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State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Mail Code 401-04Q

Division of Water Supply & Geoscience
Bureau of Water Allocation & Well Permitting
Mail Code 401-04Q

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NJ State Well Drillers and Pump Installers
Examining and Advisory Board

Minutes for May 23, 2013

Board Members Present: Art Becker (Chairman), Gary Poppe (Vice Chairman), Gordon Craig, Richard Dalton, Joseph Yost, Joseph Pepe, Carol Graff and Steve Doughty

Board Members Absent: Dr. Karl Muessig, NJ State Geologist

Board Legal Advisor Present: Jill Denyes, Deputy Attorney General (DAG)

NJDEP Bureau of Water Allocation & Well Permitting Staff Present: Terry Pilawski, Steve Reya, Julia Altieri, Michael Schumacher and Melia Stoop.

NJDEP Enforcement Member Present: Jeff Hoffman, NJDEP Water Compliance and Enforcement, Central Region

Member(s) of the Public: Charles Dougherty and Dennis Crayon, from Summit Drilling

1. Call to Order –

The meeting was called to order by Chairman A. Becker at 9:32 am with a quorum present.

2. Review of the Minutes from the March 21, 2013 Meeting-

A motion to approve the minutes for the March 21st, 2013 Board meeting without change was made by G. Poppe, seconded by R. Dalton and approved unanimously (note: J. Pepe was not yet present at the time this motion was made).

3. Review of the Conference Call Minutes for May 2, 2013-

A motion to approve the minutes from the May 2, 2013 Conference Call without change was made by Gordon Craig, seconded by Gary

Poppe (note: J. Pepe was not yet present at the time this motion was made). The conference call was held solely to review and certify the April 3rd, 2013 exam results.

4. Review of the Minutes from the Executive Session for March 21st, 2013-

A motion to approve the minutes from the March 21st Executive (Closed) Session meeting without change was made by C. Graff, seconded by J. Yost and approved unanimously (note: J. Pepe was not yet present at the time this motion was made) .

5. Well Driller Exam Schedule for 2013-

S. Reya again reminded Board members of the three remaining exams in the event that members have any employees or associates who wish to sit for an exam. Well driller and pump installer exams for all licenses classes will be held on the following dates: **June 12, October 2 and December 11.**

6. Review and Certification of Exam Applicants for the June 12th, 2013 Master, Journeyman, Journeyman B, Monitoring, Soil Borer and Pump Installers Exams –

Master – A motion to approve all listed applicants for the exam was made by G. Poppe, seconded by J. Yost and approved unanimously.

Journeyman - A motion to approve all listed applicants for the exam was made by G. Craig, seconded by S. Doughty and approved unanimously.

Journeyman B – S. Reya noted that for the first time in years there were no Journeyman Class B applicants.

Monitoring – A motion to approve all listed applicants for the exam was made by G. Craig, seconded by G. Poppe and approved unanimously.

Soil Borer – A motion to approve all listed exam applicants was made by R. Dalton, seconded by A. Becker and approved unanimously.

Pump Installer – A motion to approve all listed exam applicants was made by J. Yost, seconded by G. Craig and approved unanimously.

(note: J. Pepe was not yet present at the time the motions identified in item 6 were made).

Proctoring of Exams—

S. Reya said that June 12 marks the first exam cycle in which the Bureau of Water Allocation and Well Permitting (Bureau) will proctor exams. Bureau staff will focus on ensuring that exams are administered in a fashion that eliminates potential cheating to the fullest extent possible.

7. Licensing Concern- Written Exams-

Charles Dougherty, from Summit Drilling Co., Inc. (Summit), addressed the Board regarding a fellow Summit employee who he believes may have some type of learning disability that may be preventing him from being able to pass the Bureau's written Monitoring Well Drilling exam. This long time well driller's assistant, he stated, is one of the most technically sound Summit employees when it comes to field knowledge. When it comes to being able to translate this field knowledge into answering questions on a written exam, however, he has struggled repeatedly in the past. C. Dougherty noted that he had recently spoken to S. Reya about this problem and questioned whether

the Bureau could make any special considerations or accommodations for those who may have problems reading and/or interpreting questions on a written exam. S. Reya indicated that in the past the Bureau has utilized the Department's Training Division to administer verbal exams in instances of documented reading or learning disabilities. Unfortunately, C. Dougherty expressed that he had recently contacted the gentleman's high school and was only able to determine that he did graduate; however, no additional documentation was available.

J. Denyes and T. Pilawski believed that it was the American Disabilities Act (ADA) that mandates that testing consideration must be provided to individuals with documented learning disabilities. The individual, therefore, may need to obtain written documentation that details his specific disability in order for the Department to make any accommodations. All licensed individuals on the Board urged the employee to attempt to sit for the exam again (he reportedly failed it several years ago) and see how close he comes to passing should be unsuccessful. This would give Summit staff an idea if he simply has a difficult time passing written exams or truly has a problem reading and comprehending the written test. Summit staff could then possibly work with the employee on a one-on-one basis to further assist him in the topics for which he may need help. Board members all expressed that they have had employees who are often very competent field drillers, yet sometimes have an extremely difficult time passing the exam. They encouraged C. Dougherty to relay to the employee that he should be persistent, as some individuals ultimately sit for the exam close to ten times before passing. C. Dougherty thanked the Board members for their suggestion and said that he would be back in touch with the Board and Bureau if they are to request any alterations to the standard written testing procedure. Finally, Board members thanked C. Dougherty for taking the time to come in and for spending his time trying to resolve this problem on behalf of Summit's employee.

8. Proposed National Ground Water Association (NGWA) Testing- Progress of Updating Existing Exams-

S. Reya provided an update of the progress thus far with revising existing New Jersey exams into regulatory exam modules that can be administered by NGWA. He explained that so far Board members have assisted in revising, reformatting and drafting new exam questions for the Environmental & Geotechnical Driller (the equivalent to the current Monitoring Well Drilling), Closed Loop Geothermal, Journeyman and Journeyman Class B exams. The two (2) remaining exams upon which the Board and Bureau staff work are the Master and Journeyman exams. Work has begun outlining the new structure and format for the Master exam and will continue this afternoon. Volunteers included A. Becker, C. Graff, J. Yost, G. Poppe and R. Dalton have assisted in this task. S. Reya noted that work on the Master exam will continue after today's meeting. He also noted that Julie Mullins compiled the complete list of exam questions (approximately 170 questions) and has coded this master list to show which test(s) would include the referenced question. He intends to forward this list to NGWA for input as exams continue to be revised, so he can forward them into the appropriate format for NGWA and their testing contractor.

9. Pump Installer Survey-

Board members and DAG J. Denyes discussed allowable protocol for requiring that all Pump Installer Exam candidates complete the Pump Installer Survey as a required component of the exam. In the past this has been a voluntary section and contained a coversheet detailing the fact that the Board and Bureau are attempting to revise exams or develop better study material after reviewing the data compiled from the surveys. Recently, it has come to light that without knowing the name and score of the individual who completed the survey, the data is of little value. J. Denyes advised that it would be permissible to add the survey to the test packet as one complete bundle and have a line item in which the applicant is to provide his or her name. She stated, however, that no action could be taken

if the individual either does not complete the survey or list his or her name. Failure to provide a completed survey can in no way affect the scoring of the exam.

10. Heating Ventilation Air Conditioning and Refrigeration (HVACR) Rule-

Amendments to the Heating Ventilation Air Conditioning and Refrigeration (HVACR) Rule, N.J.A.C. 13:32A, were discussed by S. Doughty. Prior to the meeting he forwarded copies of the rule adoption, which incorporated revised wording to clarify potential overlap in jurisdiction, licensing and construction requirements between the draft rule and the State's existing Well Construction and Maintenance; Sealing of Abandoned Wells rules, N.J.A.C. 7:9D. The adopted text contained two (2) important changes in text as a result of correspondence, meetings and conference calls between NJDEP and New Jersey HVACR Board staff (the Division of Consumer Affairs (DCA) within Law and Public Safety). A. Becker and G. Craig both thanked S. Doughty for his efforts to resolve this problem.

11. Extending "Buried" Wells Above Grade-

J. Pepe raised concerns about extending "buried" well casings of existing wells to bring the well casing and pitless well unit above ground, as is required by the well regulations (N.J.A.C. 7:9D) when repairing the pumping equipment on a buried well. He stated that Warren County Health Department requires that contractors should steel casing, not PVC casing when doing so. He indicated that he recently spoke with S. Reya about this issue who stated that as long as a compression type fitting (such as a Dresser coupling or equivalent) is used to join PVC and steel materials at the point of connection, the installation would be in accordance with the Department's well regulations. J. Pepe was not aware of any County or Municipal ordinance that differed from the state requirement, which would grant the County Health Department the authority to solely require steel. He also raised concerns of relevant electrical code and that bonding of the electrical system to the casing must be considered when using PVC casing to extend an existing well constructed with steel casing. S. Reya stated that he believes this issue would need to be addressed via future changes to the electrical sub code and offered to assist J. Pepe with coordination with local officials in interpreting and enforcing the state well regulations.

12. NJDEP Enforcement Activities Update-

- A. Kavlunas/Total Quality Drilling, LLC-** S. Reya provided an update on the Michael Kavlunas/Total Quality Drilling, LLC case in which the Department alleged that Mr. Kavlunas improperly constructed a well measuring approximately 415 ft. deep. Mr. Kavlunas contested this claim. Specifically, the Department contended that the well was not grouted in accordance with the well regulations, N.J.A.C. 7:9D. The Department also alleged that the well was never permitted, which Mr. Kavlunas acknowledged, although he offered some rationale as to why he failed to permit the well in question. The case was tried on March 25, 2013 before Administrative Law Judge W. Todd Miller. The decision, which was made on May 3, 2013, reduced the construction-related penalty from \$3,250 to \$2,250 (note: a Department Deputy Attorney General has filed an exception to this modification, citing the fact that construction related violations must be assessed as "serious" not "moderate" as Judge Miller indicated in his penalty assessment. Most importantly, S. Reya quoted the "order" section of the decision that stated that "It is further ordered that petitioner must decommission the well in accordance with the DEP rules and regulations. This will require petitioner to establish, among other things, the depth of the existing grout in the well and fill the void in the annular space to the required

level.” He hopes the Bureau will work with Kavlunas in the near future to ensure proper decommissioning of the well.

- B. Unapproved Direct Expansion (DX) Geothermal System-** Julia Altieri discussed another case where the Department is working with a Deputy Attorney General on pursuing a geothermal company that improperly constructed a geothermal well field in Mercer County several years ago. The Department has cited the well driller for licensing, permitting and construction-related violations. This case is pending a hearing for a penalty assessment resolution, unless the Department and well driller are able to settle the matter beforehand.
- C. Reeds Beach Well Sealing Update-** T. Pilawski discussed a settlement in which a drilling contractor agreed to decommission three (3) wells that were drilled without permits and constructed in violation of the well drilling regulations. Two (2) of the wells, which were located at Reeds Beach (Cape May County) were not constructed utilizing outer casings and salt-water resistant grout and were situated directly between the Delaware Bay and a saltwater marsh. Both of these wells were recently drilled out entirely and decommissioned in the presence of Bureau staff. M. Schumacher, who was onsite for some of the decommissioning activities displayed site photos and discussed some of the obstacles encountered while decommissioning the improperly constructed wells. Both wells have subsequently been replaced with double cased wells constructed in accordance with Department regulations. T. Pilawski was pleased to report that this case will be fully resolved once the last well (located in Dennis Twp., Cape May County) is decommissioned and replaced. She noted that our increased field presence has resulted in staff overseeing every aspect of the decommissioning and replacement well drilling activities. This sends a clear message to the drilling contractor that the Bureau is serious in ensuring compliance with the regulations.

Start of Closed Session

At 11:48 am the Board entered closed session to discuss potential license sanctions, to be pursued against a driller with repeated unresolved construction-related violations. The Board returned to open session at 12:39 pm.

After discussion in closed session regarding license sanctions against Journeyman Well Driller Brian Funkhouser, G. Poppe moved to have the Board begin the process to invoke its authority to recommend to the commissioner any of the licensing sanctions against Mr. Funkhouser, as provided by Subsurface and Percolating Waters Act, N.J.S.A. 58:4A-12), as it may deem appropriate following a hearing attended by Mr. Funkhouser or his counsel. It was further stated that the process of the hearing and notice of same to Mr. Funkhouser be initiated as soon as practicable. The motion was seconded by J. Yost, and approved unanimously, with the exception of S. Doughty, who had to leave the meeting following the executive session discussion.

12. Technical Topics-

S. Reya discussed the Department’s review of GeoEnergy Alternatives GA-Xtra Geothermal Grout, which was presented by company representatives at the Board’s March meeting. He stated that review of the Toxicity Characteristics Leaching Procedure (TCLP) by Department staff outside of the Bureau of Water Allocation and Well Permitting, has led to questions about the components within the grout mixture. The components have not been released to NJDEP, as some of the mixture has been labeled as proprietary by the manufacturer. The TCLP test exhibited an Arsenic reading greater than the Arsenic Maximum contaminant level (MCL) allowable for potable water. Additionally, the product has not been NSF certified as being nontoxic to groundwater. S. Reya will be sending a letter

to the manufacturer representatives requesting clarification on these issues and will report back to the Board once further information is received.

13. DEP program updates-

S. Reya discussed grout mixes for known or suspected salt water intrusion areas. He noted that the Bureau has been working to better determine appropriate well construction standards that would be appropriate for wells in potential salt water or brackish water areas. He added that the Bureau may look to solicit the input of well drillers to assist in making sound policy decisions that are protective of the state's groundwater resources.

14. ePermitting- Facility Service Administrators-

M. Schumacher noted that when well drillers leave one employer and move to a new company they frequently call the Bureau indicating that an active account remains with the previous employer while no account has been set up for the new company. Drilling companies need to establish policies to insure that the employee has access to his or her account and properly submits outstanding records and decommissioning reports before leaving their employ and to delete that employee from their account. The employee is responsible for submitting all outstanding well records and decommissioning reports for work completed under the original employer. Therefore, the original account should not be deactivated until this is complete. This step will also be a safeguard to the driller so that staff from the previous employer cannot submit electronic paperwork under the name of a previous employee without his or her knowledge. Licensed drillers need to make sure they know their own account information so that they can establish one with the new employer.

15. Bureau Updates- Additional Staff-

T. Pilawski mentioned that the Bureau is in the process of hiring new summer and hourly employees for several positions. She anticipates that this will assist in keeping well record and well decommissioning reviews up to date while freeing up existing staff resources to conduct additional site inspections and other field work.

1:10pm Adjournment- A motion to adjourn was proposed at 1:10 pm by G. Craig, seconded by C. Graff and approved unanimously.

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Examining and Advisory Board

Minutes for Conference Call May 2, 2013

Board Members Present: Art Becker (Chairman), Gary Poppe (Vice-Chairman), Gordon Craig, Richard Dalton, Dr. Karl Muessig and Steve Doughty

Board Members Absent: Carol Graff, Joe Pepe, Joe Yost

NJDEP Staff Present: Steve Reya

The conference call was called to order by Chairman, A. Becker at 10:43 am, with a quorum present.

Certification of Exam Scores for April 3, 2013 Well Driller and Pump Installer Exam Scores (all license categories)–

Master – A motion to approve the exam scores was made by S. Doughty, seconded by G. Craig and approved unanimously.

Journeyman – A motion to approve the exam scores was made by G. Poppe, seconded by G. Craig and approved unanimously.

Journeyman B - A motion to approve the exam scores was made by G. Craig, seconded by G. Poppe, and approved unanimously

Monitoring – A motion to approve the exam scores was made by G. Poppe, seconded by G. Craig and approved unanimously.

Soil Borer – A motion to approve the exam scores was made by S. Doughty, seconded by G. Poppe and approved unanimously.

Pump Installer – A motion to approve the exam scores was made by G. Poppe, seconded G. Craig and approved unanimously.

A motion to adjourn was made at 10.50 am and approved unanimously.