

**THE VIRGINIA BOARD FOR
WATERWORKS AND WASTEWATER WORKS OPERATORS**

MEETING MINUTES

The Virginia Board for Waterworks and Wastewater Works Operators met on Thursday, June 19, 2003 at the offices of the Virginia Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia 23230.

The following members of the Board were present:

Steve W. Cawthron, Chairman
Mark Haley, Vice Chairman
Dan E. French
Dr. Thomas J. Grizzard, Jr.
Robert B. Taylor
Eugene Potter, Jr.

Board Member Larry Lawson was unable to attend the meeting.

The following members of DPOR staff were present during some or all of the meeting:

Louise Fontaine Ware, Director
Sandra Whitley Ryals, Chief Deputy Director
Karen O'Neal, Deputy Director for RPD
Steve Arthur, Deputy Director for Administration & Finance
James Guffey, Deputy Director for Enforcement
David Dick, Executive Director
Joseph Kossan, Board Administrator
Chris Olson, Licensing Specialist
Earlyne Perkins, Legal Assistant
Melissa Sullivant, Legal Assistant

Others who attended the meeting included:

Mark Anderson, Department of Health
Rachel Pustilnik, Department of Health

Chairman Cawthron, finding a quorum of the Board present, called **Call to Order** the meeting to order at 8:37 AM.

Mr. Haley moved that the Board approve the agenda as prepared by staff. Dr. Grizzard seconded the motion, which was carried **Adopt Agenda** unanimously by six "YES" votes (Messrs. Cawthron, French, Haley, Potter and Taylor; and Dr. Grizzard). The agenda is

attached.

Mr. Haley moved that the Board approve the minutes of the February 4, 2003 IFF, the March 11, 2003 meeting, the April 9, 2003 Qualifying Experience Committee meeting, and the May 6, 2003 IFF as prepared by staff. Mr. Taylor seconded the motion, which was carried unanimously by six "YES" votes (Messrs. Cawthron, French, Haley, Potter and Taylor; and Dr. Grizzard).

**Approval of
Minutes**

Chairman Cawthron opened the floor for public comment. No member of the public present expressed a desire to address the Board.

**Public Comment
Period**

In the matter of **File Number 2003-01557, Board v. Kenneth Larry Barber**, the Board reviewed the record, which consisted of the application file, transcript and exhibits from the IFF, and the presiding Board member's Summary of the Informal Fact-Finding Conference. Kenneth Larry Barber (respondent) did not appear at the Board meeting in person, or by counsel, or by any other qualified representative. Upon a motion by Mr. Taylor and seconded by Mr. Potter the Board agreed to accept the presiding Board member's recommendation finding no violation of 18 VAC 160-20-110 (A) (1) (1992 Board Regulations) and approving Mr. Barber's application for the Class II Wastewater Works examination. The motion passed unanimously. Members voting "YES" were Mr. French, Mr. Haley, Mr. Potter, Mr. Taylor and Dr. Grizzard. Mr. Cawthron, the presiding Board member conducting the IFF, left the room and did not participate in the discussion or vote.

**File Number
2003-01557**

Upon a motion by Mr. Potter and seconded by Dr. Grizzard, the Board agreed to adopt the recommendation of the presiding Board member to take no disciplinary action against Mr. Barber's Class III Wastewater Works Operator License and approve Mr. Barber to sit for the Class II Wastewater Works Operator examination. The motion passed unanimously. Members voting "YES" were Mr. French, Mr. Haley, Mr. Potter, Mr. Taylor and Dr. Grizzard. Mr. Cawthron, the presiding Board member conducting the IFF, left the room and did not participate in the discussion or vote.

In the matter of **File Number 2003-00904, Board v. Robert B. Gill**, the Board reviewed the record, which consisted of the investigation file, transcript and exhibits from the IFF, and the presiding Board member's summary. Robert B. Gill (respondent) did not appear at the Board meeting in person, or by counsel, or by any other qualified representative. Upon a motion by Mr. French

**File Number
2003-00904**

and seconded by Mr. Taylor, the Board agreed to accept the presiding Board member's recommendation that Mr. Gill violated 18 VAC 160-20-140 (2) (2001 Board Regulations) in that he was found guilty by the United States District Court of the Eastern District of Virginia, Norfolk Division, of a violation of Title 33 of the United States Code, § 1319(c)(2)(a), a felony. The motion passed unanimously. Members voting "YES" were Mr. French, Mr. Cawthron, Mr. Potter, Mr. Taylor and Dr. Grizzard. Mr. Haley, the presiding Board member conducting the IFF, left the room and did not participate in the discussion or vote.

Mr. French moved that the Board adopt the recommendation contained in the Summary of Informal Fact-Finding Conference on Count 1 hereby revoking Mr. Gill's Class III Waterworks Operator License (License Number 1903001532) and modifying the recommendation on Count 2 to add a monetary penalty of \$1,000 in addition to revoking Mr. Gill's Class III Waterworks Operator License (License Number 1903001532). Mr. Taylor seconded the motion, which passed unanimously. Members voting "YES" were Mr. French, Mr. Cawthron, Mr. Potter, Mr. Taylor; and Dr. Grizzard. Mr. Haley, the presiding Board member conducting the IFF, left the room and did not participate in the discussion or vote.

Sharon Sweet, DPOR Examinations Director, and Rachel Pustilnik, Federal Operator Certification Program Coordinator, Virginia Department of Health, briefed the Board on the Class VI Waterworks examination pilot online testing project. Aspects of the project will be covered by federal grant funding to support implementation of the very small waterworks program statewide. The project includes delivering the Class VI examination through online computer methods rather than the current paper and pencil method. It is hoped that this project will result in all of the Board's examinations being delivered by online computer in the coming years.

**Class VI
Waterworks
Online Testing
Program**

The Board agreed without dissent to recommend that the Class VI online examination be given six times in 2004, with three of those administrations on the same day as the Board's other examinations and in as many locations as possible.

Sharon Sweet gave a review of the April 4, 2003 examination results.

**Examination
Statistics**

The Board considered responses to public comment received in response to the Notice of Intended Regulatory Action (NOIRA) which expired at 5 PM on June 18, 2003. A total of three

**Consideration of
Public Response
to NOIRA**

comments were received by the Board. The Board agreed without dissent that the comments received contained no information pertinent to their decision to propose an increase in the Board's fee structure.

The Board discussed the three fee amendment options prepared by staff. Mr. Potter moved to approve Proposal "A." Mr. Haley seconded the motion, which was carried unanimously by six "YES" votes (Messrs. Cawthron, French, Haley, Potter and Taylor; and Dr. Grizzard).

Proposal Fee Adjustment

Mr. Taylor moved that the Board adopt fee adjustment proposal "A" as a proposed amendment to its regulations and authorize staff to do those things necessary to mature the proposed regulation amendment for public comment in compliance with the Virginia Administrative Process Act. Mr. Potter seconded the motion, which was carried unanimously by six "YES" votes (Messrs. Cawthron, French, Haley, Potter and Taylor; and Dr. Grizzard).

Joe Kossan discussed the recently-initiated CPE audit of licensed Waterworks Operators and answered the Board's questions concerning the procedures to be followed. The Board was briefed concerning the computer problem that inadvertently sent audit letters to 101 individuals who were not required to complete CPE.

CPE Audit

Mr. Haley gave the following report from the Qualifying Experience Committee. which is as follows:

Qualifying Experience Committee Report

The Qualifying Experience Committee met on April 9, 2003 and agreed to the following recommendation:

The Committee recommends that the Board consider revising the experience standards in its regulations to allow those with experience at a non-permitted waterworks or wastewater works facility to qualify for licensure. The Board must consider the question of the highest class of licensure that experience at a non-permitted facility should qualify an applicant for. In the opinion of the Committee, there is a need for the classification of industrial or pretreatment operators in a manner similar to that in place for the operators of permitted facilities. However, the impetus for this action should come from those in the industrial or pretreatment industry through an act of the Virginia General Assembly to amend the Board's enabling statute.

Respectfully submitted,

Steve Cawthron
Mark Haley
Jack Vanderland

Mr. Taylor moved to accept the report of the Qualifying Experience Committee and that the Committee further pursue its recommendation by drafting regulation language. Mr. French seconded the motion which was passed by six "YES" votes (Messrs. Cawthron, French, Haley, Potter and Taylor; and Dr. Grizzard).

Chairman Cawthron honored Mr. Potter's request to be excused from participation on the Committee as his term as a Board member expired on December 31, 2002 and he expects to be replaced as a Board member before the next meeting.

**Mr. Potter's
request**

The Board considered the applications for Training Course approval from the Virginia Department of Environmental Quality and from Penn State Conferences and Institutes. The Board agreed without dissent to defer the applications for the September meeting and asked Mr. Anderson, Mr. Vanderland, Mr. Dick and Dr. Grizzard to review the Training Course application form and the manner in which training credits are calculated.

**Application for
Training Course
Approval**

Joe Kossan briefed the Board concerning the Restricted Class VI Waterworks Licenses. Mr. Kossan stated that 471 Restricted Class VI Waterworks Licenses had been issued and that eight applications, received before the February 15, 2003 deadline, were still pending.

**Restricted Class
VI License
Program Update**

Mark Haley addressed the Board regarding his concern with unlicensed individuals sending DMRs to the Department of Environmental Quality and stated that his concerns had been addressed by Mr. Lawson and the actions the Board took earlier in the meeting. The Board took no action.

**Unlicensed DMR's
Sent to DEQ.**

Staff reviewed with the Board the information obtained from Mr. James Braxton of the Virginia Department of Correctional Education concerning the individuals completing his program at the Bland Correctional Center and the rate of recidivism among individuals completing his programs. The Board took no action.

**Response from the
Department of
Correctional
Education**

The Board considered a draft bill to amend their enabling statute that had been approved by the Board in 2002.

**Legislation for
2004 General
Assembly**

Mr. Haley moved that staff send the bill to the Virginia Code Commission for review to determine if the amendments qualified as housekeeping amendments that could be implemented under the Code Commission's authority. Mr. French seconded the motion, which was carried unanimously by six "YES" votes (Messrs. Cawthron, French, Haley, Potter and Taylor; and Dr. Grizzard).

James Guffey, Deputy Director for Enforcement, gave the Board an orientation covering enforcement procedures, and a mock IFF.

**Board Member
Training**

The Board took no action regarding its meeting dates for the remainder of the year. The dates remain as follows:

**Set Meeting Dates
for 2003**

- Tuesday, September 9, 2003
- Tuesday, December 9, 2003

The Board members completed their conflict of interest forms and travel vouchers.

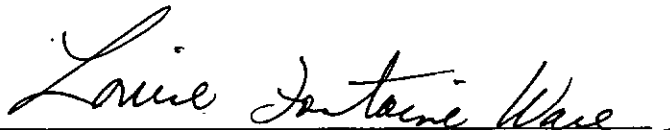
**Conflict of
Interest Forms**

The Board adjourned at 1:40 PM.

Adjournment



Steve W. Cawthron, Chairman



Louise Fontaine Ware, Secretary

COPY TESTE:

Custodian of the Records

**VIRGINIA BOARD FOR
WATERWORKS AND WASTEWATER WORKS OPERATORS**

AGENDA

BOARD MEETING

THURSDAY, JUNE 19, 2003

8:30 A.M., CONFERENCE ROOM 4 WEST

**DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
3600 WEST BROAD STREET
RICHMOND, VIRGINIA 23230**

I. CALL TO ORDER

II. APPROVAL OF AGENDA

1. Board Agenda, June 19, 2003

III. APPROVAL OF MINUTES

2. IFF Minutes, February 4, 2003
3. Board Meeting Minutes, March 11, 2003
4. Qualifying Experience Committee Minutes, April 9, 2003
5. IFF Minutes, May 6, 2003

IV. PUBLIC COMMENT PERIOD – Five minute public comment, per person, on those items not included on the agenda with the exception of any open disciplinary files.

V. ENFORCEMENT CASES

6. File Number 2003-01557 – Kenneth Larry Barber

- IFF by Cawthron – Disciplinary
- 7. File Number 2003-00904 – Robert B. Gill
IFF by Haley – Disciplinary

VI. EXAMINATION ISSUES

- Class VI Waterworks online testing program – Rachel Pustilnik and Sharon Sweet
- 8. Examination statistics – Sharon Sweet

VII. FEE ADJUSTMENT

- A. Consideration to public response to the Notice of Intended Regulatory Action (NOIRA)
- B. Propose fee adjustments for public comment (Steve Arthur, Deputy Director for Finance and Administration, if needed)

VIII. CPE AUDIT – WATERWORKS OPERATORS

IX. REPORT OF THE QUALIFYING EXPERIENCE COMMITTEE

- 9. Committee Report – Mark Haley

X. OTHER BUSINESS

- A. Application for Training Course Approvals
 - Package Treatment Plant Operation Workshop – DEQ – Tom Grizzard and Mark Anderson
 - The Microlife: Filamentous Organisms – Penn State Conferences and Institutes – Tom Grizzard and John Vanderland
 - Troubleshooting Activated Sludge Process W/A Microscope – Penn State Conferences and Institutes – Tom Grizzard and John Vanderland
- B. Restricted Class VI Waterworks Operator License program - update
- C. Unlicensed individuals sending DMRs to DEQ – Mark Haley
- D. Response from the Department of Correctional Education
- F. Legislation for 2004 Session of the Virginia General Assembly
- E. Board member orientation – Jim Guffey
 - Enforcement Procedures
 - Enforcement Mock IFF

XI. CONFIRM NEXT MEETING DATES

- September 9, 2003
- December 9, 2003

XII. COMPLETE CONFLICT OF INTEREST FORMS

XIII. ADJOURN

Persons desiring to participate in the meeting and requiring special accommodations or interpretative services should contact the Department at (804) 367-8595 at least ten days prior to the meeting so that suitable arrangements can be made for an appropriate accommodation. The Department fully complies with the Americans with Disabilities Act.

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of
State Government**

- 1. Name: Eugene K. Potter, Jr.
- 2. Title: Board Member - Waterworks and Wastewater Works Operators
- 3. Agency: Department of Professional and Occupational Regulation
- 4. Transaction: Board Meeting
- 5. Nature of Personal Interest Affected by Transaction: none

6. I declare that:

(a) I am a member of the following business, profession, occupation, or group, the members of which are affected by the transaction: none

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.

Dated: 6/19/03
Signature: EK Potter

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of
State Government**

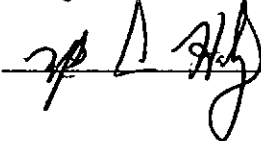
- 1. Name: Mark A. Haley
- 2. Title: Board Member - Waterworks and Wastewater Works Operators
- 3. Agency: Department of Professional and Occupational Regulation
- 4. Transaction: Board Meeting
- 5. Nature of Personal Interest Affected by Transaction: _____

6. I declare that:

(a) I am a member of the following business, profession, occupation, or group, the members of which are affected by the transaction: _____

(b) I am able to participate in this transaction fairly, objectively, and in the public interest. MA

Dated: 6-19-03

Signature: 

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

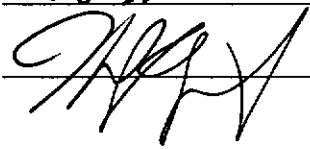
**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of
State Government**

1. Name: Dr. Thomas J. Grizzard, Jr.
2. Title: Board Member - Waterworks and Wastewater Works Operators
3. Agency: Department of Professional and Occupational Regulation
4. Transaction: Board Meeting
5. Nature of Personal Interest Affected by Transaction: _____

6. I declare that:

(a) I am a member of the following business, profession, occupation, or group, the members of which are affected by the transaction: _____

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.

Dated: 06-19-03
Signature: 

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of
State Government

1. Name: Steve W. Cawthron
2. Title: Board Member - Waterworks and Wastewater Works Operators
3. Agency: Department of Professional and Occupational Regulation
4. Transaction: Board Meeting
5. Nature of Personal Interest Affected by Transaction: None
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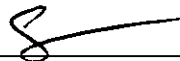
6. I declare that:

(a) I am a member of the following business, profession, occupation, or group, the members of which are affected by the transaction: Water & Wastewater

Operators

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.

Dated: 6/19/03

Signature: 

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of
State Government

1. Name: Robert B. Taylor, PE
2. Title: Board Member – Waterworks and Wastewater Works Operators
3. Agency: Department of Professional and Occupational Regulation
4. Transaction: Board Meeting
5. Nature of Personal Interest Affected by Transaction: _____

6. I declare that:

(a) I am a member of the following business, profession, occupation, or group, the members of which are affected by the transaction: _____

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.

Dated:

6/18/03

Signature:

Robert B Taylor

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of
State Government

1. Name: Dan E. French
2. Title: Board Member - Waterworks and Wastewater Works Operators
3. Agency: Department of Professional and Occupational Regulation
4. Transaction: Board Meeting
5. Nature of Personal Interest Affected by Transaction: N/A
-

6. I declare that:

(a) I am a member of the following business, profession, occupation, or group, the members of which are affected by the transaction: N/A

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.

Dated: 6/19/03

Signature: 