

**Approved Minutes
Operator Certification Board Meeting
September 9, 2003
Spearfish Holiday Inn**

Members Present: Del DeBoer, Greg Merrigan, Clint Jost, Jim Zeck, Tom Lesselyoung, John Scheltens

Others Present: Rob Kittay, Secretary to the Board; George Vansco, SDARWS; Scott Simaner, Hot Springs; Randy Hilding, DENR; Ed Streibel, Timberland Enterprises; and Jan Frederick-Kittay, Mni Wiconi RWS.

Call to Order by Chairperson Zeck at 2:00 pm.

The Board introduced themselves to those present.

Approval of Agenda: Kittay indicated that an additional contract needed to be reviewed between Ed Streibel and Woodland Hills and that a letter was received from Edelweiss Mountain requesting that a hearing be held to revoke their former operator's certificate. Business for the visitors present would also be held first. Merrigan moved to approve the amended agenda. De Boer seconded. Motion passed.

Approval of Minutes: The minutes from the March meeting were distributed on the web and thru email. Scheltens moved to approve the minutes. Jost seconded. Motion passed.

Exam Eligibility: Scott Simanier addressed the Board concerning his eligibility to take a Class III WW exam. He has been with the City of Hot Springs WW Plant for three years. His first question was if his post-high school education could be considered as a related field. He has an AS degree (two years) in agricultural diesel technology. He also has one year of vo-tech in structural welding. Kittay indicated that these subjects were not considered as "related subjects" according to the way the regulations are written.

Simanier needs eight total years of experience with four years of DRC. He has three actual years of experience and may substitute his three years of post-HS for an additional three years of experience. He also wanted one year of being certified as an on-site WW system installer to count as a year of experience even though he installed only two systems.

Kittay asked the Board if his post-HS could be considered as a "related field". In the past, the only vo-tech areas considered as related were in the W/WW programs from St. Cloud/Whapeton/etc. Scheltens asked if the "related" fields could be "job related" rather than related to the environmental field.

DeBoer moved to decline this application as the Class III qualifications were not met. Merrigan seconded. Kittay wanted to go thru Simanier's education by subject by subject and asked if structural welding is a related field? The Board decided that his education was not "related". There is also some question about how much post-HS education Simanier has. It may be more than three years.

Currently he would have only three years DRC if it started accumulating on the first day he started at Hot Springs. DRC can only be gained at a utility as it must be classified as a Class II/III/IV system.

DeBoer asked that the question be called. Merrigan seconded. Motion passed with Scheltens abstaining.

Kittay summarized the shortcoming as his education amount needs to be determined and his DRC must be accounted for.

Contract Review: Ed Streibel presented the Board with a number of contracts for approval. He had worked with Kittay on these prior to the meeting.

Edelweiss Mountain-The Board reviewed the contract. The Board had a particular problem with the statement "It should be noted that, day to day operation and maintenance of the water distribution system for the development will be performed by Mr. Butch Schoellerman, EMIA maintenance manager. Mr. Schoellerman will oversee distribution operations..." As this contract is for both WT and WD, the contractor should be in direct responsible charge of all phases of the operation. There was also discussion on the contractor being on-site only "a minimum of once per month or as needed". The system has 100 residences many of which are seasonal in nature. Zeck reviewed some of the past practices in reviewing contracts.

Merrigan moved to reject the contract. DeBoer seconded. It was summarized that the deficiencies center on the number of on-site visits per month and the verbiage concerning Mr. Schoellerman. Motion passed. The Board said that it would be willing to meet via a conference call to approve a revised contract if necessary.

Black Hills Children's Center-This contract was not reviewed as it is for installing a chlorination system and BHCC has its own certified operator. The system is in compliance as long as chlorination does not take place.

Sacora Station-Merrigan moved to approve this contract. Lesselyoung seconded. Motion passed.

High Meadows-Scheltens moved for approval of this contract with an amendment to it for an on-site visit at a minimum of once per week all year round. DeBoer seconded. Motion passed.

Woodland Hills-The current operator intends to retire in December. Scheltens moved for approval of the contract. Merrigan seconded. Motion passed.

Reciprocity Cases: *Rick Whitely*-Whitely has a MN Class B Wastewater Treatment certificate. MN does not require any DRC for this certificate. Kittay indicated that it most closely matches the SD Class II. He also has a MN Class C Water Supply System certificate. MN does not issue separate WT and WD certificates. Whitely applied for a SD WT certificate. Kittay indicated that it most closely matches the SD Class II. Merrigan moved to grant a Class II WT and Class II WW to Whitely. DeBoer seconded. Motion passed.

Art Betker-Betker has a MN Class D Water Supply System certificate. He applied for a SD WD certificate. Kittay indicated that it most closely matches the SD Class I. DeBoer moved to grant a Class I WD to Betker. Lesselyoung seconded. Motion passed.

Formal Hearings: *Parkston*-This case was continued from the last meeting as per the requirement that an exam must be passed. Parkston is still lacking a Class II WWC/WD and Class I WW operator. Parkston's operator did pass the Class I WWC exam. Merrigan moved to continue this hearing to the March Board meeting. DeBoer seconded. Kittay indicated that the operator would be eligible for his Class II exams in April/May, 2005. Merrigan indicated that Parkston's letter should note that a meeting was held, their case discussed, their progress was acknowledged, and they are still out of compliance. Motion passed.

Florence/Pukwana/Slash J Bar and Grill/Roslyn/Claremont-DeBoer moved that enforcement be pursued at this time for these systems as they lack certified operators. Merrigan seconded. Motion passed.

Raymond-This system lacks a WD I operator. Their operator received a grandfathered certificate but then quit. They have hired a second new operator as of September 1, 2003 as per a letter from Raymond. Jost moved to pursue enforcement by the date of the next Board meeting (March 31, 2004) if the exam has not been passed. Merrigan seconded. Motion passed.

Wickiup Village-This system lacks a SWT I operator as they chlorinate. An exam had been failed since the last meeting. DeBoer moved to pursue enforcement on this case. Merrigan seconded. Motion passed.

St. Onge Livestock Café-A contract was submitted for the operation of this system by Frank Karas. This system lacks a SWT I operator as they chlorinate. Merrigan moved to approve the contract. Jost seconded. Motion passed.

Informal Hearings: *Conde*-Conde has negotiated a contract with Terry Herron of Groton. A copy had not been submitted as of the date of the hearing. Merrigan moved to continue the hearing to March, 2004 to allow them to submit a copy of the contract. DeBoer seconded. Motion passed with Zeck abstaining.

Artesian School, CRM Well Company, D&J MHP, COE-Cottonwood Springs, GFP-Bear Butte, Long Lake Colony, Morristown, Pearl Creek Colony, Pine Cone Estates, Valhalla Housing, Summit-DeBoer moved that the rest of the systems having an informal hearing at this time to be scheduled for a formal hearing in March, 2004. Lesselyoung seconded. Motion passed.

Contract Review: *Peever Water Treatment System and Tim Reyelts*-This contract covered WT only. Peever has a certified WD operator. Scheltens moved for approval. Merrigan seconded. Motion passed.

D&E Water and Frank Karas-There was no description of system. Merrigan moved for approval. Jost seconded. Zeck asked about the procedure when contracts expire. Kittay indicated that the system is contacted for a new contract. Motion passed. Merrigan asked that the letter notifying Karas of the contract approval include mention of the need for a system description for future contracts.

Rimrock Highland Estates/Autumn Meadows/Dry Creek Estates and Al Sage-Contracts were similar except for some of the specific job duties. Scheltens moved for approval of the contracts.

Lesselyoung seconded. Vansco asked about people working for Sage. There are other certified operators working for him.

Direct Responsible Charge-Zeck asked what could be done about the DRC requirements. Kittay explained that as an advisory board to DENR, they could recommend changes in statutes or regulations. Merrigan spoke about past conversations by the board where the Class III/IV certificates were intended for managers and foremen. There seems to be quite a difference across the country as far as DRC requirements according to information received from the board's inquiry at the last meeting. DeBoer spoke about effects on reciprocity if DRC was dropped. He also suggested that the experience qualification should then be changed to have some experience be required at a certain level of plant or system.

Zeck wondered how many places in regulations deal with DRC. Kittay wondered about the reaction from the present Class III/IV operators that had to have DRC to take their exams. The Board would need to defend their position at a public hearing. Kittay stated that deciding on operator qualifications would be easier w/o DRC. There was some question as to whether dropping of DRC would be considered as "backsliding" by EPA.

Merrigan posed that some systems base their pay scale on the number of certified operators they have at a certain level. There will now be more operators at higher levels. It is still up to a system to decide on their pay scales.

Zeck indicated that he would head a committee to make an in-depth look at DRC. There was a question if a working group met, would that be considered a "meeting" under the Open Meeting law. Zeck will go thru regulations to see how many places DRC appears. No committee will be formed at this point.

New Systems for Enforcement: The board examined materials indicating the present certification status of water and wastewater systems. Merrigan moved that the following systems be scheduled for an informal hearing at the next regular Board meeting:

Cattlemen's Saloon	SWT I
Colome	SWT I/WD I
Ethan	WD I
Grenville	WD I
Hayloft	SWT I
Herrick	SWT I
Huttenville Colony	VSWS I
Palmer Gulch/Mt Rushmore KOA	WD I/WW II/WWC I
Pierpont	WD I
Powder House Lodge	SWT I
Ravinia	WD I
Twin Brooks	SWT I
USFS-Pactola Visitors Center	VSWS I

Lesselyoung seconded. Motion passed.

Other Business: Request for Hearing from Edelweiss Mountain (EMIA)-The Board received a letter from the EMIA president requesting a hearing to revoke the certificate from their former operator (Dave Kohn). His certificate is a "restricted" certificate that was grandfathered to him. His certificate is not valid for any system other than Edelweiss Mountain. The Board examined the regulation concerning suspension/revocation of certificates. The operator could be guilty of several provisions of this regulation. A hearing could be held and the Board could recommend to DENR to revoke/suspend. DeBoer questioned as to how this hearing would be held. The Board reviewed how they handled a similar case for some former Morrell's employees. Scheltens suggested that a letter be sent to the President of EMIA indicating that this certificate can only be used at EMIA and if they still want to pursue this. DENR has sent a Notice of Violation to EMIA and the violations were documented. DeBoer moved that a letter be sent to EMIA asking them if they still want to have a hearing in view of the fact that this certificate is not valid for any system other than Edelweiss Mountain and to proceed with possible revocation hearing. The Board reviewed what could happen at a hearing. Jost seconded. Motion passed.

Next Meeting: The next regular meeting will be a "stand alone" meeting in Pierre on March 31, 2004 at 11:00 am. Next September's conference is in Aberdeen.

DeBoer moved for adjournment. Scheltens seconded. Motion passed. Meeting adjourned at 5:37 pm.



Rob Kittay

September 24, 2003

Date