

**MINUTES**  
**STAKEHOLDER ADVISORY BOARD**  
ATLANTA, GA  
OCTOBER 27, 2004

Present were Stakeholder Advisory Board members Doug Easter, Jim Hamilton (Chair), JoAnn Macrina, James Magnus, Robert Ringer, Karim Shahlaee, Gregory Teague, Ben Thompson, Aaron Varner, and Burns Wetherington. Members Mark Byrd, Alice Champagne and Connie Wiggins were not in attendance. Also present was Soil and Water Commission employee Michaelyn Rozar. Interested parties in attendance included Scott Brumbelow (Georgia Utility Contractors Association), Seth Yurman (Georgia Water and Pollution Control Association), Bettie Sleeth (Homebuilders of Georgia), Ray Wilke (American Society of Civil Engineers) and Tom Leslie (Georgia Engineering Alliance). Mr. Hamilton opened the meeting by welcoming board members and guests. He also thanked Tom Leslie for providing meeting space in the Georgia Engineering Center.

Agenda Items

**1. Schedule of future meetings.**

The next meeting of the SAB will be held November 3, 2004 at The Center in Covington. The November 17, 2004 meeting will be held at the 1818 Club in Gwinnett County and lunch will be provided for Board members. Mr. Hamilton commented on the schedule of upcoming Commission Board meetings reminding the SAB that the Commission would have to have a reading of the Rules followed by a 30-day public comment period before the Rules and Regulations can be passed.

**2. Review and approve October 1, 2004 meeting minutes.**

On a motion by Dr. Shahlaee and seconded by Ms. Macrina, the minutes of the October 13, 2004 SAB meeting were approved contingent upon further review. The Board agreed to send emails if any changes were necessary.

**3. Review of meeting with Dr. Couch**

Mr. Hamilton reviewed items discussed in a meeting held with Dr. Carol Couch (Director, EPD). He commented that Dr. Couch has an opinion consistent with that of the SAB regarding the "all persons" description in the Erosion and Sediment Control Act. At least one accountable person from each entity involved with land development activity on a particular project must have completed the education requirement and be certified through SWCC. He also stated that,

according to Dr. Couch, based on current anticipated budget appropriations for year 2005, it is likely that EPD will not receive 100% of fees collected from General Permit fees collected. These fees were to be distributed to EPD with a portion going to the SWCC for the education program. Mr. Hamilton shared that Dr. Couch would be placing appointment of the 16-member technical advisory group on the agenda for the Department of Natural Resources Board's December meeting. He commented that Dr. Couch will attend the SAB meeting on November 17, 2004 and that she appreciated the work that the Board has done thus far.

#### **4. Review of timeline.**

Mr. Hamilton briefly reviewed the Board's short-term timeline for approval of the Rules and Regulation. He commented that while the SAB is behind schedule it is the Board's goal to get the Rules right. He added that while a few extra weeks may be needed the Board still must be timely in approving the Rules.

#### **5. Remaining issues relating to the Rules and Regulations.**

Mr. Hamilton opened discussions of remaining issues relating to the Rules and Regulations by re-introducing the Board's earlier decisions to split the Level II training seminar into two separate tracks Level IIA for plan reviewers and Level IIB for plan designers. Dr. Shahlaee commented that the material for plan reviewers should include the content of the design course as designers and reviewers must be aware of the same basic information, plus additional information regarding the proper procedure and methods for reviewing an ES&PC Plan. Mr. Hamilton commented that by splitting the Level II class there would be five separate seminars. Ms. Macrina commented that material for the first day could be the same in the Level IIA and IIB courses but that participants could be split up the second day of instruction for information that is more detailed and certification would be given appropriately, depending on which track the individual participated. Mr. Magnus expressed concern over the two groups hearing different information and receiving and different set of materials. He emphasized the need for the two groups to hear the same story and added that the course should not be teaching individuals how to design sediment basins but instead should instruct on what is expected on a plan. Mr. Easter agreed stating that engineers are already educated and know how to design a plan. He supported designers and reviewers being given the same material and instruction and taking the same test.

Dr. Shahlaee suggested that the discussion be continued when the Board reviews course contents after the Rules are approved. Mr. Hamilton agreed suggesting that the Board leave the option open for a Level II course or Level IIA and IIB tracks. Ms. Macrina asked how many individuals were trained in

Commission sponsored design classes. Dr. Shahlaee stated that the course used to be offered three times a year with each class including 50-60 individuals. Mr. Magnus asked if the number needing the design course could be reduced by stating that only design professionals could participate. Mr. Hamilton offered that in his own firm, both professional engineers and other staff engineers have all attended the Qualified Personnel training and that he would like to send all his engineers to the Design course. He added that while EITs could receive certification but would still not be able to stamp plans, it would still be beneficial to send as many people through the training as possible. Mr. Magnus stated that the original idea behind the Design course was for anyone working on E&S plans to attend.

Ms. Macrina asked if more would be demanded for plan designers, specifically PEs stating that if a plan reviewer passed the same test the plan reviewer could then insist that they were qualified to design a plan. Dr. Shahlaee suggested that individuals be certified as plan reviewers or designers stating that if a plan is not designed properly and a reviewer misses the error, the designer is still held responsible. Ms. Macrina agreed stating the because of the additional accountability assigned to designers there would have to be some sort of distinction between the two certifications.

Mr. Teague commented that within a two-day instructional period, designers and reviewers could not be taught everything they would need to know. He stated that the purpose of the course is to educate not to certify as qualified. He suggested that an individual could take the test and pass just because they are a good test taker not necessarily because he or she knows the material. Mr. Thompson pointed out that the statute included the word "certify" and that the word indicated something more than just education. The group discussed the definition of certification and its implication for education and training. Mr. Varner stated that if a licensed professional takes the course he would not be taught something that he does not already know. He stated that the course will just ensure that the designer knows what the State of Georgia requires of him and that if a designer goes through the course he knows what the law requires and should know what he is doing. The Board agreed with Mr. Varner's statement.

Mr. Magnus directed the Board's attention to the use of the phrase "certificate of competence" in the definitions section of the Rules specifically relating to "certified personnel," "certified inspector," "certified plan designer" and "certified plan reviewer." The Board discussed the merit of the phrase "certificate of competence" in respect to definition in the NPDES Permit and the E&S Act and in relation to the definition of "Qualified Personnel." Mr. Hamilton suggested replacing "certificate of competence" with "certificate of successful completion." The Board agreed to the change.

Mr. Hamilton continued discussion of the Rules by asking for more input from SAB members. Dr. Shahlaee suggested the Board discuss experience requirements for trainers. Ms. Macrina asked if the Board agreed that instructors should have to meet education and experience requirements at least as stringent as the requirements met by course participants. Dr. Shahlaee agreed adding that an individual instructing design professionals should have a degree related to the field. Mr. Teague expressed concern that this would severely limit the prospective field of trainers. Mr. Leslie (GEA) agreed commenting that by requiring trainers to have attended the Level II class there would be nobody available to teach Level II. Mr. Magnus clarified that the trainer must have attended the Level II Train the Trainer course.

Ms. Macrina commented that trainers should be no less than licensed professionals. Dr. Shahlaee expressed concern over requiring trainers to be licensed professionals, as certain fields such as agronomy have no licensing board. Mr. Varner suggested that requiring Level II trainers to have a college degree by be too restrictive offering that experience should be able to serve in lieu of a four-year degree. The Board discussed this issue in detail. Many Board members agreed that some of the knowledge needed for instructing the Level II seminar could not be gained through experience. Mr. Varner asked if it would be problematic finding instructors to meet the more restrictive qualifications. Dr. Shahlaee stated that it would be and Ms. Macrina and Mr. Hamilton agreed offering that several different organizations were gearing up to be leaders in offering the design course to plan designers. The Board agreed to change the educational requirement of Level II instructors. These trainers will be required to have a degree in engineering or physical sciences and five years of related experience.

The Board continued to comment on the Rules and the discussion focused on testing requirements. Mr. Magnus reminded the Board that they had agreed to open book testing and asked if instructors would have to make the Green Book available to all participants. Dr. Shahlaee suggested that just the Field Manual would be sufficient for Level I participants. Mr. Magnus asked if the Commission had enough printed Field Manuals and Dr. Shahlaee stated that as it is not copyrighted material, the Field Manual can be reproduced as needed and stated that it could be found on the Commission's website. He also commented that the Commission includes Chapter 6 of the Green Book in its entirety in course materials for the NPDES workshop. Mr. Ringer suggested that the Board specify that the examination would be "open course materials" not open book.

Ms. Macrina suggested that the Board discuss experience requirements for Level IB course participants, as there had not been an affirmative vote by the majority on the issue at the last meeting. Mr. Hamilton agreed reminding the Board as the program develops there would be a need to fine-tune certain details. He

commented that if the Board approved a 60-day work experience requirement for Level IB participants and later discovered that the requirement was out of line it could be changed. Mr. Ringer made a motion to vote on a requirement of 60 days or 90 days of work experience for Level IB certification. Mr. Easter seconded the motion. A majority of the Board voted in the affirmative for 60-days work experience.

Mr. Magnus asked if the Commission would need 60 days to grade examinations or if it could be done in 30 days. Mr. Easter suggested scanning the tests to speed up the process. Mr. Thompson offered that he had researched Scantron™ machines and had found that Georgia Southern University in a deal with Scantron was able to purchase machines at approximately \$2200 each. He added that previous discussions had suggested issuing a probationary card while participants waited for the results of examinations. The Board discussed the issue but did not come to a conclusion.

Mr. Hamilton stated that comments had been received from Dana Heil (Georgia Transmission Corp), Tom Leslie (American Council of Engineering Companies), Home Builders Association of Georgia and other groups. He opened the meeting to comments from visitors.

Mr. Hamilton recognized Seth Yurman of the Georgia Water and Pollution Control Association. Mr. Yurman thanked the Board for the opportunity to comment on the Rules. He began his comments by stating that he had seen both sides of the Level II issue while working as a county inspector and with his experience working with a general contractor. He stated that HB285 tried to solve conflicts between plan reviewers and designers by creating the Level II course. He acknowledged that the two groups deal with different levels of accountability but advocated that everyone needed to hear the same instruction and the accountability issue should be taken into account during curriculum development. He also agreed with removing the phrase "certificate of competence" from the Definitions section of the Rules.

Mr. Hamilton next recognized Tom Leslie (American Council of Engineering Companies). Mr. Leslie reviewed comments that he had submitted to the Board for review (a copy of these comments is attached to the minutes). He commented that several issues in the Rules are bothersome from a design professional's viewpoint. He stated that according to the law a person is qualified to design plans if they: 1) are a licensed professional; 2) takes the Level 2 design class; and 3) if they pass the examination. He stated that additional requirements such as providing a verification of education and experience were burdensome and did nothing to improve the water quality of Georgia. Mr. Leslie also expressed concern relating to the discipline of qualified personnel based on an "informal fact-finding inquiry" as it did not meet accepted standard of judicial

process. He stated that this must be a formal process and that licensed professionals already could face disciplinary actions by their respective licensing boards. By leaving this to respective licensing boards, he suggested that the Commission could be relieved of additional burden and commented that threatening a professional license is worse than pulling certification. Mr. Leslie also advocated that plan reviewers and plan designers not be split up into two separate tracks for Level II training and that EITs and other professionals in training be able to receive certification. He also suggested that the Commission could waive training requirements where appropriate. He added that more vigorous enforcement of current erosion regulation would make a real difference in water quality in Georgia.

Mr. Hamilton recognized Bettie Sleeth (Home Builders Association of Georgia). Ms. Sleeth began her comments by echoing Mr. Leslie's concerns regarding the discipline of certified individuals adding that the current language as very subjective and that a formal process for discipline needed to be spelled out in the Rules. She added that she would speak to some other organization regarding their own requirements and would share the information with the Board. She also asked the eligibility requirements and the application process be more spelled out in the Rules and regulations. Ms. Sleeth advocated issuing a provisional card to individuals who have completed training and asked that the grading process be sped up. She also suggested that some training be put on PowerPoint and video to offer more variety and options in selecting training tools.

Mr. Hamilton next recognized Mr. Ray Wilke (American Society of Civil Engineers). Mr. Wilke suggested that certified design professional would also be qualified as plan reviewers but not vice versa. He also commented on the interpretation of "all persons" stating that it would mean at least two persons on-site be certified. Mr. Wilke supported the Board in requiring that Level II trainers have a degree in engineering or physical sciences. He also suggested that if a proctoring pool is established it should include Commission employees, SAB members and certified instructors at a minimum.

Mr. Magnus asked if a definition of "experience" had been drafted. Ms. Macrina stated that she would send Ms. Rozar some language before the next meeting.

Mr. Hamilton suggested that the Board develop a list of issues to be finalized at the next meeting. He reminded the Board that if the Rules were given to the Commission Board for their December 16<sup>th</sup> meeting, the Rules would not be approved before January. He suggested that the December 16<sup>th</sup> meeting be the last resort for handing over the Rules.

The Board discussed what issues were still in need of discussion and developed the following list of issues to be resolved:

- 60-day notification period
- Option for design professionals to opt out of the course and take the just the examination
- Discipline of certified individuals

Mr. Thompson agreed that the issue of disciplining certified individuals might be a real problem and that it was not the responsibility of licensing boards to discipline individuals based on certification issues. He suggested that due process should lie with the Commission and that a formal procedure be drafted by a SWCC attorney.

The Board requested that the Rules be updated by the Commission and that the section relating to eligibility be clarified.

Mr. Hamilton asked the group to think about remaining issues relating to the Rules and be ready to respond at the next meeting. The meeting was adjourned.

Submitted by

Michaelyn Rozar