

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

BOARD MEETING

Tuesday, January 10, 2012
10:00 a.m. - 11:40 a.m.

The South Carolina Board of Environmental Certification board meeting was taken at the Synergy Office Park, Kingstree Building, Room 108, 110 Centerview Drive, Columbia, South Carolina, on the 10th day of January, 2012 before Reba C. Hayes, Court Reporter and Notary Public in and for the State of South Carolina.

APPEARANCES:

BOARD MEMBERS:

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

ADVISING THE BOARD:

Jamie Saxon, Staff Counsel
South Carolina Department of Labor,
Licensing and Regulations
Office of General Counsel
110 Centerview Drive
Post Office Box 11329
Columbia, South Carolina 29211-1329
Attorney for the South Carolina Department
of Labor, Licensing and Regulation

Also Present:

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

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EXHIBITS

(There were no exhibits marked to this hearing.)

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:

MR. CHAIRMAN: Let's go ahead and call this meeting to order. I'm William Armes, the Chairman of the Environmental Certification Board.

STATEMENT OF PUBLIC NOTICE:

MR. CHAIRMAN: Public notice of this meeting was properly posted at the South Carolina 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. The purpose of the Board in accordance with Section 40-23-40 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 the chapter collectively as environmental system operators. With that, Hank, would you lead us in an invocation and then we'll follow with the Pledge of Allegiance?

(Invocation)

(Pledge of Allegiance)

APPROVAL OF NOVEMBER 8, 2011, MEETING MINUTES:

MR. CHAIRMAN: First thing on the agenda, we'd like to go ahead and approve -- seek approval of the November 8th minutes, and I take it everyone on the Board has reviewed the minutes.

MR. JOHNSON: Mr. Chairman, I make a motion we approve the minutes.

MR. CHAIRMAN: Do I have a second?

MR. DEW: Second.

MR. CHAIRMAN: All right. Is there any discussion at this time? Are we good to go? All in favor say aye?

(Ayes are heard)

MR. CHAIRMAN: No opposition? Any opposition? Okay. So moved. At this time the Board should, in my opinion, go into Executive Session to seek legal counsel, if it's the will of the Board, the pleasure of the Board that we

do so. I will need a motion if we're going to go into Executive Session for legal counsel.

MR. DEW: So move.

MR. CHAIRMAN: Do we have a second?

MR. RUTLAND: Second.

MR. CHAIRMAN: All in favor?

(Ayes are heard)

MR. CHAIRMAN: We're going to go into Executive Session and then we'll pick up after that. Mr. Tucker, we're going to get to you as soon as we get out of Executive Session.

MR. SAXON: So if y'all could step outside for just a moment.

MR. CHAIRMAN: I appreciate your patience and we will get to you.

(Executive session)

MR. CHAIRMAN: Do I have a motion to come out of Executive Session?

MR. JOHNSON: Mr. Chairman, I make a motion to come out of Executive Session.

MR. CHAIRMAN: Do we have a second?

MR. DEW: Second.

MR. CHAIRMAN: All in favor?

(Ayes are heard)

MR. CHAIRMAN: All right. Let me just note for the record that no votes were taken during Executive Session, and no decisions made. And at this time we're going to resume our normal agenda. But also at this time, we have a request for a Board appearance for license reinstatement by David E. Tucker, Biological Wastewater Number 9649. I am going to recuse myself from hearing this case and the vice chair will take over at this time and someone will come get me when you're done.

REINSTATEMENT APPLICATION OF
DAVID E. TUCKER:

MR. SAXON: Mr. Tucker, would you mind having a seat at this table where that microphone is? And if you'd like your friend to come with you, that's fine too, if you want to come up? If you'll both give your names and spellings to the court reporter please?

MR. TUCKER: David E. Tucker -- D-A-V-I-D -- E. -- T-U-C-K-E-R.

MR. SAXON: Mr. Tucker, is this person a witness for you or just someone for moral support?

MR. BIBBO: Yes, more moral support. My name is Joe Bibbo.

COURT REPORTER: Can you spell that?

MR. BIBBO: B-I-B-B-O.

MR. SAXON: And Mr. Bibbo, if during the course of this motion hearing, it turns out that you want to be a witness, call that to our attention

before you say anything, so you can be sworn in. Okay?

MR. BIBBO: Okay. Sure.

MR. BAIZE: We'll get this underway. This is a hearing to consider the applicant David E. Tucker's motion for reinstatement of his license being held in Columbia, South Carolina on January 10th, 2012. My name is David Baize and I am the Board's vice chair. The attorney advising me is James Saxon, the vice counsel. The hearing will be conducted as informally as is compatible with an equitable presence of both sides of the case and in compliance with the provisions of the Administrative Procedures Act, the Practice Act and regulations of the Board. At this time to the administrator, Theresa, are there any materials that we have in our packet relative to this? Do we have any materials?

MS. GARNER: Yes, you have materials in your packets.

MR. BAIZE: All right. Thank you. Are there any questions regarding this reinstatement request, or any information you can provide to us?

MS. GARNER: Yes. Do you want me to present that now?

MR. BAIZE: Please.

MR. SAXON: Yes, and if you would state your full name and position for the record, and we'll swear you in too.

MS. GARNER: All right. Theresa Garner, program assistant of the Environmental Certification Board.

MR. SAXON: Ms. Garner, you spell Theresa with an "H"?

MS. GARNER: I do.

MR. SAXON: What we're going to do is just go through the whole opening statement and then we'll let the parties go. Madam Court Reporter, does that suit you?

COURT REPORTER: That's perfectly fine.

MR. BAIZE: Mr. Tucker, are you represented by counsel?

MR. TUCKER: No, sir.

MR. BAIZE: Do you understand you have the right to be represented by counsel of your own choosing in this matter?

MR. TUCKER: Yes, sir.

MR. BAIZE: Is it correct then that you're waiving your right and representing yourself today?

MR. TUCKER: Yes, sir.

MR. BAIZE: Do you have any witnesses to testify today?

MR. TUCKER: No, sir. Just other than my friend

Joe, trying to prop me up here.

MR. BAIZE: All right. And you've already been sworn in.

COURT REPORTER: Excuse me. No, he hasn't been sworn in.

MR. SAXON: He has not.

MR. BAIZE: Okay. I'm sorry. Would you go ahead and state your name and be sworn in?

MR. SAXON: Draw your attention to the court reporter.

(The witness is sworn by the court reporter.)

MR. SAXON: So we'll go to Ms. Garner now.

MR. BAIZE: Right.

MS. GARNER: Okay. Mr. Baize, Board members, Mr.

Tucker's B biological wastewater license expired on June 30th, 2010, because he did not submit his renewal payment. Board records indicated the renewal notice was sent out on March 29th, 2010 to his home address at 736 Memory Lane, Hartsville, South Carolina 29550. Mr. Tucker tried to register to take the A-level biological wastewater exam on November 28th, 2011, through AMP and was told his license lapsed on June 30th, 2010. Therefore he would need to contact the board office for further instructions. Staff spoke with Mr. Tucker and confirmed the information regarding his lapsed license and he was told he would need to submit another biological wastewater application and take and pass the exams through the B level. Since he held a prior B certification, he would be eligible to be promoted to each level of certification upon passing the exams. He asked if he could just take the B exam and was told since his license lapsed in 2010, he must start over again and take each of the exams. Mr. Tucker submitted another application on December the 5th and requested to appear before the Board to appeal having to take the exams again. Mr. Tucker has recently taken and passed the D exam and will receive his D certification at this Board. It has been the practice of this Board since 1978, and there have been no exceptions, that a certification not renewed within 12 months of the date the renewal was due will be considered lapsed. For the holder of a lapsed certification to regain status as a certified operator, he or she must reapply for certification. Such persons will be considered a new applicant and will be subject to all fees, rules, regulations and policies relevant at the time of application, except that he or she may be given full credit for the experience

gained during his or her previous certification period.

MR. BAIZE: Thank you. Mr. Tucker, you may proceed with your motion.

MR. TUCKER: Well, I was going to say what had happened after -- since I had submitted this letter and she's already brought that up before the Board, that being that since I have learned everything that's happened I have, like she said, went and passed the D wastewater exam again. It was a complete oversight on my part. I didn't get it in the mail, which is again -- that's no excuse for me keeping up with my stuff. As I submitted in the letter, it won't ever happen again. I've changed my forms where I keep up with my hours. I've marked the calendars in April to reflect now is the time to go ahead and get it done. Just I appreciate the Board's consideration in this matter and that's really all I've got to say. Thank you for your time.

MR. SAXON: The Board may ask questions of either Ms. Garner or Mr. Tucker, if you don't mind the Board asking any questions it may have.

MR. BAIZE: I guess I'm a little unclear about exactly what you're requesting, since you've gone ahead and gotten your D. Exactly what is it that you're asking the Board to do?

MR. TUCKER: I would like to get my license reinstated at the B level, but I didn't want to wait before I come over here without getting the ball in motion, as far as, you know, if that didn't happen, I'm going ahead with it. I was wanting to show the Board that I am sincere in what I'm doing. Like I said, it was just a complete oversight on my fault. There's just no excuse for it really.

MR. BAIZE: Does the Board have any questions?

MR. BIBBO: May I say something? May I intervene?

MR. SAXON: Well, if you -- draw your attention to the court reporter.

MR. BIBBO: Just on his behalf since you said I'd be allowed to.

(The witness is sworn by the court reporter.)

MR. SAXON: Will you state and spell your full name for the record again please?

MR. BIBBO: Joe Bibbo. Last name is spelled B -- as in bravo -- I-B-B-O. The issue at hand is perhaps what actually happened in the fact that it wasn't paid. In the past David was a waste treatment operator for Welman, Inc. Welman was the owner at the plant site that we now work at. In 2008, 2009, the plant closed down. Prior to that time the purchasing department

paid all those bills. The bills were not sent directly to our operators and didn't pay them. And what happened in 2008, 2009, we laid off 550 people at the plant site. There was only a couple of us that was left on the plant site. The bill did not get paid because the purchasing department went away, so there was only four of us left on the plant site. David was the B operator for the wastewater treatment plant, along with one other fellow, Dennis. Dennis left. We had a plant manager and then there was a maintenance operator and then I was kept on as basically an environmental consultant. So nobody at the plant site received notification of the annual dues, or let me assure you that would have been paid. Thirty dollars is not that much of an issue and it had always been paid before. I think David had been an operator for 18, 19 years. There had never been an issue with the payment of the \$30 annual fees. And if any of us would have realized or if David would have got it in the mail, and David insists to this point that he never got it. If he'd have brought it over to the plant, that would have been paid as soon as we come to realize that the annual fee was due. So during the course of that time, with the plant shutting down and the loss of all those jobs and the hardship on the community, it got caught up in that and it really was an oversight, you know, with regards to the payment. It wasn't the fact that he was withholding \$30 from the state. He would have paid that out of pocket, as you can imagine. That's really no big deal. But there was just a lot of hard issues going on and still maintaining the site as a viable site to bring opportunities or jobs back into the -- into the area. David has really done a good job overseeing the wastewater treatment plant. We're still trying to get that plant back up and running. It's been a full-force effort on everybody's part over in Darlington, as well as the state, and we'd really appreciate it if the Board would consider reinstating David back to the B level license. He did go back and get the D level and we would just like the full reinstatement. And the idea was to get David his certification up to the A license level, and that's when we come to realize that it was the matter of the annual fee.

MR. BAIZE: Any questions? Is there anything else you'd like to provide, any other information?

MR. BIBBO: No, sir.

MR. TUCKER: No, sir. Other than just thanking y'all for listening to me.

MR. BAIZE: Would there be a motion to go into Executive Session?

MR. DEW: So move.

MR. BAIZE: Is there a second?

MR. RODGERS: Second.

MR. BAIZE: All right. We're going to go into Executive Session and we'll be back with you.

(Executive session)

MR. BAIZE: No votes were taken nor were any decisions made during Executive Session. Do we have a motion?

MR. RODGERS: Yes, sir. I'd like to make a motion. I'd like to make a motion that we deny the motion for reinstatement.

MR. BAIZE: Do we have a second?

MR. RUTLAND: Second.

MR. BAIZE: Vote?

(Ayes are heard)

MR. BAIZE: It's unanimous. Do you want to tell him about getting the order out to him?

MR. SAXON: How do y'all do that?

MR. BAIZE: Usually --

MR. SAXON: I mean, I'll be happy to draft one if you want one.

MS. ADDISON-MILES: Not necessarily.

MR. SAXON: Okay.

MR. BAIZE: All right. Thank you, Mr. Tucker.

(Off the record)

WELL DRILLER BOND FORM REVISIONS

MR. CHAIRMAN: Okay. We are going to continue to the next item on the agenda, the Well Driller Bond Form Revisions and, let's see, we discussed and approved this matter last week and at this point, I believe this is being put before us just to see that the change was made, and let me turn it over to you to tell us where we are.

MR. SAXON: Well, I don't know what change you wanted to make, so Lenora, we'll have to depend on you.

MR. CHAIRMAN: Okay. That sounds good. The revisions have been made and --

MS. ADDISON-MILES: Yeah.

MR. CHAIRMAN: -- that's mainly what we need to know. There's no action on our part.

MS. ADDISON-MILES: Right. Because Mr. Grigg had given me language that was going to re-write that first paragraph, a few subtle changes that he recommended, and the Board approved those and this is just the final draft that's being presented to you for your information.

MR. CHAIRMAN: All right. Does anyone have any

concerns or questions about this document at this time? I will ask -- the best of my knowledge everything that was discussed in the previous meeting and what we voted on is indeed in the four corners of this document --

MS. ADDISON-MILES: Uh-huh (affirmative response).

MR. CHAIRMAN: -- so --

MR. SAXON: You may want to vote on the document as it has been amended.

MR. CHAIRMAN: Okay.

MR. SAXON: It's not completely necessary but it's nice. It ties up things nicely.

MR. CHAIRMAN: All right. Does anybody need an opportunity to take a look at this document?

Okay. We're good. Do I have a motion to accept the revised -- what's the official name -- the well driller bond form?

MR. RODGERS: I make a motion to accept the new bond form for well drillers.

MR. CHAIRMAN: Okay. And a second?

MR. JOHNSON: Second.

MR. CHAIRMAN: All in favor?

(Ayes are heard)

MR. CHAIRMAN: Any opposition? I didn't really give you a chance for discussion because we did it before so.

MR. BAIZE: Just maybe one note. I'm sure you will but the form that's currently on the website probably needs to -- don't forget to replace that on the website.

MS. ADDISON-MILES: Uh-huh (affirmative response).

MR. SAXON: She's good. She'll take care of that.

MR. BAIZE: I'm sure you would. Just making sure it got there. And I'm not sure if there's a link to DHEC's website or not with that. Maybe not.

RELEVANT CEs FOR WATER AND WASTEWATER

MR. CHAIRMAN: Sounds good. Are we ready to move on to the next agenda item? Relevant CEs for Water and Wastewater, and Elizabeth, you have a document for us?

MS. WILLIAMS: I do. Does everyone have the draft that Theresa had sent out from the committee? I may have an extra. Basically the committee got together. It consisted of the educators association as well as private educators, just to talk about clarifying -- in the statutes it says relevant continuing education. So we just wanted to kind of tidy that up a little bit, so it would help operators when they go to submit continuing education to make sure what they're taking would be accepted by the Board. And then also to provide information on what is required if an operator is audited for the CEUs. And so what the committee has put forth

is just a list of guidelines primarily on the website, but certainly if somebody calls in to let them know that, you know, the continuing education that the board deems relevant and this just outlines it. It also talks about individuals who provide continuing education, what record-keeping they need to obtain and provide to the Board if they're asked. And then there's a few things that the committee is recommending that would not be approved as continuing education. And we've referenced some other boards within LLR to kind of see how they had it laid out, so that's how we came up with these. The only one that the committee was kind of split on, and we just thought to bring it in front of the Board for discussion, is what would not be considered for continuing education is repetitive attendance or teaching of the same course. Basically somebody taking the same class over and over and over. We saw some precedents with other boards where they didn't do that, but our committee was kind of split, you know, on what to do so we decided just to have that open for discussion.

MR. CHAIRMAN: If you were to take a course and it's the same one, but it has relevant updates each time, that would be okay based on what I'm hearing. But if you take the same course, the hope is by the second time maybe you've got it.

MR. RUTLAND: But how would -- you know, DHEC has an annual surface water meeting every year and I think they get four and a half hours, I think, for attending that meeting. So that would be something I would think would be repetitive.

MS. WILLIAMS: Well, actually we didn't -- we didn't --

MR. RUTLAND: It's a very valid thing.

MS. WILLIAMS: We didn't discuss conferences like that because they're different year to year.

The examples that we had were someone taking OSHA or HAZWOPER.

MR. RODGERS: Like the eight-hour --

MS. WILLIAMS: Eight-hour refresher over and over.

MR. RODGERS: That's real bad for --

MS. WILLIAMS: Maybe CPR, that's come up before.

You know, that kind of stuff that, yes, it's relevant but is it something they're taking, you know, they're not getting any new information every time, you know. It just came up.

MR. SAXON: Ms. Williams, may I ask a question?

MS. WILLIAMS: Uh-huh (affirmative response).

MR. SAXON: This would also cover someone's teaching a course and teaches the same course every

spring semester, say. You can't get credit every spring semester for teaching the same course.

MS. WILLIAMS: That -- you know, that didn't come up and that's a good point.

MR. SAXON: Well, it does sort of say that. It's kind of --

MS. WILLIAMS: Or teaching. Okay. Okay.

MR. SAXON: I think it covers that.

MS. WILLIAMS: Yeah. I think you're right.

MR. SAXON: For instance, a professor could get credit or a teacher could get credit for it the first time but maybe not teaching it --

MS. WILLIAMS: Over and over.

MR. SAXON: -- every year.

MS. WILLIAMS: And then the last thing was just the list of what the administrator would like to see turned in if someone's audited for CEUs.

MR. RUTLAND: Let me ask you this: You know, we have a form, don't we, on the website?

MS. WILLIAMS: Uh-huh (affirmative response).

MR. RUTLAND: CEUs form? So as long as that's --

MS. WILLIAMS: That's on here. It's the very last list and that's the very last one we asked them to complete, along with one through five to make sure they have that turned in.

MR. CHAIRMAN: But you're still -- if I understand the committee suggested or recommended, regardless of what the operator lists in that summary and signing that attended those courses, that there is verification through -- again -- does it have to be a signed letter from the instructor? Does it have to be -- can it just be the agenda?

MS. WILLIAMS: The verification of attendance and I think we had talked about that could be a certificate, a sign-in sheet, along those lines, and then an outline or agenda of the course or event, similar to what the operator conference, you know, one of those programs and get those stamped. Those would count.

MR. CHAIRMAN: If someone were to have in-house training, then the suggestion would be to make sure they have an agenda and have a sign-in sheet.

MS. WILLIAMS: Right. And that's actually the very first part, you know. Certainly in-house training would count, as long as they can show that it's a relevant topic, which they would get off of the ABC list. The instructor/presenter must be able to provide an agenda or an outline. The participants must be able to interact with the instructor through discussion, telephone or email, so that, you

know, webinars that people are doing now, that would still count. And to verify the participation through documentation which could be a certificate of completion or a sign-in sheet. So by listing those four, we felt like it gave the individual flexibility on what they chose to do but they would still be in the guidelines of what the Board wants to see.

MR. SAXON: It seems, Ms. Williams -- and correct me if I'm misunderstanding -- this is just to give a licensee better information about what's acceptable and what's not --

MS. WILLIAMS: Right. We didn't go into it trying to say --

MR. SAXON: -- so there's no confusion.

MS. WILLIAMS: Yeah. Just to clear up confusion. We didn't want to go in and say we're not going to --

MR. SAXON: You're not changing any requirements, adding them, deleting them or anything, but simply notifying -- helping someone know what's okay and what's not.

MR. RODGERS: Well, there is the possible change of the same course over and over.

MS. WILLIAMS: Right. That's the one thing that -- that would be a change that we wanted discussion. Really on the back -- I don't know if you've got it front to back, but on the back the CE credit that would not be given. We felt like all those listed, one through seven, were things that were kind of obvious that we had not accepted in the past but number eight on the repetitive was new.

MR. CHAIRMAN: I will say -- and I think this is fine but I'm going to say it -- that it appears this document is silent as to the qualifications of the trainer.

MS. WILLIAMS: Right.

MR. RODGERS: I was just thinking about that myself. You know, you audit -- you audit that they've taken a course, but do you ever audit the course?

MR. CHAIRMAN: So then it would be up to the operator to demonstrate the course being relevant. It's up to the instructor to say here's the agenda, sign-in sheet --

MS. WILLIAMS: Right.

MR. CHAIRMAN: -- or the operator again.

MS. WILLIAMS: We're asking that the provider maintain records of attendance or completion, be able to interact with the attendees, be able to provide an agenda or outline to LLR, retain the records for a minimum of three years and provide any appropriate documentation upon

forming a class. But we didn't -- we didn't go so far to say, okay, the instructor has to have at least an associate's degree and worked in the field for that long. We didn't do that.

MR. CHAIRMAN: And I'm not raising an issue. I'm just saying it appears to be silent and I also see that the burden lies with the operator to produce those records. On the well driller, any concerns with the well driller?

MR. RODGERS: No. I -- you know, I have issues or concerns about in-house. You know, that's why I was wondering about do you ever need to audit the instructors to some degree because it's easy for somebody --

MR. SAXON: I think that could be done at the Board's discretion.

MR. BAIZE: Yeah. I think you -- of course, then you risk creating a whole other level of review and, you know, well, you only have a bachelor's degree. I mean, you know, it would be a whole other program. I mean, you'd have to have a whole other guidance document to talk about qualifying instructors. I mean, I understand you --

MR. RODGERS: Not instructors. What they're instructing. It's not the course so much as is there a course. When it's done in-house, is there actual training going on?

MR. CHAIRMAN: We're telling -- help me out here. We're telling the operator they have to produce a signature document that says they've attended these courses. Then they have to make sure their signature is somewhere, there's an agenda of the course.

MR. RODGERS: Do y'all ask for that? I mean, that's really not --

MS. GARNER: We ask for the agenda or an outline of the topic. We want the topic course criteria for that particular course they're taking.

MR. RODGERS: I know when I've seen -- when I responded to an audit, we just sent the certificate. I don't remember --

MS. GARNER: That's why we have asked them to be -- we want -- we need to be more specific because I knew what I needed to see but the operators, I did not convey that to the operators, and that's why it was within the committee. To get them guidelines as to what the Board is looking for in the audits, because what I'm having to do is send them information back to them or call them, so I said next time we get the audit, I need it to be more specific for them because I knew what I needed, but they didn't know what I needed.

MR. CHAIRMAN: If an operator were to not use the guidance form but just give you continuing education documentation, I take it you'd accept that even though they're not giving you a summary.

MS. GARNER: Right. Right.

MR. CHAIRMAN: As long as they can show --

MS. GARNER: As long as they provide what we're requesting.

MR. SAXON: Ms. Garner and Ms. Williams, is this sort of -- it seems like an effort toward transparency so that everybody knows what's expected and what's provided, what's okay.

MS. GARNER: Yeah. There was confusion.

MS. WILLIAMS: There was a lot of confusion. I mean, I get a lot of phone calls saying is this going to count and I can give them my opinion but if it's put somewhere on the Board's website. I know Theresa -- as a training provider, I know she has called me and asked for agendas before to verify content.

MR. CHAIRMAN: Well, all right. How about the credit will not be given provider guidelines information required in audit. Everybody has had a chance to look over that? By the way, this is great effort. Thank you.

MS. WILLIAMS: The only other thing is just, you know, if you want to include the repetitive attendance.

MR. CHAIRMAN: Okay. I see that in "will not". The only concern is that repetitive course. If it's truly repetitive I could see why it would not count, but if it has relevant updates I'm not sure how to say that.

MS. WILLIAMS: Well, and I think if we do choose to go down that path, we need to be very specific on how we outline it.

MR. CHAIRMAN: Okay.

MS. WILLIAMS: But, like I said, the committee was kind of split.

MR. BAIZE: It's hard to imagine that somebody would take the same course over and over again.

MS. WILLIAMS: I don't know how prevalent it is.

MR. CHAIRMAN: And maybe they would but there always seems to be some update, laws keep changing, you know.

MR. BAIZE: Yeah. And I think it's a distinction Hank was making. I can imagine any number of things that the whole purpose is, you know, year after year you have what's new and so you would definitely not want those sorts of things captured --

MS. WILLIAMS: Right.

MR. BAIZE: -- under that theme of being repetitive.

So I don't know how often it would even really come up, because why would somebody pay money to take the exact same thing over and over again if it truly was the exact same thing. So I --

MR. RODGERS: Just like the eight-hour update every year. It's counted. That's eight hours.

MR. CHAIRMAN: And it's going to have relevant updates.

MR. RODGERS: And so many people have to -- have to take it.

MR. BAIZE: But I would almost say -- I mean, it's a good discussion. I don't know if you guys had that as an example, because the reason you take an eight-hour refresher is to update yourself on those procedures, so is that new or the exact same course?

MR. SAXON: I think the argument could be made that if it's an update, then it's not the same course.

MR. BAIZE: It kind of goes to your point, it may not be well done but in theory, you know, you take an eight-hour refresher because it's --

MR. RODGERS: Yeah. But you're refreshing the current rules and regulations and throwing in maybe something new, but for eight hours. You don't have eight hours of new updates.

MR. BAIZE: Did you guys discuss that specific course?

MS. WILLIAMS: I mean, we talked mostly about --

MR. SAXON: That's what spurred that.

MS. WILLIAMS: Because, like, the OSHA training. I know that the content is by OSHA and you have to spend so many hours on each topic and you're not going to have 10 hours of updates every year. You might have 30 minutes, 15 minutes of updates, but those two classes just seem to keep coming up but they don't really change.

MR. CHAIRMAN: So what does the Board think? Is it repetitive or is it --

MR. RUTLAND: Have we seen quite a few that try to use the selection? That's a good point. A lot of utilities hire OSHA to come in and they do quite a bit of free training. I'm sure that does capture quite a few folks, I guess, that just happen to fall into that category.

MS. WILLIAMS: And I think another question is how administratively are y'all going to be able to -- you can go back and look every two years to see what somebody took. That's going to be a burden that I'm not so sure it needs to be included.

MR. CHAIRMAN: I have a concern that we specifically spelled out OSHA and HAZWOPER. Even though I

can see where it could be repetitive, my concern is I can see things changing. Laws change every year.

MR. SAXON: And if I may offer from a legal viewpoint, "i.e." means that is OSHA and HAZWOPER.

MR. CHAIRMAN: Exactly. And "e.g." --

MR. SAXON: It doesn't give them as examples. I would use "e.g." for examples, if I may offer that, Ms. Williams.

MS. WILLIAMS: I don't know if we should take them out. You know, maybe it's something that we discuss further if it warrants it.

MR. SAXON: I think you might find, Ms. Williams, that there are other boards who have done something similar to this. You might want to see what their language is for this. It is primarily to prevent people from taking the exact same course. For instance, in the eight hours you've got 20 minutes that's different, or you're a teacher and you teach the same course again and again, primarily for an audience that's never been presented with this material. And it's to prevent someone from just going to the same class all over again. I mean, I know, for instance, as an example, the continuing legal education courses for lawyers and, you know, they're held at the same time every year by the same organization, but they are different. But you wouldn't necessarily know that by looking at, you know, the title of it or whatever.

MR. RUTLAND: This might throw a little -- you know, we also allow them to take our same exam level for those two hours, because nobody wants to retake their exam either, but it is an exam question. But it is still the same exam. I don't know if that will muddy the water, but that's something you can do over and over again. You can take you're a level over and over again, but as most of us know, we don't -- that's not a preference. I can assure you that. Is that something similar because we're taking the same exam?

MS. WILLIAMS: Well, the questions are different.

MR. CHAIRMAN: I would say you're going to mix up your questions. I don't know. Maybe if we could just strike the examples.

MS. WILLIAMS: Okay.

MR. BAIZE: That's exactly what I was just thinking. Just strike the examples because I think you could make an argument, you know, you could get an OSHA safety update probably because some things have changed, some new laws have come

into effect and new procedures. There's got to be some repetition there, but I don't know how you'll ever parse that out.

MR. CHAIRMAN: I don't have a problem with them taking it every year and getting credit, because sometimes it takes many, many times to get it right. I mean, that's the whole purpose.

MS. WILLIAMS: So strike all of --

MR. CHAIRMAN: Just the examples.

MS. WILLIAMS: Oh, the examples.

MR. BAIZE: Just the examples.

MR. SAXON: Just the parenthetical expression.

MR. BAIZE: Yes, that would seem -- because that way you still retain that discretion but you would have to, I guess, make that decision.

MS. WILLIAMS: Make a case for it.

MR. BAIZE: Make a case one way or the other.

MR. CHAIRMAN: Okay. So if we were to have it in this case to read repetitive parenthetically refresher attendance or teaching of the same course period. Is that what -- are we good with that? Strike the other? Okay. Any other parts of the document that warrant further discussion? I think -- are we at a point that we can get a motion to approve as amended?

MR. BAIZE: Make a motion to approve it as amended.

MR. CHAIRMAN: Okay. The continuing education guidelines for wastewater operators and continuing education guidelines for well drillers. There's a motion before us. Do I have a second?

MR. RUTLAND: Second.

MR. CHAIRMAN: Any further discussion? All in favor say aye.

(Ayes are heard)

MR. CHAIRMAN: Any opposition say nay. All in favor. So moved. Thank you. Great. Thank you. Great work.

CHAIRMAN'S REMARKS:

MR. CHAIRMAN: David, you did such a great job up here we want to see you up here again. My remark is I'm going out for medical leave. Specifically I'm getting a knee replaced and I'm going to be out a while, so I don't think I'm going to be back on March 13th. So David, if you would please. Other than that I appreciate all the efforts this Board has put forth through the year and it's a new year, new opportunities and I'll be short. Thank you.

ADMINISTRATOR'S REMARKS:

MR. CHAIRMAN: Administrator's remarks? Lenora?

MS. ADDISON-MILES: Yes, sir. The November 2011 budget information showed a beginning balance

of \$123,060.35 and total revenue of \$77,595.87. Expenditures were \$57,097.27. As of November the year-end balance was \$107,764.21. Active number of licensees as of Friday -- this is since the November 8th Board meeting -- 9,127 licensees and we issued 108 new licenses during that time. I also have the OIE report that's been provided by Sharon Wolf. Calendar year 2011 we received five complaints and two of them are still active. And the office of general counsel has no cases to report.

MR. CHAIRMAN: So that pretty well covers all of the

--

MS. ADDISON-MILES: Yes.

MR. CHAIRMAN: Any questions? Anybody have any comments? Sounds like we are fairly well-funded.

MS. ADDISON-MILES: Uh-huh (affirmative response).

MR. CHAIRMAN: Okay. I'm kind of surprised that we don't have cases out there.

MS. ADDISON-MILES: We only have two active cases.

MR. CHAIRMAN: I think we're -- all the committees have pretty well done their job at this point, unless somebody reminds me of anything. Ready to move on to public comment? I think we have comments from the public. John, did you want to --

PUBLIC COMMENTS:

MR. YOUNG: Yes. As you know I'm chair of the Water Environment Association and my job is to interact with you guys and take it back to the association and reflect the association's views to you guys. And the thing that is of great interest to us right now is the 2012 regulatory report, and specifically the recommendation that the Environmental Certification Board be disbanded. And I guess initially, personally I was somewhat insulted as the value of the profession and then having -- that's the initial reaction. But we are very interested in what the Board is going to do, is the Board going to do anything. Are you going to have some kind of responsive reaction or are you just going to lay back and roll over? And in addition to that, finally, I'd like to conclude with the WEA would like to partner, support, participate with your actions in our interest in a positive fashion going forward. And with that, it's not often do you get the opportunity to engage with the entire Board. I see no absences. I love that. You guys should be commended for that. Of course, the people over here are usually always here, but I'd be very interested in what you guys think about this

and what's -- what do we do. I'll leave you with a question.

MR. CHAIRMAN: The Board is in agreement that this is a hasty decision. There is a purpose for this Board to continue with educational support and regulatory licensing support. The arguments made in the report appear to -- it's two-fold. Either eliminate the Board altogether, the profession could stand on its own, or the professionals could stand on their own with the people employing them, or the functions of this Board will be shifted to the Department of Health and Environmental Control. And cannot speak for the Department of Health and Environmental Control but I see their functions as technical, regulatory enforcement. I see this Board functioning as again educational, regulatory, making sure that the operator is capable of running what DHEC has said can be built and operated. See those rules very differently. My understanding from this Board is we see it differently. Specifically I will write a letter to the governor and there were others on this Board that will write letters. And we are very interested to get input from Water Environment Association on what they're going to do. I'm not trying to be vague. This is all new to us. Everything hasn't been totally shored up in terms of a response.

MR. YOUNG: Good. Thank you.

MR. CHAIRMAN: Thank you for being here. Anyone else for the public? I think that was our person signing up. Thank you, John. Jim?

MR. MATTHEWS: What John said.

MR. CHAIRMAN: Echo? Ditto?

MR. MATTHEWS: The WEA I'm sure would like to help in any way. My question: Will the guidelines, this guidance for continuing ed be on the website? I couldn't quite hear you.

MS. WILLIAMS: Yes.

MR. CHAIRMAN: Yes. Very good. Thank you. Do we have anything else I've missed? Anything from legal that we've missed? Okay. Do I have a motion to adjourn?

MR. RUTLAND: Make a motion we adjourn.

MR. JOHNSON: Second.

MR. CHAIRMAN: All in favor say aye?

(Ayes are heard)

MR. CHAIRMAN: So moved. The next meeting, March 31st.

(There being nothing further, the hearing concluded at 11:40 a.m.)