



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

PHILIP D. MURPHY
Governor

CATHERINE R. McCABE
Commissioner

SHEILA Y. OLIVER
Lt. Governor

DIVISION OF WATER SUPPLY AND GEOSCIENCE
NEW JERSEY GEOLOGICAL AND WATER SURVEY ELEMENT
BUREAU OF WATER ALLOCATION AND WELL PERMITTING
401 E. STATE STREET – P.O. BOX 420
MAIL CODE 401-0Q
TRENTON, NEW JERSEY 08625-0420
TELEPHONE: (609) 984-6831
FAX: (609) 633-1231
www.nj.gov/dep/watersupply

*NJ STATE WELL DRILLERS AND PUMP INSTALLERS
EXAMINING AND ADVISORY BOARD*

New Jersey Department of Environmental Protection NJ State Well Drillers and Pump Installers Examining and Advisory Board Meeting Minutes for July 19, 2018

Approved by the Board on September 13, 2018

Board Member Attendance:

Present		Absent
Art Becker (Chairman)	Carol Graff	N/A
Gary Poppe (Vice-Chairman)	Jeff Hoffman	
Gordon Craig	Richard Dalton	
Joe Pepe	Steve Domber	
Joe Yost		

Board Legal Representative Present: Robert Guzek, Deputy Attorney General (DAG), NJ Division of Law, Deputy Attorney General (DAG)

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

Other DEP Staff: Nicholas Horiates, Deputy Ethics Liaison Officer (present for part of meeting), Bart Cerami, New Jersey Geologic & Water Survey

Other NJ Division of Law Staff: Kevin Fleming, Deputy Attorney General (DAG)

Members of the Public Present: Denis Crayon, New Jersey Ground Water Association (NJGWA) President/Summit Drilling Co.

1. Call to Order-

The meeting was called to order by Chairman Art Becker at 9:35 am with a quorum present.

2. Review and Certification of May 24, 2018 Draft Meeting Minutes and June 21, 2018 Draft Conference Call Minutes-

For the May 24th meeting minutes, it was noted that in the Other DEP Staff Section that "...Water Complaine..." should be corrected to state "...Water Compliance...". It was also noted in Item 9 that the sentence that states, "Those who do not obtain the required CEPS may potentially lose their licenses pulled once a hearing is held..." should have the word "pulled" removed. A motion to approve the meeting minutes pending these corrections, as well as approve the conference call minutes without change, was made by G. Craig, seconded by J. Hoffman and approved unanimously.

3. Board Business and Correspondence-

Due to availability issues, the Board proposed to reschedule the September Board meeting, which was to be held on September 20, 2018. Board members requested that the meeting be rescheduled to Thursday, September 13, 2018. R. Guzek volunteered to research the minimum amount of time needed from the time public notice is given of an open public meeting before the meeting may occur. If his findings are that the Board has sufficient time to do so the meeting date will change to September 13, 2018. The Department will make the appropriate notifications via the website and newspaper and will email all Board members.

The Board will physically meet at NJDEP Headquarters (401 E. State St. in Trenton) on the following dates beginning at 9:30 am:

September 13, November 29

Board telephone conference calls will be held during the intervening months to establish a continuing education program in addition to approving qualified candidates for NJ driller or pump installer licenses. The calls will be held at 10:00 am on the following schedule:

October 18, December 20

4. New Examination/Licensing Process Development-

M. Ortega discussed the recent updates with the National Ground Water Association (NGWA) testing and licensing program. NGWA, after requesting a status update, was informed that there were still two (2) documents that needed to be filled out to complete the documentation required to obtain payment for the services they are to provide. Once those final documents are submitted a purchase order can be processed for the testing setup and administration.

Ms. Kathy Butcher, from NGWA, informed the Department that NGWA staff is busy in November and December due to Groundwater Week. M. Ortega suggested to the Board to try and have the bulk of the continuing education decisions made on or by the next in-person Board meeting. If this happens then the Department could begin working on a contract with NGWA that includes tracking of continuing education units. Specific input will have to be provided by the Board regarding the process of reporting, documenting, availability of licensees to track accumulated points and any specific category requirements (technical, safety, regulatory, business, etc.). The sooner this input is provided, the sooner the Department can work on working with NGWA on the next phase of implementing this program.

5. Continuing Education Course Approval Application Follow Up-

S. Reya discussed the course provider application with the Board. The application follows the format laid out by the Licensed Site Remediation Professional (LSRP) Board application but contains the

required items from the well rule in the checklist fields. A. Becker had previously pointed out how there was an issue with the timeframe that was provided to the course providers on the application as it allows the provider until the end of the continuing education cycle to report the course attendance. This language was essentially pulled from the rule, however, so the application is consistent with how the rule is currently constituted. A. Becker asked the Department to investigate tightening this language up if changes are made to the rule.

6. Ethics Compliance Training for Board Members-

Nicholas Horiates, Deputy Ethics Liaison Officer from the Office of the Commissioner, introduced himself to the Board members and all Board members and staff introduced themselves to Mr. Horiates. Nicholas proceeded to introduce the ethics training requirements to the Board, who are deemed Special State Officers who must take mandatory training on a regular basis. N. Horiates stated that the full training module, which is required every three (3) years, will need to be completed by all Board members in 2019. On the intervening years when a full ethics training module need not be completed, a brief ethics video module must be completed by all members. He also informed everyone that any time a new Board member starts, they will need to receive the full training, regardless of when they start in the cycle.

Before playing the annual ethics briefing video, Board members sought clarification on times in which they would need to recuse themselves from discussions and/or motions as Board members. After the discussion, N. Horiates played the short ethics module for the Board members. He noted that this in-person ethics briefing that will satisfy the annual ethics briefing for all Board members present. Those in attendance (all members) will not have to take the online version on their home computer. After the video module ended, the Board members thanked N. Horiates and he departed at 10:35 am.

7. Discussion of Potential License Sanctions for a NJ Licensed Pump Installer-

K. Fleming was introduced to the Board. It was explained that K. Fleming was the DAG for Compliance and Enforcement. A. Becker inquired if it was still possible to take action against the licensed individual based on existing language in the Settlement Offer Letter (SOL). K. Fleming stated that the second SOL, which was sent to the licensed individual, clearly reserved the right for additional actions beyond the imposition of the penalty assessment (fine). T. Pilawski briefed the Board members, for those who weren't familiar with the situation, about the two (2) separate instances involving violations committed by the licensed individual. In both 2011 and 2017, this individual performed work that that wasn't permitted with his license and conducted the work within violation of the minimum setback distances allowed in the well rule. The infractions in 2011 and 2017 were the same, and the licensed individual received fines for each occurrence. T. Pilawski explained that in order to move forward, the timing of events is crucial.

J. Hoffman asked K. Fleming what set of rules govern hearings and if a stenographer would be required for the session. K. Fleming explained that hearings are covered under the Administrative Procedure Act and that a stenographer would be needed for the hearing. It was further explained that an appeal could occur if the Commissioner decides to suspend the license.

R. Guzek explained that Compliance and Enforcement would need to present the information to the Board by August 13, 2018. After sending the information to the Board, a presentation could then be made at the September 13, 2018 Board meeting. Board members agreed that an individual in violation of the same regulatory requirements multiple times should be further looked into to determine if license sanctions are warranted. **G. Poppe made a motion to hear Compliance and**

Enforcement’s case against the licensed individual. The motion was seconded by J. Yost and approved unanimously.

8. Enforcement Activities and Field Work-

Closed Loop Geothermal Wells-

T. Pilawski stated that the Department’s ongoing enforcement matter regarding a closed loop geothermal wellfield that was installed in violation of the well rule is still ongoing. A recommissioning or decommissioning pilot plan, which is acceptable to the Department, was not submitted by the May 31, 2018 deadline. Therefore, the responsible party is out of compliance with the May 19, 2017 ACO by failing to submit a timely approvable Pilot Plan. She added that because of this, stipulated penalties had begun accruing on June 1, 2018. Board members questioned the next steps to correcting the well construction in a timely manner as they felt that having the wells remain onsite in their current state for as long as they have without the contractor addressing them poses a risk to the regional aquifers.

Julia Altieri presented a summary of the Bureau’s recent enforcement, field work and training/outreach initiatives that included the following:

Field Inspections – May 24, 2018 thru July 19, 2018- Seven (7) total

- Improper construction- closed loop geothermal- enforcement follow up
- Abandoned wells-successful location with Water Allocation Program staff
- New domestic construction observation-enforcement follow up
- New domestic construction-witnessing special permit condition-driller compliance check
- New monitor well construction compliance verification- not drilled prior to permit date.

New Investigation-Homeowner complaint filed May 29, 2018.

- Issue: Non-functioning-new 375’, 4” PVC domestic replacement well construction in Lumberton Township, Burlington County.
- Alleged Violations: unlicensed well construction and pump installation work, improper grouting of borehole, improper well screen size and failure to cover a well discharge line minimum of 3 feet.
- Enforcement Action-Site visit to confirm improper well construction, letters sent to order well to be decommissioned under staff supervision, notices of non-compliance issued to unlicensed individual, licensed well driller of record and company for aiding and abetting. Staff to witness decommissioning of well, penalties pending.

New Enforcement initiatives

- Pending electronic well permits-technically deficient well permit applications sent back to companies from 2009-2017 that were never re-submitted for approval. Estimated 100-200 pending, mostly monitor wells. Potential further enforcement action.
- Well Permitting adding “Conditions to notify” notifications to new well drilling permits.

Well Permitting Outreach

Bureau staff (Michael Schumacher) conducted cross training at the Coastal Land Use Enforcement (CLUE) Bureau Meeting on June 13, 2018 as well as the New Jersey Geological & Water Survey office on June 14, 2018.

9. Two (2) Year Certification Window for Exam Certification-

As has been discussed during previous meetings, the current rule limits the time in which certification exam modules can be used for NJ licensure to two (2) years. This has been identified as problematic for both those who intend to utilize the new testing and license cross-state reciprocity tests as well as those seeking to upgrade their NJ license. The rule, as written, will require individuals to re-take any certification exam module that was passed more than two (2) years prior to the application signature date. During the June 21, 2018 Board Conference call options regarding how to potentially resolve the issue via a rule change to N.J.A.C. 7:9D-1.8(a)3. Board members were again asked to consider several potential alternatives.

One option presented was to remove the comma after the “New Jersey modules” reference and revise the wording in this provision that states “including New Jersey modules, which shall have been taken within two years prior to submitting an application” to specify that the two-year requirement only applies to the NJ modules, not all certification exams (such as drilling and pump installation technical exam modules).

A motion that the Department proceed with a rule revision to N.J.A.C. 7:9D-1.8(a)3 to stipulate that the two-year window applies only to NJ-regulatory exam modules, as further detailed above was made by G. Craig, seconded by C. Graff and approved unanimously.

Another avenue to assist in resolving this issue has also been discussed at several meetings. DAG, R. Guzek noted that based on the wording in the rule those who wish to upgrade from a Journeyman to Master license and want to build upon their recently passed modules to upgrade their license could apply for a license during the two-year window from the time the exams were passed. Rather than starting from scratch re-taking all required exams they would only have to take the additional required certifications. Such individuals would not be able to be approved for a Master license until they had recached the minimum time of having a Journeyman license for two years, but it would allow them to not have to repeat exams that “expire” as they are gaining the requisite experience required by the rule.

After discussion of this matter at previous Board meetings, R. Guzek drafted language that could be included in a letter sent to newly licensed Journeyman advising them of this process. **Following review of R. Guzek’s language, G. Poppe motioned that the Board approve the draft language for inclusion in letters to be sent to licensees. The motion was seconded by G. Craig and approved unanimously.** After additional discussion, the Board recommended that the Department hold off on sending letters until the potential rule change timeframe can be better estimated. If the rule likely cannot be revised in a timely fashion (before this issue negatively impacts licensees) the Department can run a report of Journeyman licensees who obtained their license through the new process and send letters to all affected individuals at one time.

10. Continuing Education Classes-

Due to the number of decisions that will need to be made soon to fully implement the continuing education program in coordination between the Board, the Department and a third party continuing education manager, a subcommittee will be formed. Carol Graff, Joe Pepe, Joe Yost, and Art Becker all volunteered to meet as a subcommittee and prepare recommendations. The subcommittee will update the Board on their progress at the next regularly scheduled Board meeting. Some preliminary discussion of how the licensees would take approved classes, attendance would be recorded and reported, how licensees could view a running tally of their accumulated points within a continuing education cycle. J. Pepe stressed that it is crucial that the Department focus on significant outreach within the continuing education cycle to let licensees know how they are progressing with meeting

their continuing education cycle. He and other members noted that this is especially important during the first renewal cycle because this will be the first renewal in which this requirement will be imposed.

11. Continuing Education Requirements at N.J.A.C. 7:9D-1.9(e)-

Board members were asked to look at the wording of this section as it relates to those who fail to comply with the continuing education deadline. S. Reya noted that he believes the rule appears to be silent with regard to how someone can go about reapplying for a license on July 1 if he/she does not obtain the required credits by April 1. The rule specifically states how someone goes about reapplying for the license if the licensee fails to renew within six months following the expiration date of the license (N.J.A.C 7:9D-1.9(d)). He questioned how someone would reinstate the expired license on July 1 since the continuing education deadline would have already passed (thus could not be met) but the rule only gives them an option for how to apply for a new license once six more months pass. This would effectively leave the person without a license for more than six months (factoring in application filing and Board review of the submitted application) when the person may have only missed the point total by one or two.

Regardless of how strict the Board wished the consequence for failure to meet the point total was intended to be, S. Reya believed the rule should state how someone can reinstate or reapply within six months of license expiration as it is not reasonable to point to a provision to state that there are directions on what to do that includes a mandatory wait of six additional months so that the provision applies. Members felt that the wording was acceptable as constituted in the current rule and again stressed the need for public outreach and a tracking tool, so license holders can keep up with the running tally of their points accumulated. They felt that by having these measures in place a responsible license holder who relies upon the license for their livelihood would have to heed the regulatory deadlines in effect. Loss of the license would, therefore, be attributed to that individual's failure to comply with licensing requirements and repeated written notices from the Department and/or the continuing education program manager.

12. Adjournment: At 12:55 pm a motion to adjourn the meeting was made by G. Poppe, seconded by J. Hoffman and approved unanimously.