

CHRIS CHRISTIE
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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

401 E. State Street - P.O. Box 420
Trenton, New Jersey 08625-0420
Tel #: (609) 984-6831 - Fax #: (609) 633-1231
NJ State Well Drillers and Pump Installers
Examining and Advisory Board

Minutes for September 12, 2013

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

Board Members Absent: Art Becker (Chairman), Dr. Karl Muessig and Joe Yost

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, Brian Buttari, and Melia Stoop.

NJDEP Division of Water Supply & Geoscience Staff: Katrina Wessling (present from approximately 10:12 to 11:05 am)

Member(s) of the Public: None

1. 10:04am -Call to Order –

The meeting was called to order by Vice Chairman Gary Poppe at 10:04 am, with quorum obtained at 10:07 am, as some Board members were delayed due to traffic.

2. Review of the Minutes from the July 18th, 2013 Meeting-

A motion to approve the July 18th, 2013 Board meeting minutes without change was made by G. Craig, seconded by R. Dalton and approved unanimously.

3. Well Driller Exam Schedule for 2013-

The two remaining well driller and pump installer exam dates for 2013 are as follows:

October 2 (September 1 application deadline)

December 11 (November 15 application deadline)

P. Bono reminded Board members that the proposed dates for 2014 Board meetings, conference calls and well driller/pump installer exam dates will be provided for scheduling and approval at the next Board meeting (November 21, 2013).

4. Review and Certification of Exam Applicants for the October 2, 2013 Master, Journeyman, Monitoring, Soil Borer and Pump Installers Exams –

Master – A motion to approve all listed applicants for the exam was made by C. Graff, seconded by S. Doughty and approved unanimously.

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

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

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

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

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

5. NJDEP Enforcement Activities Update-

Recent Bureau Field Activities, as reported by J. Altieri, include the following:

- a.) **Field Inspections** - Staff performed six (6) site inspections since the last Board meeting (held approximately seven (7) weeks ago). Inspections are becoming more of a routine activity within the well permitting program. J. Altieri reported that staff found a high level of compliance during the inspections. Board members expressed support for the increased effort to conduct inspections and reported that they have individually received positive feedback from the well drilling industry as a whole. Many Board members expressed the fact that the increase in field enforcement is long overdue.

T. Pilawki relayed how she conducted a spontaneous site inspection upon noticing a drilling contractor on her way home from work one evening. She indicated that the driller was properly licensed and was in possession of a valid drilling permit. The driller expressed support of the Department's plans to conduct more enforcement in the field. Some Board members expressed that news of the Department's compliance spot checks is traveling throughout the drilling community. Hopefully this will create incentive to comply with the regulations.

- b.) The Bureau continues to await the final decision from the DEP Commissioner in regards to the exceptions filed on behalf of the Bureau in response to the Judge's initial decision on the case against Master Driller Mike Kavlunas, which was issued on May 3, 2013 (subsequent to the February 4, 2013 hearing). Two (2) extensions have since been filed by the DEP Commissioner. The deadline for issuing the final decision has, therefore, been extended to September 16, 2013.
- c.) J. Altieri spoke to Journeyman Driller Edward DeSantis to schedule a date to properly decommission an unpermitted well drilled by his firm several years ago and to drill a new replacement well. Once this is complete the well decommissioning and replacement of wells

located at three (3) properties in Cape May County will be resolved. The Bureau required the replacement and decommissioning of a total of three unpermitted wells in Cape May County. Additionally, two of the wells were installed in an area where double casing and cement-based grout is required for protection against salt water intrusion. Bureau staff has been witnessing all of the activity to insure compliance. Mr. Desantis has paid all fines associated with these wells.

- d.) The Department has reached a settlement in the case concerning an illegal Direct Exchange (DX) geothermal well system that was installed in Princeton Borough by an unlicensed driller. The system installer and geothermal contractor owner, Don Creyts, submitted a settlement offer to the Department through his attorney. In response to this offer, a State Deputy Attorney General (DAG) submitted a counteroffer, which was accepted by Mr. Creyts. Upon satisfactory payment of the penalty assessment, the case will be fully resolved, as no remedial work remains at the site at which the violations occurred.

6. Bureau Outreach and Training Material-

T. Pilawski reported that two staff members are developing a training booklet and “check list” to provide assistance to county and municipal health department staff when inspecting wells in the field. Primarily, the document will direct the user to target basic well construction parameters: properly licensed drillers on site, valid permits, and adherence to the well permit requirements. Commonly identified construction violations would include the failure to grout wells using DEP approved grout mixes and placement methods. The Bureau plans to email the document to local inspectors, DEP Compliance and Enforcement staff and posted on the Bureau’s website for public access. This booklet should not only aid inspectors by directing them to focus on a few key items; but hopefully provide additional “eyes and ears” to the Department’s compliance program.

7. Motion for the Board to Engage in Closed Session Discussion (10:27 am)-

A motion to open an Executive (Closed) Session to discuss proceeding with possible license sanctions against Journeyman well driller, Brian K. Funkhouser, was made by G. Craig, seconded by Carol Graff and approved unanimously at 10:26 am.

8. Open Session Motion of the Item Discussed in Item 7 Above-

The Board returned to Open Session at 11:05 am, at which time the following motion was made by G. Craig:

With regard to the ongoing enforcement and licensing case between the Department and Brian K. Funkhouser, the statutory deadline for hearing licensing charges shall be extended beyond three (3) months after the date on which the charges are preferred, as there was good cause for further delay (as is consistent with N.J.S.A. 58:A-12). The motion was seconded by C. Graff and approved unanimously.

Additionally, G. Craig proposed a second motion relating to this issue as follows:

The Board shall notify Mr. Funkhouser via letter that a hearing will be held on the matter of non-renewal, suspension or revocation of his Journeyman well driller license. Notification of the hearing, as recommended by the Board, shall be provided to Mr. Funkhouser as soon as practicable to afford

him the opportunity to attend the hearing and arrange for legal counsel and/or compile any related documentation. This motion was seconded by S. Doughty and approved unanimously.

T. Pilawski will confer with all involved DAGs and notify Mr. Funkhouser via letter that a hearing will be held to discuss the Department's intention suspend, revoke or not let him renew his license upon expiration of his current license (June 30, 2014). She anticipates notifying Mr. Funkhouser that the hearing will be held at the Board's next regularly scheduled meeting on November 21, 2013. He will be notified a minimum of 30 days prior to the hearing date.

9. Vented vs. Non-Vented Well Caps for Wells in Flood Prone Areas-

S. Reya described a phone conversation he recently had with a licensed well driller who has been drilling and repairing wells in areas that were either severely impacted by Hurricane Sandy or located in areas that are prone to flooding. The driller discussed the well drilling regulatory requirement that well casings extend a minimum of one foot above grade and be equipped with a downward facing vent. He believed that there is some merit to venting wells in general, which includes preventing wells from developing a vacuum as pumps operate, thereby reducing the potential for contamination being drawn into the well. In flood and storm prone areas, however, the harm caused by saltwater, other surface water or sand/silt debris from entering the well (and potentially the aquifer in which it is screened) through the vent is far worse than a well that is not vented, according to the driller. S. Reya posed the question of whether the drillers and pump installers on the Board agreed with the caller's assessment. He also provided two photos that were forwarded to him to illustrate the caller's "fix" in such areas. The photos depicted a typical 4-inch well casing extending above grade with a pitless well cap installed (containing the conduit pipe and vent). Inside the vented pitless cap, a PVC compression cap had been installed, which renders the well water tight. A smaller diameter threaded port was also present so the cap could be opened for disinfection or water level readings.

Board members support the use of non-vented wells in flood prone as a way to minimize flooding and damage to the above-ground portions of well casing. Other alternatives such as running remote vent lines to nearby structures and installing flood proof caps that contain check valves/balls have in increased risk of failure during flooding and in many cases are not practical. Such alternatives were deemed by most Board members to add little benefit while greatly increasing the risk of damage or failure. Bureau staff will look into the existing regulations and the draft rule revisions to determine if any changes should be made to the regulations to allow for installation of water-tight flood proof well caps in appropriate areas.

10. Status of the Revisions to the Well Regulations-

T. Pilawski reported that unfortunately the Bureau has not yet received feedback or comments from the Department's legal staff, as they continue to review the draft regulations (N.J.A.C. 7:9D). Once complete, the document will be sent back to the Bureau to address questions, concerns or problems raised by the legal review.

11. Division Move –

P. Bono reminded the Board that the entire Division of Water Supply & Geoscience recently moved from the 3rd floor of the DEP to the 4th floor. Any mail sent to the Division should now list the updated mail code: Mail Code 401-04Q. Improperly addressed mail will not be delivered to the well permitting program.

12. Adjournment (11:50am) -

A motion to adjourn was made by Gordon Craig, seconded by Carol Graff, & approved unanimously.