



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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New Jersey Department of Environmental Protection NJ State Well Drillers and Pump Installers Examining and Advisory Board Meeting Minutes for March 21, 2019

Approved by the Board on May 16, 2019

Board Member Attendance:

Present	Absent
Art Becker (Chairman) – 9:49 Gary Poppe (Vice-Chairman) Joe Yost Joe Pepe Carol Graff Jeff Hoffman Richard Dalton	Gordon Craig Steve Domber

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

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

Other DEP Staff: Joe Mattle, Bureau of Water Systems Engineering; Ed Hudzina, Water Compliance and Enforcement – Northern Region (present for part of the meeting)

Members of the Public Present: Dermot Dillon, New Jersey Groundwater Association (NJGWA) Secretary/Summit Drilling Co.

1. Call to Order and Opening Statement-

The meeting was called to order by Vice-Chairman Gary Poppe at 9:34 am with a quorum present.

T. Pilawski introduced J. Mattle to the Board as the Well Permitting Section’s future Acting Section Chief, replacing Pat Bono. J. Mattle currently works in the Bureau of Water Systems Engineering, in the Engineering Section as a Supervising Environmental Engineer. The Board introduced themselves to J. Mattle.

2. **Review and Certification of January 17, 2019 Draft Meeting Minutes-**
A motion to approve the draft minutes from January 17, 2019 as they are was made by J. Yost, seconded by C. Graff and approved unanimously.

3. **Review and Certification of February 14, 2019 Draft Conference Call Minutes-**
A motion to approve the draft conference call minutes from February 14, 2019 as they are was made by C. Graff, seconded by J. Hoffman and approved unanimously.

4. **Board Business and Correspondence-**
Remaining meetings and conference calls for 2019:

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

May 16, July 18, September 19, November 21

Board telephone conference calls will be held during the intervening months to review continuing education course applications and candidates for NJ driller or pump installer licenses. The calls will be held at 10:00 am on the following schedule:

April 18, June 20, August 15, October 17, December 19

5. **Review and Certification of License Applicants-**
Journeyman – Charles Michel
Environmental Resource & Geotechnical – Andrew Mistina

A motion to approve the two (2) listed license applicants, who were found to meet the licensing criteria, was made by J. Yost, seconded by J. Pepe and approved unanimously.

S. Reya informed the Board that M. Ortega had used the data received from the National Ground Water Association (NGWA) to create graphs of pass/fail rates for each exam. After reviewing the graphs, J. Pepe expressed his concern that of the six (6) individuals to take the pump installer exam, that none have passed. He suggested the individuals might not have enough job experience before taking the exam, especially those who are sitting for exams before they have obtained the two (2) years of experience that is necessary for licensure. S. Reya and M. Ortega informed the Board that there still is not enough information to accurately infer anything based on the small sample size and that they will continue to update the data monthly as NGWA sends reports in and monitor the data for trends.

A. Becker arrives at 9:49.

The Board and staff updated A. Becker about the discussion. A. Becker suggested that the Department reach out to NGWA and ask them to distinguish whether individuals taking the exams are doing it for certification or for state exams.

6. Soil Borer/Journeyman (Class B) Upgrade Course-

S. Reya began by discussing the background of what the well rule says about the upgrade course that will be required for Soil Borers to upgrade their license to the phasing out of the license upon the current license expiration date of June 30, 2020. S. Reya explained that the Department is starting to plan this course out since the continuing education component in the well rule is up and running and is seeking some guidance from the Board. S. Reya asked the Board members if they believed the course should be all regulatory or if there should also be a technical component. A. Becker asked how long the Department planned on making this course and S. Reya responded that it would only be a few hours, not an all-day event. S. Reya further clarified that no exam would be administered for this course and that soil borers attending this class would automatically be upgraded to the Environmental Resource and Geotechnical license and that Journeyman (Class B) well drillers would be upgraded to a Journeyman license. S. Reya advised the Board that since those licensed as Soil Borers and Journeymen (Class B) have already taken exams that involve soil borings that the technical component of the class would only need to discuss cased environmental wells. A. Becker asked the Board for their opinion. C. Graff and G. Poppe both agreed that there should be a technical component to the class. J. Hoffman asked approximately how many individuals would need to take this class and S. Reya said about 140. A. Becker asked the Department to consider offering this class on a Saturday, so more people can attend it at one time. A. Becker volunteered to offer a technical course to assist the Department. He explained that he already has several courses already made that will fit into this and suggested that it should be offered three (3) or four (4) times before the licensing cycle ends. T. Pilawski said that the Department will look into the logistics of hosting a Saturday course.

A motion recommending that the Department offer the upgrade course four (4) times before the licensing cycle ends was made by G. Poppe, seconded by R. Dalton and approved unanimously.

S. Reya brought up how it was the Department's interpretation of the well rule that individuals who upgrade their license via this method would be exempt from the continuing education requirement for this cycle because they are obtaining a new license. G. Poppe expressed that he does not believe that individuals upgrading their license by this method should be exempt from the continuing education requirement.

A. Becker asked R. Guzek for his opinion on the matter. After looking over the language in the well rule, R. Guzek informed the Board that he believed that this only applies to newly licensed individuals, but not to licensees who are upgrading to a new license. J. Yost agreed and suggested that the Department submit to have the upgrade course count for CEPs so those individuals can obtain credit for attending.

7. Potential for Board Member(s) to Become Approved Course Providers-

A. Becker explained to the Board that he had reached out to R. Guzek to see if Board members could offer courses for the continuing education program. R. Guzek informed the Board that they can be an instructor or host of a course given two (2) conditions: they must recuse themselves from the vote of the course and they must state that their views are their personal views and not that of the Board. J. Pepe asked the rest of the Board if the Board meetings count for CEPs. The rest of the Board agreed that the Board meetings should not count for credit. J. Hoffman advised the Board that the LSRP Board does not count their meetings for credit.

8. Presentation of Charges to Board Regarding Possible License Sanctions Against a Licensed Pump Installer-

J. Altieri re-introduced the case and Mr. Ed Hudzina of the Department's Northern Water Compliance and Enforcement office to the Board. J. Altieri began by reading a sworn complaint against Mr. Kevin Blumhagen of Henderson Well and Pump. The allegations were that Mr. Blumhagen committed one or more construction related violations by twice hydrofracturing a well within 150 feet of another well and committed one or more non-construction related when he twice hydrofractured wells without a valid New Jersey Well Driller's License of the proper class. The Department's complaint further stated that Mr. Blumhagen demonstrated either incompetence or misconduct in the practice of well drilling or repair by performing work outside the scope of his license and by failing to ensure the wells being hydrofractured were more than 150 feet from another well; and because Mr. Blumhagen made false or misleading statements to Bureau of Water Allocation & Well Permitting employees who were investigating his actions when he claimed that a properly licensed driller had overseen the hydrofracturing of the more recent allegations. Therefore, pursuant to N.J.A.C. 7:9D-4.6 the Department presented these items for the bases for license revocation or suspension.

J. Altieri deferred to E. Hudzina to go over his 2017 investigation regarding the second site. E. Hudzina explained to the Board that the Bureau of Water Allocation and Well Permitting had received a four-page complaint from a homeowner and he was asked to investigate the complaint. E. Hudzina stated that he had obtained permission from the homeowner who filed the complaint to visit the home to measure the distance from their well to the well that was hydrofractured. He was refused access to the property on which Mr. Blumhagen had performed the well work. Without being able to gain entry to that property he was unable to directly measure the well to well distance. He estimated that the wells were approximately 140 feet apart based on his measurement to the property line and scaling off the approximate distance from the property line to the adjacent well.

E. Hudzina next contacted Mr. Blumhagen, who confirmed that he was on site when the well was hydrofractured. He said that Mr. Blumhagen told him he thought that the well was more than 150 feet and stated that a New Jersey licensed journeyman well driller, Mr. George Slater, was on site with him. E. Hudzina stated that he later called Mr. Slater and was told by him that he had arrived on site an hour after the work had started, that he was not hired by Mr. Blumhagen, and that he did not supervise the activities taking place. E. Hudzina added that he requested that Mr. Slater send him an email summarizing his statement, which he did.

At the end of E. Hudzina's presentation, A. Becker asked the Board for their opinion. T. Pilawski explained that the Board needs to decide if the Department provided enough information to have a formal hearing to pursue license sanctions against Mr. Blumhagen. R. Guzek told the Board that the burden of proof will be on the Board if they choose to move forward with a hearing and that the Board will independently do their own fact-finding.

At the suggestion of the Board's legal representative, DAG R. Guzek, it was recommended that the Board enter an executive session to further discuss legal questions posed by Board members.

A motion to enter an executive session was made by J. Hoffman at 11:33am, seconded by C. Graff, and approved unanimously.

A motion to resume the open session was made by G. Poppe at 12:04pm, seconded by J. Yost, and approved unanimously.

A motion to move forward with the hearing for Mr. Blumhagen was made by J. Yost, seconded by G. Poppe, and approved unanimously.

A motion was made to waive the 90-day hearing requirement by J. Hoffman, seconded by G. Poppe, and approved unanimously.

9. Department Outreach-

M. Ortega told the Board that letters communicating continuing education were sent out to every license holder. M. Schumacher stated that email notifications will also be sent out to every license holder for whom the Bureau has an email address on file.

10. Horizontal Direction Drilling Update-

J. Hoffman informed the Board that there has not been a lot of progress on the issue of horizontal directional drilling requirements. He explained that the Department's upper management believes that it should be in the well rule and that they were looking into ways to move forward. T. Pilawski told the Board that in the meantime, Land Use Management will be able to enforce grouting and abandonment requirements by including those requirements in their permits.

11. Course Approval for Courses with Various Providers-

S. Reya told the Board that there have been a lot of questions regarding the approval of OSHA training. He explained that the license holders would be giving the Department the information since there are numerous providers of OSHA courses that are offered both in person and online. Because there is no sole course provider of OSHA courses there would not be an entity that could submit for CEP approval. Board members and Bureau staff discussed a mechanism that could be used to approve a course that could be taken through multiple providers (as well as both in-person and online).

J. Hoffman and T. Pilawski depart at 12:35pm.

Following discussion by Board members, A. Becker stated that since there are a lot of different OSHA courses, that more specific discussion is needed. He asked the Department to make a list of specific courses and present them to the Board.

12. Board Continuing Education Subcommittee Review-

S. Reya explained the roles of the Department and the Board for the continuing education course approval process. He said that the Department is only reviewing for accuracy and completeness of the applications and that the Board should be conducting a review of the content. He said that the Board's continuing education subcommittee will review the content prior to the Board meetings. C. Graff said that she thought that this was a good idea, but that it would only need to be temporary to get the program up and running.

A motion was made to form a subcommittee of Board members for the purposes of reviewing course applications by C. Graff, seconded by G. Poppe, and approved unanimously.

A. Becker asked for volunteers to join the subcommittee, which will be headed by C. Graff. G. Poppe and J. Yost volunteered. S. Reya mentioned that G. Craig told him that he would be interested in joining if the subcommittee was formed. A. Becker said that if G. Craig was unable to join, that he would take his place on the subcommittee.

13. Continuing Education Course Applications-

S. Reya went over all of the courses that have been deemed administratively complete by the Bureau:

Courses for approval:

NJGWA Membership Meeting w/ Geophysical Logging Presentation – NJGWA – 2 Technical CEPs

A motion to approve this course was made by J. Yost and seconded by G. Poppe. All were in favor except for R. Dalton, who was opposed.

Groundwater in Fractured Bedrock – Rutgers – 6 Technical CEPs

A motion to approve this course was made by G. Poppe, seconded by C. Graff, and approved unanimously.

Courses not approved:

Underground Storage Tanks – Rutgers – 6 Technical CEPs requested

Board members discussed the relevance of this course to NJ licensed well drillers and pump installers. After reviewing the detailed course description and agenda, the majority of the Board felt that the course did not specifically cover information related to their field. A motion to not approve this course was made by C. Graff and seconded by J. Yost. All were in favor except for A. Becker and G. Poppe who were opposed.

M. Ortega departed at 1:45pm.

14. Raw Water Sample Tap-

S. Reya presented information and a photograph provided to him by the Bureau of Water Systems Engineering. Their staff requested guidance from the Board on whether the installation, as shown, would compromise the integrity of the well. A county inspector recently discovered the situation and felt that it may be in violation of the Federal Ground Water Rule (and associated NJ rule and guidance documents). The scenario they provided showed a line that fed the “sample port” that was believed to have been teed off of the pitless adapter. The valve was essentially a hose bib for a garden house and was only a few inches above the soil outside. The Board agreed with the assertion that it is not a dedicated raw water tap and compromises the integrity of the well with regard to potential bacteriological contamination. G. Poppe also stated that it would not be frost proof and would likely be under a vacuum when the pump cycles on and off, which could pull in surface contaminants. S. Reya thanked the Board for their input and assistance.

15. Well Permitting Enforcement Activities & Field Work-

J. Altieri presented the following summary of inspections and enforcement activity that has occurred since the last meeting.

Field Inspections – January 17, 2019 to March 21, 2019

- **Issue:** Bureau staff spot checked new construction of potable test well for future public supply use in Bergen County. No issue of non-compliance noted or further action by Well Permitting needed. Ridgewood Village, Bergen County.

Status update- Ongoing Investigation-Suspected unlicensed well pump installation and repair

- **Issue:** Suspected unlicensed individuals performing well pump installation and repair in Millstone Twp., Monmouth County. Follow up letters received on February 13, 2019 and March 3, 2019 from the licensed pump installer of record and an unlicensed individual in response to the Department's November 26, 2018 letter and January 24, 2019 letters requesting additional information.
 - **Enforcement Action-**Bureau staff received additional relevant documents and two (2) letters dated February 13, 2019 and March 3, 2019 from a New Jersey licensed pump installer, stating he was present during the on-site installation and supervision of pump work done by others at 3 out of 4 identified locations in Millstone Twp., Monmouth County. This statement was collaborated with the unlicensed individual. Both individuals stated in writing that pump work (45 gals. water pressure tank and a new square D pressure switch) was installed at one of the properties without on-site supervision of a New Jersey licensed pump installer. Pending referral to Central Region Water Compliance and Enforcement for further processing of civil administration penalties.

New Investigation-phone complaint February 1, 2019

- **Issue:** Suspected unlicensed, unpermitted dewatering well construction activity in Lacey Township, Ocean County. New Jersey licensed well driller reported the installation of 12" steel casing, augured into the bottom of excavation down to 20 feet. The casing is filled with stone.
 - **Alleged Violations:** A well permit and licensed well driller of the proper class would be required to supervise work or perform well drilling activity since the alleged borehole diameter is greater than 6' and deeper than 10 feet in depth.
 - **Enforcement Action-** Well search of location determined no well permit was on file. At the time of complaint, Bureau staff was unable to determine if activity described by the caller qualified as a regulated well construction activity that would be regulated by N.J.A.C.7:9D. A follow up field site visit was conducted by Central Region Water Compliance and Enforcement staff on February 3, 4 & 5, 2019. It was determined that the activity was part of an (R-tank) underground water storage basin system that was altered to include the casing. In rare instances, the stone filled casing at the bottom of the basin is installed to create an outlet thru underlying clay layers to facilitate better drainage. Bureau staff consulted with the Bureau of Nonpoint Pollution Control and determined that this activity may require a well permit and licensed well driller when the installation requires auguring casing at the bottom of the basin system. Further research and possible New Jersey Stormwater Best Management Practices manual update pending.

16. Adjournment-

At 1:57 pm a motion to adjourn the meeting was made by G. Poppe seconded by J. Hoffman and approved unanimously.