



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 November 21, 2019

Approved by the Board on January 23, 2020

Board Member Attendance:

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

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

Water Compliance and Enforcement Legal Representative Present: DAG Kevin Fleming, NJ Division of Law

NJDEP Bureau of Water Allocation & Well Permitting Staff Present: Terry Pilawski, Joe Mattle, Julia Altieri, Steve Reya, Mark Ortega, and Rachel Filo

Members of the Public Present: Todd Tannehill, CETCO Drilling Products; Michael Kleespies, CETCO Drilling Products

1. Call to Order and Opening Statement-

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

Todd Tannehill and Michael Kleespies of CETCO Drilling Products and Rachel Filo of the Water Allocation Program introduced themselves to the Board. T. Pilawski explained that Rachel has

worked for Water Allocation for about a year. The Board members welcomed Todd, Michael, and Rachel to the meeting. The Board members and Department staff proceeded to introduce themselves.

2. Hearing for Potential License Sanctions Against NJ Licensed Pump Installer-

Kevin Fleming, Deputy Attorney General, explained that he has been serving as counsel to the Department regarding the charges that the Department was bringing to the Board for license sanctions against licensed pump installer Kevin Blumhagen. He informed the Board that he was contacted by Mr. Blumhagen's attorney, Edward P. Azar, Esq. in advance of the Board hearing scheduled to occur during this meeting, which was to be about the potential suspension of Mr. Blumhagen's license. On November 20, 2019 the Department and Mr. Blumhagen's attorney reached a settlement agreement in principle. J. Denyes, DAG, noted that if both parties reached a settlement there would be no charges brought forward to the Board, however, since the Board is the licensing body for well driller and pump installers as established by statute, the settlement terms should be presented and put on record during the meeting for input from the Board.

DAG Fleming explained that the agreed upon settlement is for a 75-day suspension of Mr. Blumhagen's pump installers license starting January 1, 2020. The license would have to be physically surrendered to the Department at the start of the suspension. After 75-days, Mr. Blumhagen would be able to submit to the Board for reinstatement of his license. It would then be up to the Board to then reinstate his license. The settlement requires that if Mr. Blumhagen conducts any hydrofracturing activities, it must be performed under the direct onsite supervision a New Jersey licensed well driller of the proper class. DAG Fleming further noted that he would be contacting Mr. Blumhagen's attorney on speakerphone to keep him apprised of the Board's input on the settlement in principle to which both parties agreed. Mr. Azar was not initially available to answer DAG Fleming's call.

A. Becker asked J. Denyes for her opinion on the matter. J. Denyes said that the Board could either accept the settlement or choose to discuss it further. A. Becker asked the Department if they would be doing any follow-up enforcement to verify compliance with the terms. T. Pilawski said that it would be difficult to physically track his activities because although well pump work must be performed by an appropriately licensed individual, it does not require permits from the Bureau. S. Reya suggested notifying the Health Departments of the counties in which he typically works to make local inspectors aware of the issue. A. Becker asked if it was detailed anywhere as to what would happen if Mr. Blumhagen violated the terms of his suspension. DAG Fleming said the Settlement Agreement is contingent upon him fully complying with the well rule (N.J.A.C. 7:9D) and not committing any violations with Department rules during the time of his suspension. He further noted that N.J.A.C. 7:9D-(i)4 contains requirements for license reinstatement and specifies that "a person whose license has been suspended may be reinstated, after the period of suspension has ended and all conditions of the suspension have been satisfied, upon review and approval of the Board."

A. Becker asked if there was any further discussion. No further discussion was needed.

A motion to accept the Settlement Agreement between the Department and Mr. Blumhagen, as presented by DAG Fleming was made by G. Poppe, seconded by C. Graff, and approved by all except for J. Hoffman who abstained. J. Hoffman abstained because he serves in a supervisory capacity to many of the Department staff involved in this matter.

Board members inquired about Mr. Blumhagen's hydrofracturing operations in the future and how the Department will ensure that a properly licensed driller is working with him when his license is reinstated, as he will still not be properly licensed to perform that activity. DAG Fleming indicated

that he has been informed that Mr. Blumhagen has been attempting to hire appropriately licensed individuals for such work. Ensuring compliance would be left to the Department. Board members also questioned if the settlement is public record and could, therefore, be posted on websites or newsletters as a deterrent. Members were advised that it is a matter of public record.

Mr. Blumhagen's attorney, Mr. Azar returned K. Fleming's call and spoke with him and the Board on conference call. K. Fleming informed Mr. Azar that the Board accepted the settlement. K. Fleming confirmed with Mr. Azar that Mr. Blumhagen understands that while his license is suspended, he cannot conduct any pump work. A. Becker and K. Fleming confirmed that this is not a restriction on his company continuing to work because Mr. Blumhagen can employ a licensed well driller or pump installer (for pump installation/repair). Mr. Azar thanked the Board for their cooperation and departed the call. The settlement document will be finalized and signed by both parties before Mr. Blumhagen surrenders his license on or about January 1, 2020.

DAG Fleming departed at 9:58am.

3. Testing and Licensing-

The Bureau received three (3) license applications for the environmental resource and geotechnical (ERG) license. S. Reya summarized the license applicant list:

ERG – Daniel O'Mara, Timothy J. Shellman Jr., Samuel Headley

The applicants were found to meet the regulatory requirements of N.J.A.C. 7:9D-1.8. A. Becker asked if there was any discussion regarding these applicants. No further discussion was needed.

A motion to approval all three applicants was made by G. Craig, seconded by R. Dalton, and approved unanimously.

4. Continuing Education Program-

A table summarizing three (3) administratively complete courses, along with supporting documentation, was provided to the Board members prior to the meeting for review. Below is the course information and requested continuing education point (CEP) totals:

Groundwater Week 2019 – *National Ground Water Association's (NGWA)* – **15 CEPs (categories vary)**

NJ Soil Borer/Journeyman (Class B) Upgrade Course – *New Jersey Department of Environmental Protection* – **3 Technical CEPs**

VFD Training – *Goulds Water Technology* – **7 Technical CEPs**

J. Hoffman asked to further discuss the NGWA's Groundwater Week 2019 course. He said that he went through the list of courses and thought that a lot of them did not meet the requirements for approval. A. Becker said that most other states approve the whole conference. A. Becker and G. Craig discussed how the business courses that are offered are important and should be considered for approval. J. Hoffman said that he does not think that they fall into the technical or safety category and therefore should not count. S. Reya said that he believed the rule states that CEPs need to be related to the well drilling and pump installing industry, however, the technical and safety categories were the Board's policies. J. Hoffman asked if there could be a more thorough review of any

conferences/conventions in the future. G. Craig agreed that some of the courses on the list may not be relevant and that next year all classes should be reviewed. R. Dalton suggested reviewing NGWA's Groundwater Week like the Maryland Delaware Water Well Association Convention was reviewed earlier in the year. The other Board members thanked J. Hoffman for bringing up this point.

The Board members asked if the Department could track the courses that licensees took for Groundwater Week 2019. M. Ortega said that he would track it and present the information during the January meeting. A. Becker said that he expects about a dozen New Jersey well drillers to attend Groundwater Week.

A motion to approve Groundwater Week 2019 for up to 15 CEPs was made by G. Poppe, seconded by J. Yost, and approved unanimously.

No further discussion was needed for the other two (2) courses.

A motion to approve the NJ Soil Borer/Journeyman (Class B) Upgrade Course for three (3) CEPs was made by G. Poppe, seconded by J. Yost, and approved unanimously.

A motion to approve the VFD Training course for seven (7) technical CEPs was made by G. Craig, seconded by J. Pepe, and approved unanimously.

M. Ortega provided the Board with updated completion percentages for licensees that need to obtain CEPs for their license renewal. He told the Board that 31 percent of licensees have met the CEP requirement and another 18 percent have started obtaining CEPs but have not yet obtained the required seven points. He said that he will continue to provide the Board with updates and that another reminder letter would be sent out in January 2020.

A. Becker asked M. Ortega if he could investigate the ages of the well drillers because he thinks that some of the older well drillers who aren't currently drilling will choose not to renew. M. Ortega said that he would investigate it, but that ages and birthdates were not information that was tracked anymore. M. Ortega said that by the next in-person meeting he would try to have a better breakdown of CEP completion by license type.

- 5. Review and Certification of September 19, 2019 Draft Meeting Minutes-**
A motion to approve the draft minutes from the September 19, 2019 meeting was made by G. Poppe, seconded by S. Domber, approved by all except for J. Yost who abstained.

- 6. Review and Certification of October 17, 2019 Draft Conference Call Minutes-**
A motion to approve the draft conference call minutes from October 17, 2019 was made by G. Craig, seconded by J. Hoffman, and approved by all expect for J. Yost who abstained.

- 7. Remaining Board Conference Call-**
The final Board telephone conference call for 2019 will be held on December 19th at 10:00 am.

- 8. Soil Borer/Journeyman (Class B) Upgrade Class Schedule-**
S. Reya informed the Board members that the class schedule for the upcoming soil borer/journeyman (Class B) upgrade course had been finalized. There will be courses held on January 21st, February 6th,

and March 12th at 9am and 1pm. This affords license holders six (6) choices to accommodate schedules. A letter was sent out to all currently licensed soil borers and journeyman (Class B) well drillers regarding class registration during the first week of December.

9. Continuing Education for Licensees who “Upgrade” Mid-Cycle-

S. Reya talked briefly about license upgrades. He said that the Department’s interpretation of the well rule is that licensees will be exempt from the continuing education requirements if they successfully upgrade their license during a cycle. Because they would not be renewing the old/lower level license, they would fall into the category of being licensed for less than three (3) years for the new license type. Department staff, Board members, and J. Denyes discussed how the soon to be held soil borer license upgrade classes impacts continuing education requirements. The course was previously approved by the Board for CEPs. Board members asked if the licensees that take the class would be exempt from the continuing education requirement due to them taking the class.

T. Pilawski said that a significant amount of time and effort is required to pass the exams. She said that when the rule was written the intent was that licensees who voluntarily upgrade their license would be exempt from the CEP requirement because they chose to study and pass additional exams for a higher-level license. A. Becker asked for S. Reya and J. Denyes to confer on this and address at a later meeting.

R. Dalton said that he believed that licensees should not get points for studying for an exam. G. Craig said that this would not be a lifetime exemption from taking CEP’s and that a licensee can only upgrade their license so many times.

10. Course Provider Customer Limitations-

A. Becker provided the Board members with the background information from the October 2019 conference call. On this call, J. Pepe asked the Board about course providers potentially limiting the course rosters to only their customers. G. Craig asked if this applies to companies who wish to offer a class to their employees only. S. Reya had brought up how the NJ Soil Borer/Journeyman (Class B) Upgrade course was only available to currently licensed soil borers and journeyman (Class B) well drillers. J. Yost stated that he does not believe that suppliers are going to shut out potential new customers.

J. Denyes questioned whether there was any need for the Board to take action at this time as there have been no reports made to the Board that there is any bias toward excluding potential individuals from a course simply for monetary reasons. As has been previously noted, courses could be limited due to venue size or due to the topic only pertaining to specific license types though Board members recognize these are valid reasons. J. Denyes recommended to continue with the current CEP review and approval process and readdress the issue if it becomes a problem.

11. Enforcement Update-

J. Altieri provided the Board with a summary of the field activity between September 19, 2019 and November 21, 2019:

Field Inspections – September 19, 2019 to November 21, 2019 (2 total)

- Issue: Bureau staff inspected suspected improperly constructed potable well in Plainfield, Union County as part of a multi-Bureau enforcement activity conducted by the Department.

- Enforcement Action- well is out of compliance for various permitting and well construction issues. Department Enforcement follow up pending. T. Pilawski noted that J. Hoffman's staff recently coordinated a sampling protocol to obtain water quality samples for the unapproved well that was being utilized as a public water source.
- Issue: Bureau staff field inspected public supply test well installation as part of routine permit notification to witness well construction. West Milford, Passaic County.
 - Enforcement Action- well in compliance - no further action

New Investigations-alleged unlicensed pump/well work – September 19 & October 24, 2019 (3 total)

- Issue: Suspected unlicensed, well pump installation activity in Jackson Twp., Ocean County. A New Jersey licensed master well driller reported and submitted photo documentation to well permitting of a well that appeared to be in the middle of pump replacement work with no licensed individuals present.
 - Alleged Violations: Pump work would qualify as needing a license pump installer or the on-site supervision of a licensed pump installer or well driller to perform the work.
 - Enforcement Action- Bureau staff confirmed location. Notice of Non-compliance to be issued, further investigation pending by the Department.
- Issue: Two suspected unlicensed well pump and well work repair/installation issues were reported in Spring Lake, Monmouth Co. and Little Egg Harbor, Ocean Co. A New Jersey licensed master well driller reported to well permitting two incidents he was made aware of from property owners that separate irrigation/sprinkler companies were performing well and pump installation work without licensed individuals or permits. No supporting documents or pictures were submitted with the complaints.
 - Alleged Violations: Pump work would qualify as needing a license pump installer or the on-site supervision of a licensed pump installer or well driller to perform the work depending on the work performed.
 - Enforcement Action- Bureau staff spoke to one of the businesses and was informed that the company owner has a NJ pump installers license and refers any well work to a properly licensed NJ well driller when necessary. Any further investigation will require more evidence needed to verify that a violation has occurred.

Status update- Ongoing Administrative Hearings - ADR Requested by the Department

- Issue: Administrative hearing requests were filed by well drillers and their companies to dispute five cases of improper permitting, grouting and constructing of domestic and irrigation wells. Hearing requests were granted by the Department. DEP Office of Dispute Resolution requesting affected parties to take part in Alternate Dispute Resolution (ADR) process instead.

12. Program Updates-

T. Pilawski informed the Board that Sabrina Hill, Well Permitting's only remaining hourly employee, was hired by the Bureau of Safe Drinking Water. Next, she updated the Board on the changes to the well rule. She said that the rule team is scheduled to meet the Assistant Commissioner and her staff in the next two weeks to brief them on the proposed changes. From there, it will be sent back to Legal Affairs before it gets published.

T. Pilawski informed the Board that the recommissioning of the Woodbury geothermal site is set to begin in December.

J. Mattle discussed the current backlog of well records and well decommissioning reports with the Board. He said that the Department has been receiving many requests to review submitted documents but due to current staffing levels the reviews are behind.

13. Board Meeting Schedule for 2020-

The Board members were reminded of the 2020 meeting dates, which will be held at NJDEP Headquarters in Trenton beginning at 9:30 am on the following dates:

January 23, March 26, May 21, July 23, September 24, November 19

Conference calls will also be held at 10:00 am on February 13, April 16, June 18, August 13, October 15 and December 15. Bureau staff will provide the required public notification to multiple newspapers for publishing.

14. Princeton University Geothermal Project Update-

S. Reya said that the design specifications for Princeton's geothermal project have changed. He said that contractors routinely call with questions about the proposed wells. As of now it is anticipated that multiple drilling companies will be hired to drill some conventional U-bend wells to 800-850 ft. and also potentially install either the Rygan well that was initially installed as a test well or other similar designs. Initial drilling progress would then be utilized to determine the final design for the wellfields.

15. New Jersey American Water– Howell Township-

A. Becker brought up a concern that was brought to his attention at the most recent New Jersey Ground Water Association meeting. He said that New Jersey American is forcing homeowners with existing wells in Howell Township to hook up to public water. A Becker said that he was under the impression that public water companies were not permitted to do this unless there was a local ordinance in place. Bureau staff asked if there was a contamination issue affecting the ground water quality. He said many of the wells are newer replacement wells for which the owners spent a substantial amount of money to install and provide a good water source, yet the water company was forcing them to hook up to their system and purchase water. A. Becker said he did not believe so

16. Direct Exchange Grout Permeability-

R. Dalton explained that during the September 2019 meeting, Total Green, who was presenting their direct exchange geothermal system, expressed concerns with the Department's grout permeability tests. R. Dalton looked back at his notes and determined that the test that is presently required by the Department (ASTM D5084) is appropriate for both porous and nonporous grout materials. He added that it can be utilized for both bentonite and cement grouts. S. Reya informed the Board that the Department is still waiting for Total Green to submit their grout permeability results, which will be forwarded to Board members for review once received.

17. Adjournment-

A motion to adjourn was made at 12:07 pm by G. Craig, seconded by C. Graff, and approved unanimously.