

BOARD:
Paul C. Aughtry, III
Chairman
Edwin H. Cooper, III
Vice Chairman
Steven G. Kisner
Secretary



C. Earl Hunter, Commissioner

Promoting and protecting the health of the public and the environment

BOARD:
Henry C. Scott
M. David Mitchell, MD
Glenn A. McCall
Coleman F. Buckhouse, MD

Minutes of

S.C. Board of Health and Environmental Control Meeting December 10, 2009

The S.C. Board of Health and Environmental Control met on Thursday, December 10, 2009, at 10:00 a.m. in the S.C. Department of Health and Environmental Control Board Room, 2600 Bull Street, Columbia, S.C. (Attachment 0-1)

The following members were in attendance:

Paul C. Aughtry, III, Chairman
Member-at-large

Edwin H. Cooper, III, Vice-Chairman (via telephone)
1st District

Steven G. Kisner, Secretary
3rd District

M. David Mitchell, MD
4th District

Glenn A. McCall
5th District

Also in attendance were C. Earl Hunter, Commissioner, Carlisle Roberts, Jr., General Counsel, Ms. Elizabeth Potter, Legal Counsel, Ms. Lisa Longshore, Clerk, department staff and guests. (Attachment 0-2)

Mr. Aughtry stated notice of this meeting has been provided to all persons, organizations and news media, which have requested notification, as required by Section 30-4-80(e) of the South Carolina Code of Laws.

Item 1: Consideration of Board Minutes – November 18, 2009 minutes - For Approval
(Attachment 1-1)

Mr. McCall moved, seconded by Mr. Kisner, to approve the minutes as submitted for the November 18 meeting. Approved.

Item 2: Monthly Award for Excellence for December 2009 (Attachment 2-1)

Commissioner Hunter recognized the following recipients:

Environmental Quality Control – Tyler Smith;
Health Regulation – Angela Smith;
Health Services – Stacia L. Bell, MPA;
Region 1 Public Health Office – Deanna Willis;
Region 2 Public Health Office – Phyllis Thomas, RN;
Region 3 Public Health Office – York County TB Department (Judy Rogers, RN, Lori Lindemann, RN, Nancy Adkins, RN, Edith White, MOA, Janice Shannon, RN and Deborah McCarley, RN);
Region 4 Public Health Office – Debbie Townsend, RN and Bernette Langley;
Region 5 Public Health Office – Aiken Food Protection Staff (Harry “Trey” Reed; Donald Patterson, Kisha Colyer-Brown, Esther Patterson, Patricia “Patsy” Hegtvedt, Vivian Williams;
Region 6 Public Health Office – Marcus Clark;
Region 7 Public Health Office – Wendy Young, RN, MSN;
Region 8 Public Health Office – Connie Gray;
OCRM – Marian Page.

The Board extended its thanks to all recipients.

Item 3: Orders issued by the Office of Ocean and Coastal Resource Management
(Attachment 3-1)

Ms. Rheta Geddings DiNovo, Director External Affairs and Enforcement, Ocean and Coastal Resource Management, stated two (2) actions had been taken with penalties of \$1,300.

The Board accepted this item as information.

Item 4: Administrative Orders, Consent Orders and Sanction Letters issued by Health Regulation (Attachment 4-1)

Mr. Ken Moore, Health Regulation Liaison, stated five (5) actions had been taken with penalties of \$15,750.

The Board accepted this item as information.

Item 5: Administrative and Consent Orders issued by Environmental Quality Control
(Attachment 5-1)

Ms. Robin Stephens, Director, Enforcement and Regulation Development, stated forty-four (44) actions had been taken with penalties of \$295,947.50.

The Board accepted this item as information.

Item 6: Proposed Amendment of R.61-63, Radioactive Materials (Title A), Federally Mandated Regulations Exempt from Legislative Review (Attachment 6-2)

Ms. Susan Jenkins, Bureau of Land and Waste Management, presented this item to the Board. The Department proposes to amend R. 61-63 to maintain conformity with federal requirements and ensure compliance with federal standards as required by Section 274 of the Atomic Energy Act of 1954.

Mr. McCall moved, seconded by Mr. Kisner, to grant approval to publish a Notice of Proposed Regulations in the State Register, to provide opportunity for public comment, to hold a staff conducted informational forum, to receive and consider comments, and allow staff to proceed with a public hearing before the Board. Approved.

Item 7: Final Review Conference – Docket No. 09-RFR-84, South Carolina Department of Transportation v. South Carolina Department of Health and Environmental Control, re: Ninety Six Creek Watershed TMDL (Attachment 7-1)

Ms. Elizabeth Potter, Legal Counsel, introduced the matter to the Board. Mr. Eugene McCall, Esq., represented S.C. Department of Transportation. Mr. Roger Hall, Esq., represented the Department.

After presentations from all parties and discussion with the Board, *Mr. Kisner moved, seconded by Mr. Cooper, to remand the issue until the March 11, 2010 meeting for purpose of staff and SCDOT to develop language for the TMDL regarding whether compliance was to be measured at the end of pipe or for the entire watershed; to determine SCDOT's responsibility regarding their conveyance system; and to determine how additional monitoring and data would affect compliance. Staff is to coordinate with EPA. Approved.*

Item 8: Final Review Conference – Docket No. 09-RFR-94, Friends of the Kiawah River and South Carolina Coastal Conservation League v. South Carolina Department of Health and Environmental Control and Kiawah Development Partners, II, re: Kiawah Island Sheet Pile Project (Attachment 8-1)

Ms. Potter introduced the matter to the Board. Ms. Sara Bazemore, Esq., represented the Department. Ms. Amy Armstrong, Esq., represented the S.C. Coastal Conservation League and Friends of the Kiawah River. Mr. Trenholm Walker, Esq., represented Kiawah Development Partners.

After presentations from all parties and discussion with the Board, *Mr. Kisner moved, seconded by Mr. McCall, to go into Executive Session for the purpose of obtaining legal advice. Approved.*

While in Executive Session, no actions were taken.

Mr. Kisner moved, seconded by Dr. Mitchell, to overturn the staff decision and deny the permit. Approved.

Item 9: Handling of Requests for Final Review requiring action by December 10, 2009, RFR Docket Nos. 09-RFR-95 through 09-RFR-106 (Attachment 9-1)

Mr. Aughtry asked if anyone wished to conduct review conferences on any of the pending Requests for Review.

After discussion, *Mr. Kisner moved, seconded by Mr. Cooper, to conduct final review conferences on Docket No. 09-RFR-97, Alligator Rural Water and Sewer Company Land Application Permit, and Docket No. 09-RFR-100, Green Bay Mine, and decline to conduct Final Review Conferences on the remaining Requests for Review. Approved.*

Item 10: Agency Affairs

Commissioner Hunter briefed the Board on the following:

1. additional mid-year budget cuts;
2. H1N1 update.

The Board accepted this as information.

Item 11: Legal Report

Mr. Roberts asked for an executive session, for legal advice under the attorney –client privilege in regard to proposed legislation, S.384 and S.337.

Mr. McCall moved, seconded by Mr. Kisner, to go into Executive Session for discussion of matters under the attorney-client privilege. Approved.

While in Executive Session, no actions were taken.

Mr. Scott moved, seconded by Dr. Mitchell, to adjourn. Approved.

All referenced attachments are made a permanent part of these minutes.

Respectfully submitted,

Steven G. Kisner
Secretary of the Board

Minutes approved this 14th day of January 2010.

ATTEST:

Paul C. Aughtry, III
Chairman

Attachments

- 0-1 Agenda
- 0-2 Sign-in Sheet
- 1-1 November 18, 2009 minutes
- 2-1 Monthly Award for Excellence Recipients for December 2009
- 3-1 Orders issued by Ocean and Coastal Resource Management
- 4-1 Administrative Orders, Consent Orders and Sanction Letters issued by Health Regulation
- 5-1 Administrative and Consent Orders issued by Environmental Quality Control
- 6-1 Proposed Amendments to Regulation 61-63, Radioactive Materials (Title A)
- 7-1 **Final Review Conference** – Docket No. 09-RFR-84, re: Ninety-Six Creek Watershed TMDL
- 8-1 **Final Review Conference** – Docket No. 09-RFR-94, re: Kiawah Island Sheetpile Project
- 9-1 Handling of Requests for Review requiring action by January 14