases, two pending Consent Agreements, one of which will be taken back to the IRC for further recommendation.

At 10:35 a.m., Mr. Armes requested the board recess for a brief period so that he could address a board matter.

Chairman Armes called the meeting back to order at 10:48 a.m.

Governor's Regulatory Review Task Force

Mr. Armes asked if board members had a chance to look at the Governor's Executive Order 2013-02, and the letter titled to the boards and commissions. Mr. Armes said it was his understanding that the Governor was asking this board to work in coordination with LLR to review the act in regulations and policies that the board adheres to, and carry out board action for business. He stated the Governor was asking that the board look at Section II, (1)(b) "in evaluating statutes, rules, regulations, and policies, each agency should consider factors to include, but not limited to, their necessity, complexity, efficiency, effectiveness, redundancy, public complaints or comments, short-and long-term effects, impact on all affected persons, both intended and unintended, and unintended negative consequences."

Mr. Armes asked the board if they were in a position to comment or would they desire to enter into executive session for legal advice.

Executive Session

MOTION

Mitch Dew made a motion to enter into executive session for legal advice. Dwight Johnson seconded the motion which carried unanimously.

Return to Public Session

MOTION

Dwight Johnson made a motion to come out of executive session. Mitch Dew seconded the motion which carried unanimously.

It was noted for the record that no votes or actions were taken while in executive session.

Mr. Armes asked board members to respond to the Governor's Request for input. He stated specific to the Executive Order 2013-02, Section II (1)(b), he understood the board was to respond in coordination with the LLR Agency "In evaluating statutes, rules, regulations, and policies, each agency should consider factors to include, but not limited to, their necessity, complexity, efficiency, effectiveness, redundancy, public complaints or comments, short- and long-term effects, impact on all affected persons, both intended and unintended, and unintended negative consequences."

Chairman Armes opened the floor for board member comments:

Elizabeth Williams-Teaching Institution Representative

Ms. Williams pointed out the LLR 2012 Annual Report that came out last year recommended removing how some of the boards were operating, including this board. The response the board received from the industry as far as the Environment Association, and the Rural Water Association was positive, and they stated the board was operating in a fashion that was business industry friendly, to the point that they appeared on WLTX, because they felt the board was doing a good job. She said she thought the things the board has done over the last three years have been more to make the licensing processes easier for industries, for instance, approving Central Carolina Operators Certificates to count towards the educational work experience, also implementing the apprenticeship program for operator advancement has been seen as very favorable toward industry. The board has updated the well driller exams, and created the bottled water exams; the website has been helpful in getting out information to operators as far as what they need to do to get continuing education, providing licensing requirements, etc. Ms. Williams said she thinks the board has met the charge of making sure the waters of South Carolina are protected, and are also working in a fashion that is favorable towards industry.

Dwight Johnson-At Large Designee

Mr. Johnson stated that he is the member at large and is not involved in the day to day operations of environmental procedures. He said in reviewing the policies and procedures he thought they were

business friendly. He said the input he gets from the general public is they expect a certain amount of rules and regulations to protect the waters and the environment because water is the life source of the world, because without water we would not exist, and we need to protect our drinking water. He said he sees this board not just as a regulatory agency but we are here to help enforce the licensing and so forth to represent the public in being sure people operating the water and sewage systems are qualified to operate. This is a very important part of our economy and livelihood, and being sure we have safe water, we have the safest water of any country on earth because we take it seriously. Mr. Johnson said he sees this board not only as a regulatory agency like DHEC but as a go between DHEC and the business community because we look out for the business community and try to be more business friendly. He said he does not see anything we have done has restricted business because we must have a certain amount of regulation in order to protect him as a consumer.

But yet, you do not want a government agency to be vindictive of our business environment. He stated the board has proposed different things to try to get more people involved in the profession and we try to make it easier for them to enter into the profession. He said in his opinion, it has all been positive.

Jimmy Rodgers-Well Driller Representative

Mr. Rodgers stated from a well drillers stand point when the well drillers became licensed back in the 80's, it was one of the best things that ever happened to the industry. It upgraded the work across the board; people adhered to regulations much better than before.

He said there still is work to be done in getting people licensed but he does not see it as being any kind of hindrance as far as his well drilling business goes.

William Armes-Physical/Chemical Wastewater Representative

Mr. Armes stated that he has been in this profession for some time and he holds a Biological and Physical/Chemical Wastewater license. He said he could say that he has also worked with DHEC (staff), and he has a high respect for them and their abilities. In the LLR 2012 Annual report there was a suggestion, recommendation that this board be dissolved or moved to DHEC as he understood it in the report. He said he believes the functionality of the Environmental Certification Board is better served by the peers of those who are regulated and also the board basically as lay judges have the understanding of the regulated community and their activities and understand their language. With our experience he said he believes we will better be able to discern practice that is good practice verses practice that is not appropriate practice to the profession. And to continue to promote this profession in a very positive fashion in cooperation with the professional associations who have gone out of their way for meeting our rules in terms of continuing education, verification, and also the regulated community and professionalism that they need to sustain to continue the importance of clean water, then it would be best served that functionality and certification activities remain with the Environmental Certification Board members appointed by the Governor as current practice and at the Governor's will.

Lenora Addison-Miles-Administrator

Mr. Armes asked Mrs. Miles if there had been any common complaints or questions that the board may be able to address more effectively, more business effectiveness, streamlining, that she could offer. Mrs. Miles stated that one common complaint inquiry that staff receives is, regarding supervision issues. This issue needs to be addressed or a little more specific because as it is written in the regulation, "Direct Supervision", the definition is not specific, it is very broad, and does not provide the licensee with a definite guideline. As it is written it has been interrupted by some of our licensees or consumers that the supervisor could essentially be in a different state. Staff has to argue that point, that's an issue we have. Legal Counsel, Georgia Lewis, asked if this was in the statute, Lenora said it is in regulation 51-7, which defines "Direct Supervision".

Mrs. Miles said staff also gets a lot of questions regarding supervision for well drillers. She said with the different levels of well drillers you have one definition which says with regards to 'supervision' and one says "Accessible supervision" and another one says "General supervision", Section 40-23-340 B (1) (2) of the statutes.

Sharon Wolfe- Office of Investigations and Enforcement

Sharon Wolfe stated she thought one thing that would help expedite investigations would be if the board would utilize what is already in the statute, regarding the ability to issue citations. She said it was especially helpful if the investigator finds "unlicensed" practice, things of that nature because sometimes it is hard to find these people. So if they could issue the citation when they find them; then that would be done, they would have a name and information on them, and they could be fined, whatever is appropriate.

Legal Counsel, Georgia Lewis, asked Sharon if she knew of an occasion this citation was used in the past, Sharon said it has not been utilized or implemented but it was in statute 40-23-95. Mrs. Lewis asked Sharon if her concern was "unlicensed" practice, Sharon said that was a common thing, but they have certain criteria and if there is an infraction, and one of the items is already in there, it can be addressed it will free up time for the board because it has already been taken care of, dollar amounts, what things required, citations. Mrs. Lewis asked Sharon to provide the board with possible things investigations would like to see implemented. Sharon said she would forward the information to Mrs. Miles to be included with things the board will be considering.

Chairman Armes said it sounded like the board had two good inputs for the board's consideration for inclusion and response:

- 1) Direct Supervision
- 2) Issuance of Citations

Mr. Armes said the general response would be streamlining pro-effectiveness of this board to review the issuance of citations. In addition there were some other things that have come up, he asked for the boards input. He said he believed the board was of the opinion that the age requirement for trainee

permits should be reviewed, the policies and procedures regarding “or equivalent” relating to experience, should be reviewed. Also, Sections 40-23-240 (A) (B), regarding reciprocity agreements.

Mr. Armes asked Advice Counsel for an opinion. Mrs. Lewis stated the board would like to point out in their report to the executive committee, according to Section 40-23-240 (A) they do have the ability to consider reciprocity agreements with other jurisdictions that have substantially the same or higher licensure criteria, and that the board also has the authority in 40-23-240 to consider the credentials of an individual that is licensed in another jurisdiction and allow that individual to demonstrate to the satisfaction of the board that he possesses credentials in education experience that are substantially equivalent of the requirements of this chapter.

Advice Counsel, Georgia Lewis, stated for the record, there was no one present from the public and the option was available for them to attend, and provide their input.

Advice Counsel, Georgia Lewis, gave a summary of the topic issues the board will be considering: She stated the comments received today are comments that the board believes satisfies the Governor’s Executive Order. At this time there are things the board would like to review and possibly consider regarding any changes in the statutes and regulations that may be forth coming. The board believes that additional discussion and additional research needs to be made with regards to the comments that have been presented today. The recommendations that will be included to the Executive Committee will be the position of this board as of this date and the efforts of this board will continue to make what the board does; not only to protect the public but also make it business friendly for any person who would like to be part of the profession.

She said if there was any board member who would like to add a comment after this meeting they could contact Ms. Miles with any additions they would like to make to the memorandum.

Mr. Armes asked for a motion to submit said comments that are on record today to the LLR Executive Committee, as satisfaction of meeting the Executive Order 2013-02.

MOTION

Mitch Dew made a motion to submit said comments that are stated on record today, to the LLR Executive Committee, as satisfaction of meeting the Executive Order 2013-02. The motion was seconded by Dwight Johnson which carried unanimously.

Well Driller Exam

Elizabeth stated that she had spoken with Megan Baker at the ABC Conference regarding well driller exams. Since the well driller exams are written in South Carolina, well drillers do not receive a print out of categories missed like the water and wastewater operators after they take an exam. Elizabeth will work with her committee members, Jimmy Rodgers, and Mark Whittle of Baroid Company, to break down the questions and categories, and identify the questions that match that category and forward this information to ABC. This will provide feedback for the well drillers.

William asked Mrs. Miles to contact AMP for clarification as to whether or not examinees are allowed to use scientific calculators. Mr. Armes said there has been some discussion as to what examinees can bring to the exam site, one of the concerns was what type of calculators are allowed. He said he knew it was not appropriate to use programmable calculators.

Committee Reports

Chairman Armes stated he thought the Education Committee was not officially closed out, and in regards to that; someone that is not 18 years old, he asked Elizabeth if she would like to comment on that. Elizabeth asked if she could go back to the Bottled Water Exam first, she stated that when the committee did the exams they actually wrote the questions out in categories. She suggested that list be used as topics and placed on the website. Lenora stated that information has been forwarded to ABC, so they can provide feedback.

Elizabeth said in regards to recruitment for younger people in the field, she wasn't sure if everyone was familiar with dual enrolling programs within the colleges and universities. She said across the state, high school students take dual enrollment courses that count towards high school credits and college credits; it is different than an AP class which is taught by a high school teacher. These classes are actually college classes, they are taught on campus, they also provide online courses. Central Carolina Technical College will be offering, hopefully, within the fall to high school students, the water and wastewater online certificate program, which is 18 hours.

Their hope is if a junior in high school starts the certificate program that when they graduate they will already have obtained that one year certificate through Central Carolina. She said even 8th grade students have to declare what track they want to be on. Elizabeth stated that Environmental Natural Resources is a category, so it is natural that people like to target those students. Central Carolina is hoping to partner with local utilities and municipalities to accept these students as a youth apprentice through the Department of Labor. Basically, it would be on the weekends and summers. This would allow high school students to work at a treatment system and gain some work experience. They would not have a trainee permit because they are not 18 and would not have graduated from high school. It would be more of a shadowing program, and they would not be doing any operational changes.

Elizabeth posed this question to the board, if an individual graduated from high school and they were 18 years old, and they decided to obtain a trainee permit, would the board allow them the apprentice time they spent at these facilities? She said she would not anticipate it being any more than three months.

William Armes stated it would have to be a board approved program, he said there seems to be a lot of interest, and the board should open this up for discussion. He said the board must work within the law, and regulations, and within our policy.

Elizabeth asked if the board approved a structured program where students would be working on a certificate directly related to this occupation, this industry, and they are set-up in a registered youth

program, with the Department of Labor, doing some internship or shadowing, can that time be given back to them when they turn 18 and graduate. Legally can that be done?

Mr. Armes suggested this item be tabled for the next meeting which will give board members time to think about it.

Advice Counsel, Georgia Lewis, stated this may be a discussion the board would like to take up to be more business friendly. She suggested they look at the statutes and regulations as they are drafted.

Public Comments

There were no public comments.

Adjournment

MOTION

Dwight Johnson made a motion to adjourn the meeting at 1:45 p.m. Jimmy Rodgers seconded the motion which carried unanimously.

The next meeting of the S. C. Board of Environmental Certification is scheduled for May 14, 2013, in room 108.