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DEPARTMENT OF ENVIRONMENTAL PROTECTION

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NJ State Well Drillers and Pump Installers
Examining and Advisory Board

Minutes for January 17, 2013

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

Board Members Absent: None

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

NJDEP Bureau of Water Allocation & Well Permitting Staff Present: Terry Pilawski, Pat Bono, Steve Reya, Julia Altieri, Mike Schumacher, Brian Buttari, Julie Mullins and Melia Stoop

Member(s) of the Public: None.

1. Call to Order –

The meeting was called to order by Chairman A. Becker at 9:36 am with a quorum present. A. Becker then reintroduced Deputy Attorney General (DAG) Jill Denyes as the Board's Legal Advisor. J. Denyes has previously served as the Board's DAG and will again be taking over this role for Tirza Wahrman, who will no longer be serving in this capacity.

2. Review of the Minutes from the November 29, 2012 Meeting –

A motion to approve the minutes for the November 29, 2012 meeting without change was made by G. Poppe, seconded by G. Craig and approved unanimously.

3. Board Meeting Schedule for 2013-

Board members set the meeting schedule dates for 2013 as follows:
January 17, March 21, May 23, July 18, September 12 and November 21. In accordance with the NJ Open Public Meetings Act, the meeting dates were published in the Star Ledger, Trenton Times and the Press of Atlantic City.

The 2013 well driller and pump installer exam schedule was provided to Board members. The 2013 exams will be held on: April 3, June 12, October 2 and December 11.

4. Review and Certification of Exam Applicants for the December 12, 2012 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 C. Graff, seconded by S. Doughty and approved unanimously.

Journeyman B – A motion to approve all listed applicants for the exam was made by A. Becker, seconded by R. Dalton and approved unanimously.

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

Soil Borer – A motion to approve all listed exam applicants was made by G. Craig, seconded by K. Muessig and approved unanimously.

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

5. Review of the Pump Installers Exam Surveys completed by Applicants who took the October 3, 2012 Exam-

S. Reya updated the Board on the results of the latest round of Pump Installer Exam Surveys that were submitted by applicants who took the October 3, 2012 exam. Unfortunately only four (4) exam candidates sat for the exam and only two returned a completed survey, which provided very little data on the work experience and study preparation of the applicants. Board members suggested revising a few questions on the survey to learn more about the work experience of the applicants (such as re-wording question #6 on page 1, to make it the same format as question #3 on page 2, as suggested by S. Doughty). It was also suggested that the survey be altered to include the name of the individual completing the survey. **Board members requested that S. Reya send out an electronic copy of the survey to all members for updating. Board members will then email back suggested revisions, which will be compiled by S. Reya for final review at the March 21st meeting.**

6. Well Driller and Pump Installer Licensing Update-

S. Reya discussed a chart compiled by J. Mullins, which depicted the average number of years of experience that applicants have acquired before taking the Pump Installer exam. This data revealed the fact that on average, applicants have over five (5) years of experience in the pump installation industry. Although it would appear the average test candidate has more than sufficient experience in the field prior to sitting for the exam, the pass rate for this exam is only around 20 percent. Based on this information, S. Reya raised the possibility that raising the minimum experience required from one to two years may still not be enough to significantly raise the passing rates for this exam as anticipated. (Raising the experience requirement for pump installers can only be accomplished via a rule change.) There was general agreement between Board members and DEP staff that more emphasis on the study guide materials and the educational component will be necessary to improve the passing score.

J. Mullins next presented a chart showing the past five (5) years of initial (non-renewal) licenses for all classes of driller and pump installer licenses. The number of new licenses issued in fiscal year 2012 was 37, which was significantly lower than the 51 issued in 2011. The five year average is 44 licenses issued annually. This information was compiled in response to a recent request from the NJ Department of Labor, which performs an annual audit of all state issued licenses.

7. Pump Installer Study Guide for Regulatory Section of Exam-

In an effort to counter the extremely high failure rate exhibited by Pump Installer Applicants, J. Mullins compiled all applicable regulatory study material into one ten page study guide. The study guide contains all applicable text from the Well Construction Regulations, N.J.A.C. 7:9D, as well as two links for obtaining the “NJ Board of Public Utilities Underground Facilities: One-Call Damage Prevention System” and the “NJ Underground Damage Prevention Program: A Guide to Safe Excavation Practices in New Jersey.” The purpose of her draft study guide is to narrow down the regulations that should be studied by Pump Installer Applicants, as it has often been stated that much of N.J.A.C. 7:9D applies to well drillers, not those who solely want to install and service well pumping systems. J. Mullins stated that by using the new study guide she was able to take the regulatory portion of the test as an open book exam and answer all questions correctly except one, which was geared toward having some knowledge of field safety. Therefore, she felt that if she could find the answers within this condensed guide and correctly answer most questions, while never having worked in the industry, most applicants should find it easier than studying the entire 60 page regulation. Board members were extremely pleased with this study guide and suggested that it be added to the Bureau website and included with all Pump Installer, Journeyman, Journeyman Class B and Master Exam Study packets that are sent out by the Bureau. Members also felt that local county and municipal inspectors could benefit from the guide, as the concise guide spells out pump installation regulatory requirements within 10 pages, rather than the full 60 page well construction regulations.

8. Discussion on the Geothermal Guide Module-

The recent exam workgroup session with Board volunteers G. Craig, A. Becker and S. Doughty resulted in the development of a comprehensive NJ Regulations module for the Vertical Closed Loop Geothermal Driller license that will ultimately be administered by NGWA, according to S. Reya. Board volunteers will also be staying after today’s Board meeting to work on the Journeyman/Journeyman B NJ Regulatory module. S. Reya stated that once complete, the only two licensing exams requiring review and formatting into NGWA format will be the Master and Dewatering exams. He thanked all Board members for their continuing assistance with this task.

9. Enforcement Activities- Julia Altieri.

J. Altieri spoke about three main active enforcement cases on which the Department is currently working:

- 1.) A case concerning a domestic unpermitted well drilled by Michael Kavlunas from Total Quality Drilling. Mr. Kavlunas had personally appeared at a Board meeting in May 2011 to discuss the decommissioning of this well. J. Altieri noted that the Department has been working with Mr. Kavlunas and his legal representation to address the still open well. If these attempts fail, a

hearing date has been set for February 4th. The Department is working to attempt to resolve this situation prior to this date.

- 2.) J. Alteria reported that the Department is close to a final settlement in a case where the Department has ordered a driller to decommission three domestic wells that were installed without permits. Two of those wells are located in an area of salt water intrusion, meaning that additional construction requirements would have included double casing the well and the use of a salt water (cement based) grout. J. Altieri indicated that the Department and well driller have reached a resolution on the proper decommissioning and subsequent replacement of all three wells. Of the utmost importance to the Department was an agreement to have the driller completely over drill and decommission the wells. As a result, the Department has been willing to reduce the fines assessed against the well driller. The Bureau intends to send staff to witness the decommissioning of these wells to ensure full compliance.
- 3.) In a third situation, the Department is working with a driller to arrange for the decommissioning of a public community supply well. Based on the submitted well record and subsequent information submitted by the drilling company, it appears the well was not constructed properly. Department staff has meet with representatives from the drilling contractor but no progress towards a mutual resolution has been made. The drilling company and driller of record failed to submit a timely request for a hearing on an Administrative Order and Notice of Civil Administrative Penalties (AONOCAPA).

Finally, J. Altieri said that there are currently two (2) additional cases being pursued that involve pending hearing requests.

P. Bono said that the Well Permitting Section has not been successful in progressing this far with enforcement cases and that she hopes it will serve to notify the drilling community that the Department is serious about pursuing compliance with the well regulations. T. Pilawski wants the outcomes of these cases published on the website and possibly other newsletters to act as a deterrent for others in the industry. G. Poppe said he believes recent enforcement activity seems to be having a positive effect on the drilling industry as individuals begin to see that the Department is actually following through on some enforcement cases. J. Yost suggested that New Jersey consider developing a drilling contractor license, not solely and individual license, to allow the state better oversight and accountability with regard to drilling companies that exhibit repeated non-compliant practices.

T. Pilawski and P. Bono provided an update on drilling contractors that owe the Department a significant amount of outstanding well records. The Bureau is working to identify the drilling companies which routinely fail to submit well records and decommissioning plans. These companies are contacted by staff to develop a submission schedule to catch up of the delinquent well documents. If these outreach efforts are not successful, the situation will be turned over to the Enforcement program for follow-up.

10. Update on the Heating, Ventilation, Air Conditioning and Refrigeration (HVACR) Board Proposed New Rules -

S. Doughty updated the Board concerning the NJDEP's attempts to resolve potential conflicts between the proposed new HVACR rules and the State's existing Well Construction and Maintenance; Sealing of Abandoned Wells rules, NJAC 7:9D. NJDEP Division of Water Supply and Geoscience (DWS&G) Director Fred Sickels and Steve Doughty organized a conference call with

HVACR Board staff (the Division of Consumer Affairs (DCA) within Law & Public Safety), members of DEP's radon protection program, and others, to ascertain the status of addressing the concerns DEP has expressed on numerous previous occasions via letter, phone, and in person. The purpose of the conference call was to convey, once again, DEP's concerns about likely conflicts between the proposed new HVACR rules and N.J.A.C. 7:9D, and to learn how DCA staff and/or the HVACR Board plan to address such concerns prior to adopting the proposed new rules. The conference call, originally scheduled for late October 2012, but postponed on a couple of occasions due to preparation for and then recovery efforts associated with Hurricane Sandy, was held on Tuesday, January 8, 2013.

At the October 11, 2012 HVACR Board meeting held in Newark (personally attended by Director Sickels and Board members G. Poppe and G. Craig), it was reported that the HVACR Board was still reviewing the written comments that previously had been submitted by the New Jersey Ground Water Association (NJGWA) and NJDEP. However, during the conference call, Burt Liebman, Director of Regulatory and Legislative Affairs with DCA stated that the Board had no intention of making changes to the rule to address NJDEP's concerns and that the adoption was moving forward as-is. Mr. Liebman stated that NJDEP's expressed concerns "were coming at the 11th hour and are the Department's problem." Mr. Liebman was reminded of the following:

1. NJDEP had not been included in any pre-proposal information sharing, which is customary practice between sister agencies;
2. Immediately upon learning of the proposed new HVACR rules through a third party, DWS&G staff members have been communicating its concerns and attempting to resolve the perceived conflicts since May 2012; and
3. Despite DWS&G's repeated attempts to consult with the HVACR Board and staff on this matter, there has been no apparent reciprocal effort by DCA to work toward a mutual resolution of these issues.

After some further discussion, Mr. Liebman stated that DEP's noted concerns and proposed revisions to the existing proposal were too broad, and, while the NJDEP could again submit its concerns/revisions, any potential changes would be considered outside of and following the adoption of the proposed new rules, which is anticipated shortly because the proposal will expire on (March 16, 2013).

Board DAG (Jill Denyes), re-assuming her legal advisor to the Board duties from Tirza Wahrman (who has left State service), is intending to reach out to her DAG counterpart within the DCA to discuss this matter. Finally, S. Doughty and Fred Sickels have prepared a summary of related issues, which has been elevated to NJDEP Water Resources Mgmt. Assistant Commissioner Michele Sierkerka, who is expected to contact her senior-level management counterparts in NJDEP's sister agency in an attempt to resolve this matter.

11. License Suspension Procedures-

T. Pilawski intends to follow up with the Department's DAGs on the acceptability of the license suspension process and form developed by Jeff Hoffman of the Department's Central Water Compliance and Enforcement region. Preliminary discussions do indicate that the current version of the regulations grant the Department authority to suspend licenses, however, the actual process for doing so must be worked out. She anticipates having an update for the Board by the March 21st meeting.

12. Board Website-

J. Denyes discussed a law, which becomes effective on February 1, 2013, concerning NJ state Board websites. She noted that the Board already has a website link off the Department's Water Supply page, so the Board is at least partially in compliance. She will discuss the full content of the website with P. Bono in the coming weeks to ensure that all required content is contained within the page.

13. License & Regulation Topics-Well Program Updates

Historic Well Records-

Pat Bono reported that the Historic Well Records Project that includes the scanning, indexing and data entry of historic well records has been completed. There were 147 boxes that dated back to the 1950s that were entered into the Department's computer system, NJEMS. Over 45,000 records were added to the database last year alone and the progress has made a difference in processing time and search requests for well records and other documents.

Well Decommissioning Reports-

There was also a backlog of decommissioning records awaiting review and processing. Over 9,000 decommissioning reports were reviewed and process last year with substantial assistance from the Technical staff from the Water Allocation program.

Online Well Search Tool-

M. Schumacher has been working on the online well search tool and associated Regulatory Service Portal (RSP). The RSP will serve as a security check and verify the identity of users who are requesting information from the Department. Those with DEP issued licenses will be able to log in by providing his or her license number. Once logged in, individuals can enter criteria such as: street address, permit numbers, lot and block numbers, state plane co-ordinates to retrieve well information including well depth, pump capacity and usage. If the well record was submitted electronically, this report will yield a PDF copy of the original well record. Historic paper well records will not be downloadable through the site at this time.

Rule Status-

Chairman Becker questioned the status of the regulatory revisions to N.J.A.C. 7:9D (Well Construction Regulations). T. Pilawski stated that unfortunately the draft is still under legal review and little to no progress to report. The need for the Department to promulgate emergency rules as a result of Hurricane Sandy has delayed the timing of the review of the well rule amendments. This stress on the limited staff resources of the Legal Department has put the well regulations further behind than anticipated initially.

14. Horizontal Drilling-

R. Dalton raised a potential environmental concern associated with horizontal drilling. Specifically, he discussed a recent project involving drilling for a gas line in Monksville, NJ that entails a 4,000 foot long, 42 inch diameter hole ranging from 80 to 200 ft. below grade in depth. He stressed the fact that the annular space between the borehole and the pipeline is entirely ungrouted. The pipe is only reportedly pushed and/or pulled through the borehole, which is larger than the outside pipe diameter. R. Dalton expressed concern that these wells pose potential environmental risks due to lack of

grouting. He noted that lack of oversight by DEP makes it so there isn't even a requirement to set a "surface plug" at each end of the drilled hole at the entry and exit points. He also stated that there is no contingency plan or requirement in such construction plans to grout the borehole if a hole needs to be abandoned due to being unable to install the pipeline in a satisfactory manner. Bureau staff discussed the fact that since this work is being conducted for the installation of a utility line, the proposed work does not constitute the definition of a well, as per N.J.A.C. 7:9D. Therefore, although the activity could pose risks as detailed by R. Dalton, the Department has no authority to regulate this activity and could not do so without a significant law change.

15. A motion to adjourn was made at 12:30 pm by C. Graff, seconded by G. Craig, and approved unanimously.

Postscript:

Several Board members and Well Permitting staff met in a closed session in the afternoon to develop the bank of questions for the Journeyman license exam.